

**"PERTAINING TO SHELLFISH MANAGEMENT AREAS"****CHAPTER 4 VAC 20-560-10 ET SEQ.****PREAMBLE**

This chapter establishes shellfish management areas and clam broodstock management areas, with provisions to control the harvest of clams from those areas. This chapter is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-503 of the Code of Virginia. This chapter amends and re-adopts, as amended, Chapter 4 VAC 20-560-10 et seq. which was adopted on August 28, 2012 and made effective on September 1, 2012. The effective date of this chapter, as amended, is August 1, 2015.

**4VAC20-560-10. PURPOSE.**

The purpose of this chapter is to protect and promote the hard clam resource within the designated areas of the York River, Poquoson River, Back River and James River.

**4VAC20-560-20. SHELLFISH MANAGEMENT AREAS.**

- A. The Poquoson River Shellfish Management Area shall consist of all public grounds bounded by a line beginning at Hunts Point Survey Taylor and running northwesterly to Survey Station Spit; thence northeasterly to Survey Station Cabin North; thence east to Survey Station Cabin South; thence southeasterly following the general shoreline (not to include any creeks or canals) to the flag pole near Survey Station 80 at York Point; thence 175 degrees to Day Marker No. 14 and returning to Hunts Point Survey Taylor.
- B. The Back River Shellfish Management Area shall consist of all current public clamming grounds bounded by a line from corner 3 on Shell Plant 115 through corner 17, a daymarker, on Shell Plant 115, 237.42 feet to a point being the point of beginning; thence southeasterly to corner number 1 Public Clamming Ground (PCG#12); thence southeasterly to corner number 3A Public Clamming Ground (PCG#12); thence northeasterly to corner number 3 Public Clamming Ground (PCG#12); thence northwesterly to corner number 2 Public Clamming Ground (PCG#12); thence southwesterly to the POB. Also, for a period of one year, throughout 1994, Shell Plant 115 will also be included in the Back River Shellfish Management Area.
- C. The James River Broodstock Management Area is located inside Public Ground No. 1, Warwick County, south of the James River Bridge, further described as follows: Beginning at a corner number 611 (State Plane Coordinates North 249766.12 East 2596017.56); thence Grid Azimuth 308-39-51, 1074.35' to a corner number 613 (State Plane Coordinates North 250437.32 East 2595178.68); thence Grid Azimuth 28-15-00, 366.30' to a corner number 614 (State Plane Coordinates North 250759.99 East 2595352.06); thence Grid Azimuth 132-36-45, 1114.51' to a corner number 612 (State

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Plane Coordinates North 250005.43 East 2596172.28); thence Grid Azimuth 212-53-03, 284.97' to a corner number 611, being the point of beginning, containing 8.04 acres.

- D. The York River Broodstock Management Area shall consist of the area under any portion of the George P. Coleman Memorial Bridge, in addition to the area within 300 feet of the eastern, or downstream, side of the George P. Coleman Memorial Bridge and the area within 300 feet of the western, or upstream, side of the George P. Coleman Memorial Bridge.
- E. The Newport News Shellfish Management Area shall consist of the area bounded by a line beginning at the point of intersection of the downstream side of the James River Bridge (U.S. Route 17 - northbound) , east of the draw span and the western boundary of Public Ground No. 1, Warwick County (City of Newport News), said point being at NAD 1983, latitude 37° 00.2694609' N., longitude 76° 27.9896511' W.; thence east southeasterly along the boundary to a corner of Public Ground No. 1, Warwick County, latitude 37° 00.1982568' N., longitude 76° 27.8155397' W.; thence southeasterly along the boundary to a corner, latitude 36° 59.9941747' N., longitude 76° 27.5831952' W.; thence northeasterly along the boundary to the intersection of the Condemned Shellfish Area Line, Area 056-007-A, as established by the Virginia Department of Health effective 8 January 2014, latitude 37° 00.0789081' N., longitude 76° 27.4512191' W.; thence southeasterly following the condemned area boundary to a point near the offshore end of the Newport News Shipbuilding floating dry dock located at latitude 36° 59.2816669' N., longitude 76° 26.7950000' W.; thence to the northwest corner of the Virginia Ports Authority container pier, latitude 36° 58.1833333' N., longitude 76° 26.0150000' W.; thence southeasterly to a point near the end of a coal loading pier, latitude 36° 57.9883333' N., longitude 76° 25.8316667' W.; thence southeasterly to a point near the end of a coal loading pier, latitude 36° 57.7483333' N., longitude 76° 25.4416667' W.; thence southeasterly to the northwest corner of the south island of the Monitor Merrimac Bridge Tunnel, latitude 36° 56.8799995' N., longitude 76° 24.3399996' W.; thence southerly along the upstream side of the Monitor Merrimac Bridge Tunnel to the first overhead light structure on the bridge tunnel north of the small boat channel hump, latitude 36° 55.6035310' N., longitude 76° 24.5674263' W.; thence northwesterly to the easternmost corner of Oyster Lease, Plat File 10091 (Johnson, III or successors), latitude 36° 55.9505383' N., longitude 76° 25.0031248' W.; thence northwesterly to the northernmost corner of said lease, latitude 36° 56.2062064' N., longitude 76° 25.4039147' W.; thence westerly to the easternmost corner of Public Ground No. 2, Nansemond County (City of Suffolk), latitude 36° 56.2025195' N., longitude 76° 25.4339957' W.; thence northwesterly to the southwest corner of Oyster Lease, Plat File 20663 (Melzer/ Burton or successors), latitude 36° 56.8957714' N., longitude 76° 26.6177905' W.; thence northeasterly to a lease corner, latitude 36° 56.9688138' N., longitude 76° 26.4028827' W.; thence north-northwesterly to a lease corner, latitude 36° 58.2820197' N., longitude 76° 27.2355278' W.; thence northwesterly

