

“PERTAINING TO CRABBING LICENSES”

CHAPTER 4VAC20-1040-10 ET SEQ.

DRAFT

PREAMBLE

This chapter continues a moratorium on crab license sales, on an indefinite basis, and is in response to the continued excess capacity in effort in these crab fisheries. 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 4VAC20-1040-10 et seq. which was promulgated ~~May 25, 2010~~ September 27, 2011 and made effective on ~~June 1, 2010~~ October 1, 2011. The effective date of this chapter, as amended, is ~~October 1, 2011~~ December 1, 2013.

**4VAC20-1040-10. Purpose.**

The purpose of this chapter is to cap and control effort in the crab fisheries.

**4VAC20-1040-20. License sales moratorium and license ineligibility conditions.**

A. For any lawful crabbing season, commercial licenses for crab pot, peeler pot, crab scrape, crab trap, ordinary trot line, patent trot line, and dip net shall be sold only to those registered commercial fishermen who have been determined by the commission to be eligible to purchase any of these licenses in 2010, except as described in subsection B of this section.

B. For any lawful crabbing season, those registered commercial fishermen who were eligible from 2004 through 2008 for any crab pot or peeler pot licenses, but reported no harvest from 2004 through 2007, were placed on a waiting list in 2009 and shall remain ineligible to purchase a crab pot or peeler pot license, in accordance with subsection C of this section.

C. At such time results from the Chesapeake Bay Winter Dredge Survey indicate that an abundance of 215 million age 1+ female blue crabs (blue crabs 2.4 inches and greater, in carapace width) has been attained in three consecutive, seasonal (December – March) surveys, those registered commercial fishermen on the waiting list shall resume their eligibility to purchase their crab pot or peeler pot licenses according to a limited and delayed access system established by the Commission.

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D. Any person receiving a crab license by lawful transfer also establishes his eligibility to purchase that specific license; however, any person either failing to register as a commercial fisherman in any year or lawfully transferring his crab license to another person shall forfeit his eligibility to purchase that specific crab license.

E. Commercial licenses for crab pots, peeler pots, crab scrapes, crab traps, ordinary trot lines, patent trot lines, and crab dip nets may be transferred to an immediate family member of the licensee at any time and, in the case of death or incapacitation of the licensee, may be transferred to a registered commercial fisherman at any time. Crabbing licenses also may be transferred to another registered commercial fisherman, except that not more than 100 licenses shall be transferred in the current year. All such transfers shall be documented on forms provided by the commission and shall be subject to the approval of the commissioner.

F. Any crab pot or peeler pot license that is purchased by the Commission through the Federal Crab Disaster Relief Program shall be permanently retired and shall not be available for sale to any fisherman at any time. Any person whose license is purchased under the Crab Disaster Relief Program may re-enter the fishery only through the transfer of another crab pot or peeler pot license as authorized by regulations in effect at the time of the transfer.

**4VAC20-1040-25. Appeal Process.**

Any registered commercial fisherman described in 4VAC20-1040-20B. 2., may appeal the status of his license ineligibility, to the Commission, provided he documents one of the following conditions: (i) a health condition that prevented the registered commercial fisherman from harvesting any crabs during the 2004 through 2007 lawful crabbing seasons; (ii) an active military service that prevented the registered commercial fisherman from harvesting any crabs during the 2004 through 2007 lawful crabbing seasons; or, (iii) a substantial error in his Mandatory Harvest Reporting records. The deadline for submission to the Commission of any appeal under this section shall be June 9, 2009.

**4VAC20-1040-30. [Repealed]**

**4VAC20-1040-35. Control date.**

The commission hereby establishes December 17, 2007, as the control date for management of all blue crab fisheries in Virginia. Participation by any individual in a crab fishery after the control date will not be considered in the calculation or distribution of crabbing rights should further entry limitations be established. Any individual entering the crab fishery after the control

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date will have no right to future participation in the crab fishery should further entry limitations be established.

**4VAC20-1040-37. Management Triggers**

A. At such time results from the Chesapeake Bay Winter Dredge Survey indicate the total number of all (male and female) blue crabs, the total number of all juvenile crabs (male and female blue crabs less than 2.4 inches; in carapace width), and the total number of spawning-age female blue crabs (2.4 inches and greater, in carapace width) are greater than their respective survey averages, the Commission may minimize regulatory burdens that inhibit expansion of the commercial blue crab fishery.

B. At such time results from the Chesapeake Bay Winter Dredge Survey indicate the total number of all (male and female) blue crabs, the total number of all juvenile crabs (male and female blue crabs less than 2.4 inches; in carapace width), and the total number of spawning-age female blue crabs (2.4 inches and greater, in carapace width) are less than their respective survey averages, the Commission shall enact measures to protect and restore blue crab populations.

**4VAC20-1040-40. 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 12 months of a prior violation is a Class 1 misdemeanor.

\* \* \* \* \*

This is to certify that the foregoing is a true and accurate copy of chapter passed by the Marine Resources Commission, pursuant to authority vested in the Commission by §28.2-201 of the

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Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Newport News, Virginia on October 22, 2013.

**COMMONWEALTH OF VIRGINIA  
MARINE RESOURCES COMMISSION**

**BY:** \_\_\_\_\_

**Steven G. Bowman  
Commissioner**

Subscribed and sworn to before me this \_\_\_\_\_ day of October 2013.

\_\_\_\_\_  
Notary Public