

VIRGINIA MARINE RESOURCES COMMISSION
“PERTAINING TO RESTRICTIONS ON OYSTER HARVEST”
EMERGENCY CHAPTER 4 VAC 20-720-10 ET SEQ.

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PREAMBLE

This emergency chapter establishes times of closure and other restrictions, for conservation purposes, on the harvest of oysters from all oyster grounds in the tidal waters of the Commonwealth. This emergency chapter is promulgated pursuant to authority contained in §§ 28.2-201, 28.2-507, 28.2-210 and 28.2-518 of the Code of Virginia. This emergency chapter amends and re-adopts, as amended, previous Chapter 4 VAC 20-720-10 et seq., which was adopted August 28, 2018 and effective October 1, 2018. The effective date of this emergency chapter, as amended, is November 12, 2018.

4 VAC 20-720-40. Open oyster harvest season and areas.

A. It shall be unlawful for any person to harvest oysters from public and unassigned grounds outside of the seasons and areas set forth in this section.

B. It shall be unlawful to harvest clean cull oysters from the public oyster grounds and unassigned grounds except during the lawful seasons and from the lawful areas as described in the following subdivisions of this subsection.

1. James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area: October 1, 2018 through April 30, 2019.
2. Milford Haven: December 1, 2018 through February 28, 2019.
3. Rappahannock River Area 9: November 1, 2018 through December 31, 2018.
4. Little Wicomico River: October 1, 2018 through December 31, 2018.
5. Coan River Area: October 1, 2018 through December 31, 2018.
6. Yeocomico River Area: October 1, 2018 through December 31, 2018.
7. Nomini Creek Area: October 1, 2018 through December 31, 2018.
8. Mobjack Bay Area: February 1, 2019 through February 28, 2019.
9. Rappahannock River Rotation Area 3: November 1, 2018 through November 11, 2018 (patent tong only), and November 12, 2018 through January 10, 2019 (hand scrape only).
10. Rappahannock River Rotation Area 5: October 1, 2018 through November 30, 2018.
11. Great Wicomico River Rotation Area 2: December 1, 2018 through December 31, 2018 and February 1, 2019 through February 28, 2019.

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12. Upper Chesapeake Bay - Blackberry Hangs Area: December 1, 2018 through December 31, 2018 and February 1, 2019 through February 28, 2019.
13. James River Hand Scrape Areas 1 and 3: November 1, 2018 through January 31, 2019.
14. James River Hand Scrape Area 2: October 1, 2018 through December 31, 2018.
15. Pocomoke Sound Rotation Area 2: December 1, 2018 through January 31, 2019.
16. Tangier Sound Rotation Area 2: December 1, 2018 through February 28, 2019.
17. Pocomoke Sound Area: November 1, 2018 through November 30, 2018.
18. Rappahannock River Area 8: October 1, 2018 through October 31, 2018 (patent tong only) and December 1, 2018 through December 31, 2018 (hand scrape only).
19. Deep Rock Area: December 1, 2018 through February 28, 2019.
20. Seaside of the Eastern Shore (for clean cull oysters only): November 1, 2018 through March 31, 2019.

C. It shall be unlawful to harvest seed oysters from the public oyster grounds or unassigned grounds except during the lawful seasons. The harvest of seed oysters from the lawful areas is described in the following subdivisions of this subsection.

1. James River Seed Area: October 1, 2018 through May 31, 2019.
2. Deep Water Shoal State Replenishment Seed Area: October 1, 2018 through May 31, 2019.

4 VAC 20-720-70. Gear restrictions.

A. It shall be unlawful for any person to harvest oysters in the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area; the Rappahannock River Area 9; Milford Haven and Little Wicomico River, Coan River Area, Nomini Creek Area, and Yeocomico River Area, except by hand tong. It shall be unlawful for any person to have a hand scrape on board a boat that is harvesting or attempting to harvest oysters from public grounds by hand tong.

B. It shall be unlawful to harvest oysters by any gear from the seaside of the Eastern Shore except by hand or hand tong. It shall be unlawful to harvest oysters that are not submerged at mean low water by any gear other than by hand.

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C. It shall be unlawful to harvest oysters in the following areas, by any gear except hand scrape: Rappahannock River Rotation Area 3, from November 12, 2018 through January 10, 2019; Rappahannock River Area 5, from October 1, 2018 through November 30, 2018; James River Hand Scrape Areas 1 and 3, from November 1, 2018 through January 31, 2019, James River Hand Scrape Area 2, from October 1, 2018 through December 31, 2018; Upper Chesapeake Bay - Blackberry Hangs Area, from December 1, 2018, through December 31, 2018 and February 1, 2019 through February 28, 2019; Mobjack Bay Area, from February 1, 2019 through February 28, 2019; Pocomoke Sound Area, from November 1, 2018 through November 30, 2018; and, Great Wicomico River Areas, from December 1, 2018 through December 31, 2018 and February 1, 2019 through February 28, 2019.

