

VIRGINIA MARINE RESOURCES COMMISSION
PERTAINING TO HORSESHOE CRAB
CHAPTER 4VAC20-900-10 ET SEQ.

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PREAMBLE

This chapter establishes licensing requirements for the harvesting of horseshoe crabs by hand and exemptions from these requirements. This chapter also establishes commercial fisheries management measures for horseshoe crabs, including an annual commercial quota for horseshoe crabs, that comply with the provisions of the Interstate Fishery Management Plan for Horseshoe Crab.

This chapter is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous Chapter 4 VAC 20-900-10 et seq. which was promulgated ~~March 27, 2012~~ April 24, 2012 and made effective on ~~March 28, 2012~~ April 28, 2012. The effective date of this chapter, as amended, is ~~April 28, 2012~~ January 1, 2013.

4VAC20-900-10. PURPOSE.

The purpose of this chapter is to establish commercial fisheries management measures and monitoring requirements in accordance with the Interstate Fishery Management Plan for Horseshoe Crab.

4VAC20-900-20. DEFINITION.

The following words or terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

“COLREGS Line” means ~~the COLREGS Demarcation Lines, as specified in Coastal Pilot, 35th and 36th editions by Lighthouse Press.~~ the COLREGS Demarcation Line, as defined in the Code of Federal Regulations: Title 33, Part 80 § 80.510 Chesapeake Bay Entrance, VA.

"Horseshoe crab" means any crab of the species *Limulus polyphemus*.

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"Land" or "landing" means to enter port with horseshoe crabs on board any boat or vessel, to begin offloading horseshoe crabs, or to offload horseshoe crabs.

4VAC20-900-21. LICENSE REQUIREMENTS AND EXEMPTION.

- A. The taking by hand of as many as five horseshoe crabs in any one day, for personal use only, shall be exempt from the licensing requirements.
- B. Except as provided for in 4VAC20-900-25 G.3., it shall be unlawful for any boat or vessel to land horseshoe crabs in Virginia for commercial purposes without first obtaining a horseshoe crab endorsement license, as described in this section. The horseshoe crab endorsement license shall be required of each boat or vessel used to land horseshoe crabs for commercial purposes. Possession of any quantity of horseshoe crabs that exceeds the limit described in subsection A of this section shall be presumed for commercial purposes. There shall be no fee for the license.
- C. To be eligible for an unrestricted horseshoe crab endorsement license, the boat or vessel shall have landed and sold at least 500 horseshoe crabs in Virginia in at least one year during the period 1998-2000, except as described in subsection D of this section.
1. The owner shall complete an application for each boat or vessel by providing to the Marine Resources Commission a notarized and signed statement of applicant's name, address, telephone number, boat or vessel name and its registration or documentation number.
 2. The owner shall complete a notarized authorization to allow the Marine Resources Commission to obtain copies of landings data from the National Marine Fisheries Service.

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- D. To be eligible for a restricted horseshoe crab endorsement license that is limited to using a crab dredge to harvest horseshoe crabs, a Virginia registered commercial fisherman's boat or vessel shall have landed at least 10,000 pounds of whelk in any one year from 2002 through 2005.
1. The Virginia registered commercial fisherman shall complete an application for each boat or vessel by providing to the Marine Resources Commission a notarized and signed statement of applicant's name, address, telephone number, boat or vessel name and its registration or documentation number.
 2. The Virginia registered commercial fisherman shall complete a notarized authorization to allow the Marine Resources Commission to obtain copies of whelk landings data from the National Marine Fisheries Service.
- E. To be eligible for a horseshoe crab hand harvester permit, the individual shall have been issued a horseshoe crab hand harvester permit prior to the license moratorium of May 1, 2011, and shall have documented on Virginia mandatory harvest reporting forms a minimum harvest of one horseshoe crab by hand harvest methods at any time from 1993 through 2010.
- F. It shall be unlawful for any registered commercial fisherman or seafood landing licensee who does not possess any type of a valid horseshoe crab endorsement license or horseshoe crab hand harvester permit to possess horseshoe crabs, without first obtaining a valid horseshoe crab bycatch permit from the Marine Resources Commission.

