

**“PERTAINING TO RESTRICTIONS ON THE HARVEST OF SHELLFISH IN
CONDEMNED SHELLFISH AREAS”****CHAPTER 4 VAC 20-1290-10 ET SEQ.****PREAMBLE**

This chapter establishes areas in the Chesapeake Bay and its tributaries, Potomac tributaries of Virginia, and on the Seaside of Eastern Shore that have been designated as restricted or prohibited, condemned shellfish areas, by the Virginia Department of Health, Division of Shellfish Sanitation, where-in leasing of general oyster planting ground is not allowed. This chapter also establishes permit fees for the daily harvest and relay of shellfish from general oyster planting grounds within restricted shellfish areas. This chapter was promulgated and adopted pursuant to authority contained in § 28.2-201 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous Chapter 4 VAC 20-1290-10 et seq., which was promulgated March 24, 2015 and made effective on April 1, 2015. The effective date of this chapter is June 1, 2015.

4 VAC 20-1290-10. Purpose.

The purpose of this chapter is to protect and promote the oyster broodstock within the condemned shellfish areas, within the tidal waters of the Commonwealth, and to protect the public health.

4 VAC 20-1290-20. Definitions.

“Daily Restricted Shellfish Area Relay Permit” means a one-day permit issued by the Marine Resources Commission for the relay of shellfish from a general oyster planting ground within a restricted shellfish area.

“Restricted Shellfish Area” means any area designated by the Virginia Department of Health, Division of Shellfish Sanitation, wherein it shall be unlawful for any person, firm, or corporation to take shellfish for any purpose except by permit granted by the Marine Resources Commission, as provided in § 28.2-810 of the Code of Virginia.

“Prohibited Shellfish Area” means any area designated by the Virginia Department of Health, Division of Shellfish Sanitation, wherein it shall be unlawful for any person, firm, or corporation to take shellfish for any purpose.

4 VAC 20-1290-30 Restrict leasing of condemned shellfish areas.

All unassigned or vacant state-owned bottomland designated as a condemned shellfish area that is not assigned to or reserved for riparian owners prior to June 1, 2015, by the Virginia Department of Health, and classified as either restricted shellfish area or prohibited shellfish area

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for the direct harvest of shellfish, shall not be leased as general oyster planting grounds.

4 VAC 20-1290-40 Permit to relay shellfish from restricted shellfish areas

A. It shall be unlawful to relay shellfish from a general oyster planting ground within a restricted shellfish area without first obtaining a Daily Restricted Shellfish Area Relay Permit from the Marine Resources Commission.

B. The Daily Restricted Shellfish Area Relay Permit shall be valid for only one calendar day of shellfish relay activities. Shellfish area relay activities authorized by issuance of a Daily Restricted Shellfish Area Relay Permit shall not begin before 6:00 a.m., and shall not extend beyond 6:00 p.m.

C. A Daily Restricted Shellfish Area Relay Permit shall only be issued to a lawfully licensed Oyster Aquaculture Product Owner Permittee or a Clam Aquaculture Product Owner Permittee.

D. Any person whose Commercial Fisherman Registration License, Oyster Aquaculture Product Owner Permit, or Clam Aquaculture Product Owner Permit is currently revoked or rescinded by the Marine Resources Commission pursuant to §§ 28.2-232 or 28.2-528 of the Code of Virginia shall not be authorized to possess a Daily Restricted Shellfish Area Relay Permit. Any person who fails to pay at any time, all fees, costs, and the current annual rent for the general oyster planting ground identified for harvest or relay of shellfish shall be subject to either non-issuance or termination of that Daily Restricted Shellfish Area Relay Permit.

E. The Daily Restricted Shellfish Area Relay Permit shall include the name, address, and telephone number of the permittee, the location of the Virginia Department of Health, Division of Shellfish Sanitation, restricted shellfish area, the general oyster planting ground lease numbers the shellfish will be harvested from, the location of the Virginia Department of Health, Division of Shellfish Sanitation approved relay area, the general oyster planting ground lease numbers the shellfish will be planted on, the vessel identification for each vessel used to relay shellfish (Coast Guard documentation number, Virginia license number, or hull/VIN number), the vehicle identification number for each vehicle used to relay shellfish (Virginia license number or VIN number), identification and address of any offloading location or facility, and if cages will be used and conform to the provisions established by Chapter 4 VAC 20-310-10 et seq., “Pertaining to the Relaying of Shellfish”.

F. Any harvest of shellfish from a restricted shellfish area, including any loading of vessels or

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vehicles, and planting of shellfish from a restricted shellfish area shall be conducted under Marine Resources Commission staff supervision. All scheduling of harvesting and planting of shellfish from a restricted shellfish area shall be determined by the Marine Police area supervisors based on the availability of Marine Resources Commission staff and weather conditions. Permittees shall notify the Marine Police supervisors of the restricted shellfish harvest area and corresponding planting areas no later than one week before any restricted shellfish area relay activities can occur.

G. Upon approval of any Daily Restricted Shellfish Area Relay Permit and before issuance of said permit, the permittee shall pay the Marine Resources Commission a fee of \$150.00 for each day of planned shellfish relay activities.

4 VAC 20-1290-50 Penalty.

A. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter, except section 4 VAC 20-1290-40 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.

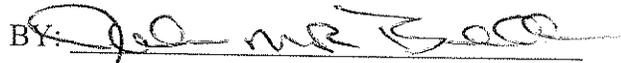
B. As set forth in § 28.2-821 of the Code of Virginia, any person violating any provision of section 4 VAC 20-1290-40 of this chapter shall be guilty of a Class 1 misdemeanor.

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, as amended, duly advertised according to statute, recorded in the Commission minutes book, at its meeting held in Newport News, Virginia, on May 26, 2015.

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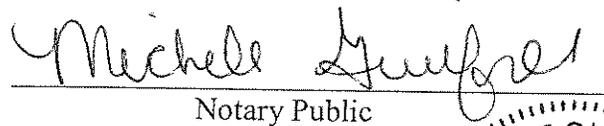
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COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: 

John M. R. Bull
Commissioner

Subscribed and sworn to before me on this 28th day of May, 2015.


Notary Public

