

"PERTAINING TO THE DREDGING OF CONCHS (ALSO KNOWN AS WHELKS)"

CHAPTER 4VAC20-150-10 Et Seq.

PREAMBLE

This chapter establishes areas, seasons, times, manner, records, and license for dredging for conchs within the waters of the Commonwealth of Virginia.

This chapter is promulgated pursuant to authority contained in § 28.2-201 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous Chapter 4VAC20-150-10 which was promulgated June 27, 2006 and made effective on June 28, 2006. The effective date of this chapter, as amended is January 1, 2008.

4VAC20-150-10. Purpose.

The purpose of this chapter is to provide for the conservation of conchs and to minimize gear conflicts.

4VAC20-150-20. General.

It shall be unlawful to take conchs (also known as whelks) by dredge from any of the waters under the jurisdiction of the Commonwealth except during the seasons, from the areas, and in the manner described by this regulation.

4VAC20-150-30. Areas and seasons.

A. Area Number 1 shall be that area where dredging for crabs is permitted by law and Marine Resources Commission, 4VAC20-90-10 et seq., and the season for this area shall be the same as that season established by §28.2-707 of the Code of Virginia, as may be adjusted by the Marine Resources Commission.

B. Area Number 2 shall be that area east of the Chesapeake Bay Bridge-Tunnel and will include that area known as the mouth or entrance to the Chesapeake Bay. It is more particularly described as follows: beginning at the one-mile marker on the Chesapeake Bay Bridge-Tunnel; thence northerly along the bridge tunnel to Fisherman's Island; thence along the southeast shoreline of Fisherman's Island to the lower portion of Smith Island at a point that is due east of Cape Charles Lighthouse; thence due east three nautical miles to the Three Nautical Mile Line; thence along said Three Nautical Mile Line; southerly to 36° 55' N Latitude; thence due west along said latitude to buoy C"1"; thence northerly to buoy R"2C"; thence southwesterly to buoy G"1TS", thence southwesterly to buoy G"1L"; thence northwesterly thence to the point of beginning. This description shall specifically exclude all inlets of Fishermans and Smith Islands, and all waters west of said islands. The season for this area shall be from April 1 through September 30, inclusive, of each year.

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C. Area Number 3 shall be that area bounded on the north by $36^{\circ} 45'$ N Latitude, bounded on the west by mean low water, bounded on the south by the Virginia-North Carolina border, and bounded on the east by the Three Nautical Mile Line; and the season for this area shall be year round.

D. Area Number 4 shall be that area bounded on the north by a line from buoy RN"36A" at the town of Cape Charles and running NNW to Wolf Trap Light, bounded on the west by a line drawn from Wolf Trap Light and running southerly through buoys RN"2", C"1NP", RN"2MB", C"1MB", R"8", at the York River Entrance Channel; thence southeasterly bounded by the northern side of said channel to buoy R"2"; thence southerly to buoy RW"HC"; thence southwesterly to buoy G"11" at Thimble Shoal Channel; thence bounded on the south by the south side of said channel until its intersection with the Chesapeake Bay Bridge-Tunnel; thence bounded on the east by the Chesapeake Bay Bridge-Tunnel and a line drawn from the terminus of the Chesapeake Bay Bridge-Tunnel on Fishermans Island back to buoy RN"36A" but remaining offshore of any and all fixed fishing devices. The season for this area shall be May 1 through September 30, inclusive, of each year.

E. Area Number 5 shall consist of two parts:

The south part shall be that area in Virginia's portion of the Territorial Sea between $36^{\circ} 55'$ N Latitude and $36^{\circ} 45'$ N Latitude excluding the inshore one mile. It is more particularly described as follows: beginning at buoy C"1" on the $36^{\circ} 55'$ N Latitude; thence along said latitude east to the Three Nautical Mile Line; thence southerly along said Three Nautical Mile Line to $36^{\circ} 45'$ N Latitude; thence along said latitude west to the one-mile limit; thence northerly along said one-mile limit to the $36^{\circ} 55'$ N Latitude; thence east along said latitude to buoy C"1" and the point of beginning.

The north part shall be that area between the Virginia-Maryland line and Cape Charles Lighthouse and comprising Virginia's portion of the Territorial Sea off of Accomack and Northampton Counties. It is more particularly described as follows: beginning at a point on the mean low water, which point is due east of the Cape Charles Lighthouse; thence northerly along the low water mark of the eastern side of the Eastern Shore Barrier Islands to the Virginia-Maryland border; thence along said border easterly three nautical miles to the Three Nautical Mile Line; thence southerly along said Three Nautical Mile Line to a line that runs due east from Cape Charles Lighthouse; thence along said line three nautical miles to the point of beginning. Said boundary to run from headland to headland across all inlets between said Barrier Islands. This description shall specifically exclude all inlets and all waters west of said islands.

The season for Area Number 5 shall be from January 1 through August 31, inclusive, and from November 1 through December 31, inclusive, of each year.

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4VAC20-150-40. Days and hours.

- A. Dredging on Sunday is prohibited.
- B. For Area Number 1, dredges may be used only during the hours of one hour before sunrise to one hour after sunset, Monday through Saturday.
- C. There shall be no hourly restriction for Area Number 2, Area Number 3, Area Number 4, and Area Number 5, except that if, in the judgment of the Marine Resources Commission the practice of dredging whelks at night in Area 2 and Area 4 is causing a hazard to the public safety or conflicting with other fishing or shell-fishing, then such hours may be limited by Marine Resources Commission.

4VAC20-150-50. Type and operation of dredge.

- A. For Area Number 1, Area Number 2, and Area Number 4, dredges shall be of a conventional type used for dredging of crabs. The use of hydraulic dredge in these areas is prohibited.
- B. For Area Number 3 and Area Number 5 there shall be no gear restriction.

4VAC20-150-60. License.

- A. It shall be unlawful to dredge for conchs without first having obtained a license therefore, except that when dredging for conchs in Area Number 1, persons holding the regular crab dredging license prescribed by §28.2-702 of the Code of Virginia, need not have the conch dredging license prescribed in this section. This license may be obtained from the marine police officer in charge of the district.
- B. Any license shall at all times be on board the boat and available for inspection by any law-enforcement officer of the Marine Resources Commission.
- C. There shall be no refund of any license fee or any part of one in the event a license is surrendered, suspended, or revoked.

4VAC20-150-70. Limitation of catch.

In Area Number 2 and Area Number 4, only conchs and horseshoe crabs shall be taken, harvested or possessed. All other shellfish, crustaceans, finfish, and other marine life caught during dredging shall be returned immediately to the water. Possession of such for a time longer than is necessary to return to the water will be in violation of this chapter.

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4VAC20-150-80 to 4VAC20-150-90. [Repealed]

4VAC20-150-100. Penalty.

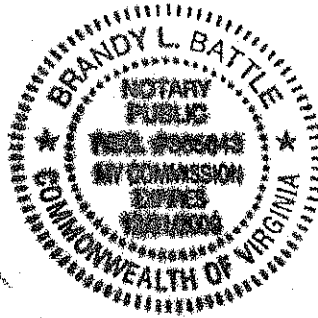
As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

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 Newport News, Virginia on December 18, 2007.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

By: John L. Travelstead for SGB
Steven G. Bowman
Commissioner

Subscribed and sworn to before me this 20 day of December, 2007.



Brandy L. Battle
Notary Public