

SHELLFISH MANAGEMENT DIVISION EVALUATION, 2/27/2024

- PUBLIC HEARING:** Proposal to repeal the following chapters pertaining to shellfish:
1. Chapter 4VAC20-1200-10 et seq., " Pertaining to the special relay season in the Rappahannock River"
 2. Chapter 4VAC20-980-10 et seq., "Pertaining to on-shore loading and unloading of shellfish from condemned areas"

The purpose of repealing these regulations is to increase regulatory efficiency by reducing redundant regulatory requirements found in other chapters.

- ISSUES:** The Commission currently establishes by regulation, Chapter 4 VAC 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest", the areas of public oyster harvest, public oyster harvest seasons and oyster resource conservation measures if they wish these to be different from those which are established by §28.2-506 of The Code of Virginia. This regulation supersedes other regulations that in the past had addressed individual harvest areas.

Current regulations permit the loading and unloading of shellfish in a less restrictive but equally safe manner than that required by 4VAC20-980-10 et seq., and this regulation is no longer required for public safety or efficiency of staff time.

As such, there is no need for these redundant regulations while Chapter 4 VAC 20-720-10 et seq., and other regulations are in effect.

- STAFF RECOMMENDATION:** Staff recommends repealing the following chapters pertaining to shellfish:
1. Chapter 4VAC20-1200-10 et seq., " Pertaining to the special relay season in the Rappahannock River"
 2. Chapter 4VAC20-980-10 et seq., "Pertaining to on-shore loading and unloading of shellfish from condemned areas"

- Attachments:**
1. Public Notice
 2. Draft Regulation



COMMONWEALTH of VIRGINIA

Marine Resources Commission

Building 96

380 Fenwick Road

Fort Monroe, VA 23651

Travis A. Voyles
Secretary of Natural and Historic
Resources

Jamie L. Green
Commissioner

NOTICE

The Virginia Marine Resources Commission invites public comment on proposed amendments to regulations, as shown below. By February 12, 2024, the proposed draft regulations may be viewed on the VMRC web calendar at <https://mrc.virginia.gov/calendar.shtm>.

In accordance with Section 28.2-209 of the Code of Virginia, a public hearing on the proposed amendments to these regulations will be held on Tuesday, February 27, 2024, at the Virginia Marine Resources Commission, 380 Fenwick Road, Bldg. 96, Fort Monroe, Virginia.

Written public comments on the Shellfish Management Division proposals or on shellfish items not on the agenda must be provided by 12:00 p.m., Monday, February 26, 2024, to Andrew Button, VMRC Shellfish Management Division, 380 Fenwick Road, Bldg. 96, Fort Monroe, Virginia 23651, or sent by email to Andrew.button@mrc.virginia.gov with the subject heading "Commission Comments".

The Commission may review Shellfish Management Division items as early as 9:30 a.m.

I. The Commission proposes to repeal the following chapters pertaining to shellfish:

1. Chapter 4VAC20-1200-10 et eq., "Pertaining to the Special Relay Season in the Rappahannock River"
2. Chapter 4VAC20-980-10 et seq., "Pertaining to On-shore Loading and Unloading of Shellfish from Condemned Areas"

The purpose of repealing these regulations is to increase regulatory efficiency by reducing redundant regulatory requirements found in other chapters.

VMRC DOES NOT DISCRIMINATE AGAINST INDIVIDUALS WITH DISABILITIES; THEREFORE, IF YOU ARE IN NEED OF REASONABLE ACCOMMODATIONS BECAUSE OF A DISABILITY, PLEASE ADVISE MICHELE GUILFORD (757-247-2206) NO LATER THAN FIVE WORK DAYS PRIOR TO THE MEETING DATE AND IDENTIFY YOUR NEEDS.

An Agency of the Natural and Historic Resources Secretariat

www.mrc.virginia.gov

Telephone (757) 247-2200 Information and Emergency Hotline 1-800-541-4646

**“PERTAINING TO THE SPECIAL OYSTER RELAY SEASON IN THE
RAPPAHANNOCK RIVER”**

CHAPTER 4 VAC 20-1200-10 ET SEQ.