4VAC20-900-25. COMMERCIAL FISHERIES MANAGEMENT MEASURES.

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- A. It shall be unlawful for any person to harvest horseshoe crabs from any shore or tidal waters of Virginia within 1,000 feet in any direction of the mean low water line from May 1 through June 7. The harvests of horseshoe crabs for biomedical use shall not be subject to this limitation.
- B. From January 1 through June 7 of each year, it shall be unlawful for any person to land, in Virginia, any horseshoe crab harvested from federal waters.
- C. Harvests for biomedical purposes shall require a special permit issued by the Commissioner of Marine Resources, and all crabs taken pursuant to such permit shall be returned to the same waters from which they were collected.
- D. The commercial quota of horseshoe crab for ~~2012~~ 2013 shall be ~~152,495~~ 172,828 horseshoe crabs. Additional quantities of horseshoe crab may be transferred to Virginia, by other jurisdictions, in accordance with the provisions of Addendum I to the Atlantic States Marine Fisheries Commission Fishery Management Plan for Horseshoe Crab, April 2000, provided that the combined total of the commercial quota and transfer from other jurisdictions shall not exceed 355,000 horseshoe crabs. It shall be unlawful for any person to harvest from Virginia waters, or to land in Virginia, any horseshoe crab for commercial purposes after any calendar-year commercial quota of horseshoe crab has been attained and announced as such.
- E. It shall be unlawful for any person to harvest or land horseshoe crabs during any calendar year, from waters east of the COLREGS, line by any gear after ~~40% of Virginia's commercial horseshoe crab quota and any and all transfers of quota have been attained for this designated area~~ 81,331 male horseshoe crabs have been landed and announced as such, to also include the following provisions:

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1. It shall be ~~lawful~~ unlawful for any person to harvest or land any ~~amount of female~~ horseshoe crabs from waters east of the COLREGS line, ~~by any gear other than trawl until it has been projected that 27.512% of Virginia's commercial horseshoe crab quota and any and all transfers of quota have been attained for this designated area and announced as such.~~
 2. It shall be ~~lawful~~ unlawful for any person to harvest or land any amount of horseshoe crabs from waters east of the COLREGS line ~~by trawl as described in subsection B of 4VAC20-900-36 until it has been projected that 12.488% of Virginia's commercial horseshoe crab quota and any and all transfers of quota have been attained for this designated area and announced as such.~~ by any gear except for trawl or dredge gear.
- F. ~~It shall be unlawful for any person whose harvest of horseshoe crabs is from waters east of the COLREGS Line to possess aboard a vessel or to land in Virginia any quantity of horseshoe crabs that, in aggregate, is not comprised of at least a minimum ratio of two male horseshoe crabs to one female horseshoe crab. For the purposes of this regulation, no horseshoe crab shall be considered a male horseshoe crab unless it possesses at least one modified, hook-like appendage as its first pair of walking legs.~~
- G. Limitations on the daily harvest and possession of horseshoe crabs for any vessel described below are as follows:

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1. It shall be unlawful for any person who holds a valid unrestricted horseshoe crab endorsement license, as described in ~~4VAC20-900-30D~~21.C., to possess aboard any vessel or to land any number of horseshoe crabs in excess of 2,500, except that when it is projected and announced that 80% of the commercial quota is taken, it shall be unlawful for any person who meets the requirements of ~~4VAC20-900-30D~~21.C. and holds a valid horseshoe crab endorsement license to possess aboard any vessel in Virginia any number of horseshoe crabs in excess of 1,250.

2. It shall be unlawful for any person who holds a valid restricted horseshoe crab endorsement license, as described in ~~4VAC20-900-30E~~21.D., to possess aboard any vessel or to land any number of horseshoe crabs in excess of 1,000, except that when it is projected and announced that 80% of the commercial quota is taken, it shall be unlawful for any person who meets the requirements of ~~4VAC20-900-30E~~21.D. and holds a valid horseshoe crab endorsement license to possess aboard any vessel in Virginia any number of horseshoe crabs in excess of 500. The harvest of horseshoe crabs, described in this subdivision, shall be restricted to using only crab dredge.

