

"PERTAINING TO THE HARVESTING OF SURF CLAMS"

REGULATION 4VAC 20-230-10 ET. SEQ.

PREAMBLE

This regulation establishes a size limitation, inspection procedures and license for the harvesting of surf clams in Virginia waters. These provisions closely parallel the management and conservation strategy governing surf clams in federal waters. The intent of this regulation is to ensure that the surf clam resource is managed as a unit stock; therefore the size limitations and tolerances applicable to surf clams in the Exclusive Economic Zone (3-100 nautical miles offshore) are imposed in Virginia's portion of the Territorial Sea. Also, as provided in §28.2-201 of the Code of Virginia, Law Enforcement Officers of the U.S. Department of Commerce, National Marine Fisheries Service, are authorized to enforce the provisions of this regulation.

This regulation is promulgated pursuant to authority contained in §28.2-201 of the Code of Virginia. This regulation amends and re-adopts previous Regulation VAC 20-230-10 ET SEQ., which was adopted June 27, 1995 and effective July 1, 1995. The effective date of this regulation is December 1, 2005.

4VAC 20-230-10 PURPOSE:

The purpose of this regulation is to conserve the surf clam resource in the waters of the Commonwealth and to ensure that the surf clam resource within the waters of the Commonwealth and within the jurisdiction of the Federal Government is managed as a unit stock under consistent management measures.

4VAC 20-230-20 DEFINITIONS:

The following words and terms when used in this regulation shall have the following meaning, unless the context clearly indicates otherwise.

"Surf clam" means the species *Spisula solidissima*.

"Cage" means a standard unit of measure presumed to hold 32 bushels of surf clams or ocean quahogs in the shell. The outside dimensions of a standard cage generally are three feet (3') wide, four feet (4') long, and five feet (5') high.

4VAC 20-230-30 LICENSE:

Any person, desiring to harvest surf clams from the waters under the jurisdiction of the Commonwealth shall first obtain a license from the Marine Resources Commission for each boat so engaged. Such license shall be for a calendar year.

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4VAC 20-230-40 MINIMUM LENGTH:

A. A minimum size limit for surf clams of four and three-quarters inches (4¾") in length is imposed on all surf clams coming from the waters of the Commonwealth and it shall be unlawful for any person to possess clams less than the minimum size, provided however that:

- 1. Ten percent (10%) of all full cages in possession, to the nearest whole cage (or at least one cage), can be withheld by the operator from inspection by an authorized officer, and
- 2. As many as 240 surf clams in any full cage inspected by the authorized officer may be less than four and three-quarters inches (4¾") in length. If any inspected cage is found to be in violation, all cages in possession and not withheld subject to Paragraph A.1 above will be deemed in violation of the size limit.
- 3. To maintain consistency of management measures between state and federal jurisdictions, and when it is deemed in the best interest of the surf clam industry to do so, the Marine Resources Commission may by NOTICE suspend the provisions of Section 4 of this regulation. Such suspension shall be on an annual basis.

B. Length is measured along the longest dimension of the surf clam.

4VAC 20-230-50 ENFORCEMENT:

Any Marine Police Officer of the Marine Resources Commission, and any U.S. Department of Commerce, National Marine Fisheries Service Law Enforcement Officer, shall have and is hereby granted authority to enforce the provisions of this regulation.

4VAC 20-230-60 PENALTY:

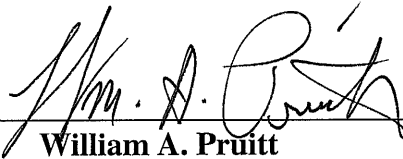
As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within twelve months of a prior violation is a Class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

This is to certify that the foregoing is a true and accurate copy of the regulation 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 July 26, 2005.

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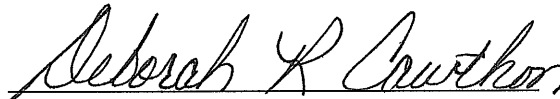
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COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: 
William A. Pruitt
Commissioner

Subscribed and sworn to before me this 3rd day of October, 2005.

My Commission expires December 31, 2008.


Notary Public