

VIRGINIA MARINE RESOURCES COMMISSION
“PERTAINING TO AMERICAN SHAD”
CHAPTER 4VAC20-530-10 ET SEQ.

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PREAMBLE

This chapter establishes a moratorium on the harvest of American shad and provides for a limited bycatch of American shad during the ~~2012~~ 2013 through 2017 fishing seasons. This chapter is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-204 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous Chapter 4VAC20-530-10 et seq. which was adopted on ~~February 22, 2011~~ January 24, 2012 and made effective on ~~March 1, 2011~~ February 1, 2012. The effective date of this chapter, as amended, is ~~February 1, 2012~~ March 1, 2013.

4VAC20-530-10. Purpose.

The purposes of this chapter are to rebuild the Virginia stocks of American Shad and to comply with the requirements for ocean intercept commercial fisheries as specified by the Interstate Fishery Management Plan for Shad and River Herring.

4VAC20-530-20. Definition.

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

"Bycatch area" means those tidal waters of (i) the James River, from the James River Bridge upstream to a line connecting Dancing Point and New Sunken Meadow Creek; (ii) the York River, from the George P. Coleman Bridge upstream to the Rt. 33 Eltham and Lord Delaware bridges at West Point; and (iii) the Rappahannock River, from the Norris Bridge upstream to the Rt. 360 Downing Bridge at Tappahannock.

"Chesapeake Bay" means all Virginia tidal waters west of the Colregs Demarcation Line that connect the Cape Henry Lighthouse in Virginia Beach to the Cape Charles Lighthouse on Smith Island.

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"Coastal area" means all Virginia tidal waters east of the Colregs Demarcation Line that connect the Cape Henry Lighthouse in Virginia Beach to the Cape Charles Lighthouse on Smith Island.

4VAC20-530-23 to 4VAC20-530-29. [Repealed]

4VAC20-530-30. Moratorium.

A. It shall be unlawful for any person to catch and retain possession of American shad from the Chesapeake Bay, except as described in 4VAC20-530-31.

B. It shall be unlawful for any person to possess aboard a vessel or land in Virginia any American shad harvested from the coastal area.

C. It shall be unlawful for any person to possess any American shad taken from the coastal area or the Chesapeake Bay, except as described in 4VAC20-530-31.

4VAC20-530-31. Bycatch fishery.

~~A. Any registered commercial fisherman meeting the conditions described in this subsection shall be eligible to participate in the American shad bycatch fishery in 2012:~~

~~1. The registered commercial fisherman shall apply for a VMRC American Shad Bycatch Permit and possess that permit while fishing, landing, or selling his catch of American shad.~~

~~2. The registered commercial fisherman shall complete the VMRC American Shad Bycatch Survey form to describe his pending fishing activity.~~

A. It shall be unlawful for any person to take, catch, possess, or land any American shad in Virginia without first having obtained an American shad bycatch permit from the Marine

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Resources Commission. Permits shall be issued only to Virginia registered commercial fishermen meeting any of the following criteria:

1. The fisherman shall have held an American shad bycatch permit in at least one of the three previous calendar years and complied with all reporting requirements. In addition, that fisherman shall have submitted an American shad bycatch permit application to the Commission by March 15, for the 2013 fishing season, but no later than February 5 in subsequent years.

2. Any registered commercial fisherman not otherwise qualified under subdivision 1 of this subsection shall be eligible for an American shad bycatch permit, if that fisherman submits an American shad bycatch permit application and the number of eligible American shad bycatch permittees, as of March 15 in 2013, or February 5 in subsequent years, is less than 30.

3. Should the number of American shad bycatch permit applications not exceed 30, as of March 15, 2013, or February 5 in subsequent years, the available permits not issued per subdivision 1 of this subsection may be issued until a maximum of 30 American shad bycatch permits are issued.

4. Should the number of American shad bycatch permit applications exceed 30, as of March 15, 2013, or February 5 in subsequent years, a lottery will be held for available permits not issued per subdivision 1 of this subsection.

B. The permittee shall keep a copy of that permit in his possession while fishing for or selling American shad.

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~~B.C.~~ It shall be unlawful for any person to possess aboard a vessel more than 10 American shad. When more than one registered and permitted fisherman is fishing on the same vessel, it shall be unlawful to possess more than 10 American shad aboard that vessel.

~~C.D.~~ It shall be unlawful for any person to possess aboard a vessel or land any American shad unless that person possesses at least an equal number of fish of only the following food-grade species: spot, croaker, bluefish, catfish, striped bass or white perch.

~~D.E.~~ Possession of American shad by any person permitted in accordance with this section shall be lawful only when those American shad were harvested from the bycatch area. Possession of any American shad harvested in Virginia waters that are outside of the bycatch area shall constitute a violation of this regulation.

~~E.F.~~ American shad harvested only as bycatch by anchored gill nets and staked gill nets may be possessed or retained for sale in accordance with the provisions of this regulation. It shall be unlawful for any person to harvest, land, or possess any American shad taken by any recreational gear or by any commercial gear, except anchored gill net or staked gill net.

~~F.G.~~ Every fisherman permitted for the American shad bycatch fishery shall contact the commission's interactive voice response system, ~~once weekly~~ every Monday, to report the following for the preceding weekly period: name, registration number, number of fishing trips taken, water body fished, number of nets set, number of American shad caught and number retained.

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4VAC20-530-32. [Repealed]

4VAC20-530-35. [Repealed]

4VAC20-530-40. 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 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 February 26, 2013.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

By: _____

Jack G. Travelstead
Commissioner

Subscribed and sworn to before me this _____ day of February, 2013.

Notary Public