D. It shall be unlawful to harvest oysters from the following areas by any gear except an oyster patent tong: Rappahannock River Rotation Area 3 from November 1, 2018 through November 11, 2018; and Rappahannock River Rotation Area 8 from October 1, 2018 through October 31, 2018.

E. It shall be unlawful for any person to have more than one hand scrape on board their vessel while he is harvesting oysters or attempting to harvest oysters from public grounds. It shall be unlawful for any person to have a hand tong on board his vessel while he is harvesting or attempting to harvest oysters from public grounds by hand scrape.

F. It shall be unlawful to harvest oysters from the Pocomoke and Tangier Sound Rotation Area 2, except by an oyster dredge.

G. It shall be unlawful to harvest oysters from the Deep Rock Area, except by an oyster patent tong.

4 VAC 20-720-80. Quotas and harvest limits.

- A. It shall be unlawful for any person who does not possess a valid commercial fisherman's registration license and a valid gear license required for any harvest area, as described in 4 VAC 20-720-75, and has not paid the current year's oyster resource user fee to harvest or possess any oysters for commercial purposes. Any individual who possesses a valid hand scrape or dredge license and paid the oyster resource user fee, as described in this subsection, shall be limited to a maximum harvest of eight bushels per day. It shall be unlawful for any vessel to exceed a daily vessel limit of 16 bushels clean cull oysters harvested from the areas described in 4 VAC 20-720-40 B 8 through 18 when the vessel is using the hand scrape or oyster dredge.
- B. It shall be unlawful for any person who does not possess a valid commercial fisherman's registration license and a valid gear license required for any harvest area, as described in 4 VAC 20-720-75, and has not paid the current year's oyster resource user fee to harvest or possess any oysters for commercial purposes. Any individual who possesses a valid hand or hand tong license and paid the oyster resource user fee, as described in this subsection, shall be limited to a maximum harvest of 12 bushels per day. It shall be unlawful for any vessel to exceed a daily vessel limit for clean cull oysters harvested from the areas described in 4 VAC 20-720-40 B 2 through 7 and 20, whereby that vessel limit shall equal the number of registered commercial fisherman licensees on board the vessel who hold a valid gear license and have paid the oyster resource user fee multiplied by 12.

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- C. It shall be unlawful for any vessel to exceed a daily vessel limit for clean cull oysters harvested from the areas described in 4 VAC 20-720-40 B 1, whereby that vessel limit shall equal the number of registered commercial fisherman licensees on board the vessel who hold a valid gear license and have paid the oyster resource user fee multiplied by 12. It shall be unlawful for any person who does not possess a valid commercial fisherman’s registration license, hold a valid gear license required for any harvest area, as described in 4 VAC 20-720-75, and has not paid the current year’s oyster resource user fee to harvest or possess any oysters for commercial purposes. Any individual who possesses the valid licenses and has paid the oyster resource user fee, as described in this subsection, shall be limited to a maximum harvest of 12 bushels per day.
- D. It shall be unlawful for any person who does not possess a valid commercial fisherman’s registration license and a valid gear license required for any harvest area, as described in 4 VAC 20-720-75, and has not paid the current year’s oyster resource user fee to harvest or possess any oysters for commercial purposes. Any individual who possesses a valid patent tong license and paid the oyster resource user fee, as described in this subsection, shall be limited to a maximum harvest of eight bushels per day. It shall be unlawful for any vessel to exceed a daily vessel limit of 16 bushels of clean cull oysters harvested from the areas described in 4 VAC 20-720-40 B when the vessel is using patent tongs.
- E. In the Pocomoke and Tangier Sounds Rotation Area 2, no blue crab bycatch is allowed. It shall be unlawful to possess on board any vessel more than 250 hard clams.

This is to certify that the foregoing is a true and accurate copy of the emergency chapter passed by the Marine Resources Commission, pursuant to authority vested in the Commission by §§ 28.2-201, 28.2-507, 28.2-210 and 28.2-518, of the Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at the meeting held in Newport News, Virginia, October 30, 2018.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: *Steven G. Bowman*
Steven G. Bowman
Commissioner

Subscribed and sworn to before me this 2 day of November 2018.

Jennifer G. Farmer
Notary Public

