

“PERTAINING TO THE TAKING OF BLACK DRUM”

CHAPTER 4VAC-20-320-10 ET SEQ.

PREAMBLE

This chapter establishes management measures for the black drum fishery designed to cap current harvests, minimize conflicts between user groups, provide accurate commercial fishery data, and protect black drum until they reach sexual maturity.

This chapter is promulgated pursuant to authority contained in §§28.2-201 and 28.2-204.1 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous Chapter 4VAC20-320-10 et seq., which was adopted January 22, 2008, and made effective on February 1, 2008. The effective date of this chapter, as amended, is June 1, 2009.

4VAC20-320-10. Purpose.

The purpose of this chapter is to cap the harvest of black drum. A management area with time restrictions is also designated to reduce conflicts between recreational and commercial fishermen that concentrate on drum fishing grounds in the Lower Bay. The chapter also provides for the collection of management information for the black drum commercial fishery. Additionally, a minimum size limit is imposed to provide protection of black drum until they reach sexual maturity. Limited entry in the commercial fishery is implemented to prevent overcapitalization and to improve economic benefits to the recent full-time participants in the future.

4VAC20-320-20. Definitions.

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

"Black Drum" means any fish of the species *Pogonias cromis*.

"COLREGS Line" means the COLREGS Demarcation Lines, as specified in Coastal Pilot, 35th and 36th editions by Lighthouse Press.

"Commercial Harvest" means any black drum taken from the tidal waters of Virginia by any harvesting method, including hook-and-line, and sold.

"Floating gill net" means any gill net that is suspended from the water surface and extends to a depth no more than midway between the water surface and bottom.

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4VAC20-320-30. Commercial harvest quota.

During any calendar year, the total allowable sum of commercial harvest of black drum from Virginia tidal waters shall be 120,000 pounds of whole fish. At such time as the total harvest of black drum reaches 120,000 pounds, it shall be unlawful for any person to take, catch, or land any black drum by any method for commercial purposes.

4VAC20-320-40. Possession limits on hook and line harvests.

A. It shall be unlawful for any person using hook and line, rod and reel, or hand line to take or catch from Virginia tidal waters more than one black drum per day. Any black drum taken after the possession limit of one has been reached shall be returned to the water immediately.

B. When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit.

4VAC20-320-50. Special management area/time restrictions.

A. It shall be unlawful for any person to place, set, or fish gill nets or trotlines from 7 a.m. to 8:30 p.m. of each day for the period of May 1 to June 7, dates inclusive, in the southeastern portion of the Chesapeake Bay in the area bounded by a line drawn from the Cape Charles Jetty to the 36A Buoy to the RN-28 Buoy, then south along the Baltimore Channel to the Fourth Island of the Chesapeake Bay Bridge Tunnel, then north along Chesapeake Bay Bridge Tunnel to Fisherman's Island then north along the coast, returning to the Cape Charles Jetty, except as described in subsection B of this section.

B. It shall be lawful to place, set, or fish gill nets, less than five inches in stretched mesh in the special management area as described in subsection A of this section.

4VAC20-320-60. Minimum size limit.

A. It shall be unlawful for any person to take, catch, or possess any black drum less than 16 inches in total length.

B. Total length shall be measured in a straight line from the tip of the nose to the tip of the tail.

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4VAC20-320-65. Gill net mesh size and tending restrictions: exemptions.

A. Any registered commercial fisherman who is permitted to harvest black drum in accordance with 4VAC20-320-70 A and sets or fishes any gill net east of the COLREGS Line and north of the North Carolina-Virginia border and south of the Maryland-Virginia border in Virginia waters, shall be exempt from the maximum gill net mesh size described in 4VAC20-430-65 A and B, during the months of April, May and June, provided that the fisherman sets and fishes only floating gill nets.

B. Any registered commercial fisherman who is permitted to harvest black drum in accordance with 4VAC20-320-70 A and sets or fishes any gill net east of the COLREGS Line and north of the North Carolina-Virginia border and south of the Maryland-Virginia border in Virginia waters, shall be exempt from the tending requirements described in 4VAC20-430-65 C and D, during the month of June, provided that the fisherman sets and fishes floating gill nets.

4VAC20-320-70. Commercial harvest permits required.

A. It shall be unlawful for any registered commercial fisherman to take, catch, sell, or possess more than one black drum per day, without first having obtained a Black Drum Harvesting and Selling Permit from the Marine Resources Commission. Such permit shall be completed in full by the permittee and a copy kept in the possession of the permittee while fishing and selling black drum. Permits shall only be issued to applicants meeting the following criteria:

1. The applicant shall be a registered commercial fisherman and shall have held a Black Drum Permit in at least one year from 1988 to 1993;
2. The applicant shall have documented catch of black drum in at least one year for which a Black Drum Permit was held from 1988 to 1993; and
3. The applicant shall have reported, in accordance with this chapter, any black drum fishery activity in 1992 and 1993, if a Black Drum Permit was held in those years.

Nothing in this subsection is intended to prohibit a registered commercial fisherman fishing pursuant to 4VAC20-320-40 as a legally eligible recreational fisherman from possessing only one black drum not to be sold.

B. Any registered commercial fisherman who is not permitted to harvest black drum, in accordance with subsection A of this section, may harvest, possess, and sell one black drum per day. Any such daily harvest shall not be a part of the commercial harvest quota but shall be reported to the VMRC as specified in 4VAC20-610.

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C. The Commissioner, or his designee, may grant exceptions to the limited entry criteria listed in subsection A of this section based upon scientific, economic, biological, sociological, and hardship factors. Any person requesting an exception shall provide in writing an explanation for exception and all pertinent information relating to the criteria in subsection A of this section.

D. Requests to transfer a Black Drum Harvesting Permit shall be documented on a form provided by the Marine Resources Commission, notarized by lawful Notary Public, and subject to approval by the Commissioner, or his designee.

E. It shall be unlawful for any person, firm, or corporation to buy any black drum from the harvester without first having obtained a Black Drum Buying Permit from the Marine Resources Commission. Such permit shall be completed in full by the permittee and a copy kept in possession of the permittee while buying black drum.

F. Any person, firm or corporation that has black drum in possession with the intent to sell must either be a permitted harvester or buyer, or must be able to demonstrate that those fish were imported from another state or purchased from a permitted buyer or seller.

4VAC20-320-80. Mandatory reporting of commercial harvest.

A. Commercial harvesters and buyers of black drum shall report daily harvest information on forms to be provided by the Marine Resources Commission. Such information shall include, but is not limited to, the number of fish, their weight, location of harvest, method of capture and the buyer's and seller's permit identification number. Such reports shall be completed in full and shall be submitted to the Marine Resources Commission in accordance with 4VAC20-610.

B. Buyers of black drum imported from out of state shall also report the amount of black drum imported on the forms provided by the Marine Resources Commission.

C. Marine Resources Commission personnel or designate may also collect biological information from black drum accumulated at the place of business of commercial buyers. Such sampling shall be done with the cooperation of the buyers and in a manner which will not inhibit normal business operations.

4VAC20-320-90. 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. In addition, those in violation shall forfeit their Black Drum Harvesting or Buying Permit and its privileges.

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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 and 28.2-204.1 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 on May 26, 2009.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: *Jack A. Trumble*
for Steven G. Bowman
Commissioner

Subscribed and sworn to before me this 28th day of May, 2009.

Jane E Warren
Notary Public

JANE E. WARREN
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7191792
My Commission Expires 3-31-12