3. ~~It shall be unlawful for any registered commercial fisherman or seafood landing licensee who does not possess a valid horseshoe crab endorsement license to possess horseshoe crabs, without first obtaining a valid horseshoe crab bycatch~~

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~~permit from the Marine Resources Commission.~~ It shall be unlawful for a horseshoe crab bycatch permittee to possess aboard any vessel more than 500 horseshoe crabs or for any vessel to land any number of horseshoe crabs in excess of 500 per day except as described in subdivision 4 of this subsection. When it is projected and announced that 80% of the commercial quota is taken, it shall be unlawful for any person with a horseshoe crab bycatch permit to possess aboard any vessel more than 250 horseshoe crabs or for any vessel to land any number of horseshoe crabs in excess of 250 per day except as described in subdivision 4 of this subsection.

4. It shall be unlawful for any two horseshoe crab bycatch permittees fishing from the same boat or vessel to possess or land more than 1,000 horseshoe crabs per day. When it is projected and announced that 80% of the commercial quota is taken, it shall be unlawful for any two horseshoe crab bycatch permittees fishing from the same boat or vessel to possess or land more than 500 horseshoe crabs per day.
 5. It shall be unlawful for any registered commercial fisherman or seafood landing licensee who does not possess a horseshoe crab endorsement license or a horseshoe crab bycatch permit to possess any horseshoe crabs.
 6. It shall be unlawful for any person who possesses a horseshoe crab endorsement license or a horseshoe crab bycatch permit to harvest horseshoe crabs by gill net, except as described in this subdivision.
 - a. Horseshoe crabs shall only be harvested from a gill net, daily, between the hours of sunrise and sunset.
 - b. It shall be unlawful for any person to land horseshoe crabs caught by a gill net in excess of 250 horseshoe crabs per day.
- H. It shall be unlawful for any fisherman issued a horseshoe crab endorsement license to offload any horseshoe crabs between the hours of 10 p.m. and 7 a.m.

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- I. When it is projected and announced that 32% of the commercial quota, as described in subsection D of this section, has been taken from waters east of the COLREGS line, the limitations on the possession and landing of horseshoe crabs are as follows:
1. It shall be unlawful for any person who possesses a valid unrestricted horseshoe crab endorsement license to possess aboard any vessel in waters east of the COLREGS Line or to land more than 1,250 horseshoe crabs per day.
 2. It shall be unlawful for any person who possesses a valid restricted horseshoe crab endorsement license to possess aboard any vessel in waters east of the COLREGS Line or to land more than 500 horseshoe crabs per day.
 3. It shall be unlawful for any person who possesses a valid horseshoe crab bycatch permit to possess aboard any vessel east of the COLREGS Line or to land more than 250 horseshoe crabs per day.
 4. It shall be unlawful for any two horseshoe crab bycatch permittees fishing from the same boat or vessel, east of the COLREGS Line, to possess or land more than 500 horseshoe crabs per day.

~~4VAC20-900-30. LICENSE REQUIREMENTS AND EXEMPTION.~~

- ~~A. It shall be unlawful for any person to harvest horseshoe crabs by hand for commercial purposes without first obtaining a commercial fisherman registration license and a horseshoe crab hand harvester license.~~
- ~~B. The taking by hand of as many as five horseshoe crabs in any one day for personal use only shall be exempt from the above licensing requirement.~~
- ~~C. Except as provided for in 4VAC20-900-25 G-3, it shall be unlawful for any boat or vessel to land horseshoe crabs in Virginia for commercial purposes without first obtaining a~~

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~~horseshoe crab endorsement license as described in this section. The horseshoe crab endorsement license shall be required of each boat or vessel used to land horseshoe crabs for commercial purposes. Possession of any quantity of horseshoe crabs that exceeds the limit described in subsection B of this section shall be presumed for commercial purposes. There shall be no fee for the license.~~

~~D. To be eligible for an unrestricted horseshoe crab endorsement license, the boat or vessel shall have landed and sold at least 500 horseshoe crabs in Virginia in at least one year during the period 1998-2000, except as described in subsection E of this section.~~