PREAMBLE

This chapter establishes procedures for the relaying of oysters from Russ’ and Little Carters rocks in Area 9 of the Rappahannock River. This chapter is promulgated pursuant to authority contained in §§28.2-201, 28.2-507, 28.2-801 and 28.2-816 of the Code of Virginia. ~~The effective date of this chapter is April 1, 2009. This chapter amends and re-adopts, as amended, previous Chapter 4 VAC 20-1200-10 et seq., which was promulgated March 24, 2009, and made effective on April 1, 2009. The effective date of this chapter is March 1, 2024.~~

4 VAC 20-1200-10. Purpose. (Repealed).

~~To promote seasonal stability in the marketing of Virginia oysters, without negatively impacting that resource.~~

4 VAC 20-1200-20. Special Oyster Relay Season and Limitations. (Repealed).

~~A. Those portions of Area 9 in the Rappahannock River known as Russ’ and Little Carters rocks shall be open to harvest, by hand or ordinary tongs, from April 1 through April 30, 2009. The remainder of Area 9 in the Rappahannock River will remain closed during this special relay season.~~

~~B. The lawful daily limit of clean cull oysters harvested from Russ’ and Little Carters rocks shall be equal to the number of registered commercial fisherman licensees, on board the vessel, multiplied by fifteen (15) bushels. It shall be unlawful to possess, on board any vessel, or to land more than the lawful daily limit of clean cull oysters described in this section.~~

**“PERTAINING TO THE SPECIAL OYSTER RELAY SEASON IN THE
RAPPAHANNOCK RIVER”**

CHAPTER 4 VAC 20-1200-10 ET SEQ.

~~C. Russ’ and Little Carters rocks are within Condemned Shellfish Growing Area Number 25A-068, and all applicable laws and regulations, for the relaying of shellfish, shall apply.~~

~~D. It shall be unlawful, for any person, to harvest or attempt to harvest oysters from Russ’ and Little Carters rocks prior to sunrise or after 1:00 p.m.~~

~~E. Garrett’s Marina at Bowler’s Wharf shall be designated as the on shore loading and unloading location for oysters taken from Russ’ and Little Carters rocks. It shall be unlawful for any person to load or unload oysters taken from Russ’ and Little Carters rocks, from any shore-side location except Garrett’s Marina at Bowler’s Wharf.~~

~~F. All laws as set forth in the Code of Virginia in Chapter 8 Health and Sanitation Provisions and all Regulations established by VMRC pertaining to the relaying of shellfish shall apply to this special relay season.~~

4 VAC 20-1200-30. Penalty. (Repealed).

~~A. 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.~~

~~B. In addition to the penalty prescribed by law, any person violating any provisions of this chapter shall return all oysters in his possession to the water and shall cease harvesting on that day. All harvesting apparatus shall be subject to seizure, and pursuant to §28.2-232 of the~~

“PERTAINING TO THE SPECIAL OYSTER RELAY SEASON IN THE RAPPAHANNOCK RIVER”

CHAPTER 4 VAC 20-1200-10 ET SEQ.

~~Code of Virginia anyone found in violation of this chapter shall be subject to the immediate forfeiture of all oyster licenses and permits, until that person appears before the Marine Resources Commission.~~

~~C. In addition to the penalty prescribed by §28.2-802 of the Code of Virginia, any person violating any provisions of 4VAC20-1200-10 shall destroy all oysters harvested by that person in violation of 4VAC20-1200-10 in the presence of a Marine Police Officer, and shall be subject to the immediate forfeiture of all oyster licenses and permits until appearing before the Marine Resources Commission.~~

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 Hampton, Virginia on February 27, 2024.

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION**

BY: _____

**Jamie L. Green
Commissioner**

Subscribed and sworn to before me this _____ day of _____, 2024.

Notary Public

"PERTAINING TO ON-SHORE LOADING AND UNLOADING OF SHELLFISH FROM CONDEMNED AREAS"**CHAPTER 4VAC20-980-10 ET SEQ.****PREAMBLE**

This chapter establishes locations for the on-shore loading and unloading of shellfish taken from condemned areas. This chapter is promulgated pursuant to the authority contained in §§28.2-819 and 28.2-201 of the Code of Virginia.