~~2. The owner shall complete an application for each boat or vessel by providing to the Marine Resources Commission a notarized and signed statement of applicant's name, address, telephone number, boat or vessel name and its registration or documentation number.~~

~~2. The owner shall complete a notarized authorization to allow the Marine Resources Commission to obtain copies of landings data from the National Marine Fisheries Service.~~

~~E. To be eligible for a restricted horseshoe crab endorsement license that is limited to using a crab dredge to harvest horseshoe crabs, a Virginia registered commercial fisherman's~~

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~~boat or vessel shall have landed at least 10,000 pounds of whelk in any one year from 2002 through 2005.~~

- ~~1. The Virginia registered commercial fisherman shall complete an application for each boat or vessel by providing to the Marine Resources Commission a notarized and signed statement of applicant's name, address, telephone number, boat or vessel name and its registration or documentation number.~~
- ~~2. The Virginia registered commercial fisherman shall complete a notarized authorization to allow the Marine Resources Commission to obtain copies of whelk landings data from the National Marine Fisheries Service.~~

4VAC20-900-35. MONITORING REQUIREMENTS.

- A. Any person harvesting or landing horseshoe crabs in Virginia shall report monthly on forms provided by the Marine Resources Commission all harvests of horseshoe crabs including, but not limited to, bait fisheries, bycatch, biomedical industry, and scientific and educational research harvests. Reporting requirements shall consist of numbers and pounds landed by sex, harvest method and harvest location.
- B. It shall be unlawful for a restricted or unrestricted horseshoe crab endorsement license holder to fail to contact the Marine Resources Operations Station prior to the vessel issued a horseshoe crab endorsement license offloading horseshoe crabs. The horseshoe crab endorsement license holder shall provide the Marine Resources Commission the name of the vessel and its captain and the anticipated or approximate offloading time and site. Following offloading, the horseshoe crab endorsement license holder shall contact the Marine Resources Operation Station and provide the total number of horseshoe crabs landed, gear type, and location of harvest.

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- C. It shall be unlawful for any horseshoe crab bycatch permittee or horseshoe crab hand harvester permittee to fail to contact the Virginia Marine Resources Commission Interactive-Voice-Response (IVR) System within 24 hours of landing and provide his Commercial Fisherman Registration License number, and the time, date, number of horseshoe crabs landed, gear type, and location of harvest.
- D. It shall be unlawful for any person, firm or corporation to buy any horseshoe crabs from any lawful harvester on or after July 1, 2007, without first having obtained a Horseshoe Crab Buying Permit from the Marine Resources Commission. The permit application shall be completed in full by the licensed seafood buyer, and a copy of the permit shall be kept in possession of the licensed buyer while buying or possessing horseshoe crabs.
- E. Any licensed seafood buyer permitted to purchase horseshoe crabs shall provide written reports to the Marine Resources Commission of daily purchases and harvest information on forms provided by the Marine Resources Commission. Such information shall include the date of the purchase, the buyer's horseshoe crab permit number and harvester's Commercial Fisherman Registration License number, gear type used, water area fished, city or county of landing, and number of female horseshoe crabs and male horseshoe crabs purchased. These reports of any current weekly purchases shall be completed in full and submitted to the Marine Resources Commission no later than Thursday of the following week. In addition, once it has been projected and announced that 85% of the commercial quota of horseshoe crab has been landed or 34% of the commercial quota of horseshoe crab established for the horseshoe crab harvest east of the COLREGS Line has been landed each permitted buyer shall call the Marine Resources Commission's IVR on a daily basis to report his name and permit number, date, number of female horseshoe crabs and number of male horseshoe crabs purchased, gear used and water area fished by the harvester.
- F. Persons harvesting horseshoe crabs for biomedical use and owners of facilities using horseshoe crabs for biomedical purposes shall monitor and report monthly to the Marine Resources Commission all harvests or purchases of horseshoe crabs and the percentage of mortality up to the point of release including that mortality which occurs during harvest, shipping, handling, and bleeding.
- G. Owners of biomedical facilities using horseshoe crabs shall participate in the tagging program of the Marine Resources Commission to evaluate the post-release mortality of horseshoe crabs.