This chapter rescinds Order Number 83-4 which was adopted and made effective April 19, 1983.

This chapter rescinds Order Number 84-5 which was adopted May 22, 1984 and effective May 23, 1994. This chapter rescinds chapter 4 VAC 20-800-10 et seq. which was adopted and effective August 26, 1996. This chapter rescinds chapter 4VAC 20-820-10 et seq. which was adopted May 5, 1987 and effective May 6, 1987. This chapter rescinds chapter 4VAC 20- 840-10 et seq. which was adopted April 5, 1988 and effective May 2, 1988. This chapter rescinds chapter 4VAC 20-870-10 et seq. which was adopted March 27, 1990 and effective April 1, 1990. The effective date of this chapter is May 30, 1997. This chapter amends and re-adopts, as amended, previous Chapter 4VAC 20-980-10 et seq., which was promulgated May 27, 1996 and made effective May 30, 1997. The effective date of this chapter, as amended, is March 1, 2024.

4VAC20-980-10. Purpose. (Repealed).

~~The purpose of this chapter is to promote efficiency in the utilization of condemned shellfish resources.~~

4VAC20-980-20. Listing of on-shore loading and unloading locations. (Repealed).

~~A. The following locations shall be designated for the on-shore loading and unloading of clams taken from condemned areas:~~

"PERTAINING TO ON-SHORE LOADING AND UNLOADING
OF SHELLFISH FROM CONDEMNED AREAS"

CHAPTER 4VAC20-980-10 ET SEQ.

1. ~~L. D. Amory, Hampton~~
~~101 South King Street~~
~~Hampton, VA~~
2. ~~F. D. Hunt's Dock~~
~~Sunset Creek~~
~~Hampton, VA~~
3. ~~Jones Marina~~
~~519 Bridge Street~~
~~Hampton, VA~~
4. ~~SeaRich Seafood South~~
~~205 Jefferson Avenue~~
~~Newport News, VA~~
5. ~~Old Point Packing, Inc.~~
~~817 Jefferson Avenue~~
~~Newport News, VA~~
6. ~~Casey Seafood, Inc.~~
~~807 Jefferson Avenue~~
~~Newport News, VA~~
7. ~~Lynnhaven Waterway Marina, Inc.,~~
~~2101 Great Neck Road~~

"PERTAINING TO ON-SHORE LOADING AND UNLOADING OF SHELLFISH FROM CONDEMNED AREAS"

CHAPTER 4VAC20-980-10 ET SEQ.

~~Virginia Beach, VA~~

~~B. It shall be unlawful for any person to load or unload clams taken from condemned areas at any shore-side location that is not specified in subsection A of this section or is not established according to the provisions of 4VAC20-980-30.~~

~~C. The following locations shall be designated for the on-shore loading and unloading of oysters taken from condemned areas:~~

- ~~1. Bevans Oyster Company~~
~~Route 1~~
~~Kinsale, VA~~
- ~~2. State Public Dock in Perrin~~
~~Gloucester, VA~~
- ~~3. Public Boat Landing, Tylers Beach~~
~~Rushmere, VA~~
- ~~4. Back River Seafood~~
~~435 Messick Road~~
~~Poquoson, VA~~

~~D. It shall be unlawful for any person to load or unload oysters taken from condemned areas at any on-shore location that is not specified in subsection C of this section or is not established according to the provisions of 4VAC20-980-30.~~

"PERTAINING TO ON-SHORE LOADING AND UNLOADING OF SHELLFISH FROM CONDEMNED AREAS"

CHAPTER 4VAC20-980-10 ET SEQ.

4VAC20-980-30. ~~Modification of the listing of designated locations. (Repealed).~~

~~The Commissioner of Marine Resources or his designee shall be authorized to modify the listing of approved on-shore loading and unloading locations in order to promote efficient utilization of condemned shellfish resources.~~

4VAC20-980-40. ~~Penalty. (Repealed).~~

~~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 and 28.2-819 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Hampton, Virginia on February 27, 2024.

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION**

BY: _____
**Jamie L. Green
Commissioner**

Subscribed and sworn to before me this _____ day of _____, 2024.

Notary Public