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- H. Monthly reports shall be due to the Marine Resources Commission no later than the fifth day of the following month.

4VAC20-900-36. QUOTA ALLOCATION

- A. When it has been projected and announced that 40.348% of the commercial quota, as described in 4VAC20-900-25 D, has been landed by dredge gears, it shall be unlawful for any person to harvest or land horseshoe crabs caught by dredge gears.
- B. When it has been projected and announced that 12.488% of the commercial quota, as described in 4VAC20-900-25 D, has been landed by trawl gears, it shall be unlawful for any person to harvest or land horseshoe crabs caught by trawl gears.
- C. When it has been projected and announced that 22.095% of the commercial quota, as described in 4VAC20-900-25 D, has been landed by ~~licensed hand harvesters~~ horseshoe crab hand harvester permittees, it shall be unlawful for any person to harvest or land horseshoe crabs caught by hand harvesting.
- D. When it has been projected and announced that 18.142% of the commercial quota, as described in 4VAC20-900-25 D, has been landed by pound nets, it shall be unlawful for any person to harvest or land horseshoe crabs caught by pound net.
- E. When it has been projected and announced that 6.927% of the commercial quota, as described in 4VAC20-900-25 D, has been landed by gears not described in subsections A through D of this section, it shall be unlawful for any person to harvest or land horseshoe crabs by gears not described in subsection A through D of this section.

4VAC20-900-37. LICENSE MORATORIUM

As of May 1, 2011, the issuance of commercial licenses or permits for horseshoe crab hand harvest, horseshoe crab bycatch, unrestricted horseshoe crab endorsement, and restricted horseshoe crab endorsement shall be prohibited except as described in this section. Only those registered commercial fisherman who have been determined by the Marine Resources Commission to have been issued a license or permit prior to May 1, 2011, for horseshoe crab hand harvest, horseshoe crab bycatch, unrestricted horseshoe crab endorsement, or restricted horseshoe crab endorsement shall be eligible to purchase that license or permit after May 1, 2011.

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4VAC20-900-38. CONTROL DATE

The Marine Resources Commission hereby establishes December 31, 2010, as the control date for management of all horseshoe crab licenses and fisheries in Virginia. Participation by any individual in a horseshoe crab fishery after the control date will not be considered in the calculation of horseshoe crabbing rights should further entry limitations be established. Any individual entering the horseshoe crab fishery after the control date will forfeit any right to future participation in the horseshoe crab fishery should further entry limitation be established.

4VAC20-900-39. PERMIT TRANSFERS

The Commissioner or his designee may approve transfers of a horseshoe crab license or permit, as described in 4VAC20-900-30, to any individual who meets any of the following criteria:

1. Demonstrates a significant hardship on the basis of health and provides the Commissioner documentation, by an attending Physician, of the medical condition.
2. Demonstrates a significant hardship on the basis of a call to active military duty and provides the Commissioner an explanation, in writing, and copy of the military orders for active duty.
3. Documents the death of an immediate family member eligible for a horseshoe crab license or permit and possessing a legal Commercial Fisherman Registration License.

4VAC20-900-40. REQUIREMENTS OF AUTHORIZED AGENTS

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- A. It shall be unlawful for any person to serve as an agent for a horseshoe crab hand harvest permittee.
- B. Any person serving as an agent to harvest horseshoe crabs for any lawfully licensed or permitted horseshoe crab fisherman, except as described in subsection A of this section, shall be limited to the use of only one registered commercial fisherman's horseshoe crab license or permit.

4VAC20-900-40 41. PENALTY.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within twelve months of a prior violation is a Class 1 misdemeanor.

* * * * *

This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Marine Resources Commission, pursuant to authority vested in the Commission by § 28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Newport News, Virginia on December 10, 2012.

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION**

By: _____

**Jack G. Travelstead
Commissioner**

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Subscribed and sworn to before me this _____ day of December, 2012.

Notary Public

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