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to a lease corner, latitude 36° 58.4440126' N., longitude 76° 27.3919892' W.; thence northwesterly to a corner on Oyster Lease, Plat File 20662 (Burton/ Burton, Jr. or successors), latitude 36° 59.0856691' N., longitude 76° 27.9659794' W., thence northwesterly to a point on the boundary of Oyster Lease, Plat File 20662, latitude 36° 59.3207135' N., longitude 76° 28.4650941' W.; thence northeasterly to the southern corner of Oyster Lease, Plat File 20699 (Green or successors), latitude 36° 59.4032421' N., longitude 76° 28.3778693' N.; thence northeasterly to a lease corner, latitude 36° 59.7192188' N., longitude 76° 28.0438774' W.; thence north-northwesterly to the extending through the northern corner of Oyster Lease, Plat File 20699, to a point on the downstream side of the James River Bridge (U.S. Route 17 - northbound), latitude 37° 00.0685852' N., longitude 76° 28.2312958' W.; thence northeasterly along the downstream side of the bridge to a point east of the draw span and the intersection of the western boundary of Public Ground No. 1, Warwick County (City of Newport News), said point being the point of beginning.

- F. The Back River Reef Broodstock Management Area shall consist of the area within a 2000' radius of the center buoy, with a position of 37° 08' 12" north, 76° 13' 54" west.
- G. The Middle Ground Light Broodstock Management Area shall consist of the area within a 1000' radius of the navigational light, with a position of 36° 56.7' north, 76° 23.5' west.
- H. The York Spit Reef Broodstock Management Area shall consist of the area contained within the defined latitudes and longitudes: northwest corner 37° 14' 75" N - 076° 14' 20" W, northeast corner 37° 14' 75" N - 076° 13' 30" W, southwest corner 37° 14' 05" N - 076° 14' 20" W, southeast corner 37° 14' 05" N - 076° 13' 30" W.

**4VAC20-560-30. PERMITS REQUIRED.**

Each boat or vessel engaged in the harvesting of clams by patent tong from the Poquoson River Shellfish Management Area or the Back River Shellfish Management Area shall first obtain a permit specific to the management area to be worked from any Marine Police Officer, and this permit shall be on board the vessel at all times and available for inspection. The permit shall state the name and port of the vessel, the registration or documentation number of the vessel, the name and address of the owner of the vessel and the name of the captain of the vessel. Any change to any of the above information shall require the vessel owner or captain to obtain a new permit. These permits are in addition to all other licenses or permits required by law.

**4VAC20-560-40. PATENT TONG SEASON.**

- A. The lawful season for the harvest of clams by patent tong from the Poquoson River Shellfish Management Area shall be March 15 through May 1.

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- B. The lawful season for the harvest of clams by patent tong from the Back River Shellfish Management Area shall be January 1 through March 31.
- C. It shall be unlawful for any person to harvest clams by patent tong from either the Poquoson River Shellfish Management Area or Back River Shellfish Management Area except as provided in subsections A and B of this section.
- D. It shall be unlawful for any person to harvest clams by patent tong from the Newport News Shellfish Management Area during any month, except May, June, July, August and September.

**4VAC20-560-50. TIME OF DAY AND HARVEST RESTRICTIONS.**

- A. It shall be unlawful for any person to harvest clams by patent tong from the Poquoson River Shellfish Management Area before sunrise or after 2 P.M. .
- B. It shall be unlawful for any person to harvest clams by patent tong from the Back River Shellfish Management Area before sunrise or after 4 p.m.
- C. It shall be unlawful for any person to harvest clams by patent tong from either the Poquoson River Shellfish Management Area, Newport News Shellfish Management Area or Back River Shellfish Management Area on Saturday or Sunday.
- D. It shall be unlawful for any person to harvest any shellfish from the James River Broodstock Management Area, Back River Reef Broodstock Management Area, Middle Ground Light Broodstock Management Area, York Spit Reef Broodstock Management Area, or York River Broodstock Management Area at any time.
- E. It shall be unlawful for any person to harvest clams by patent tong from the Newport News Shellfish Management Area before sunrise or after 2 p.m.
- F. It shall be unlawful for any person to possess any amount of hard clams from the Newport News Shellfish Management Area which consists of more than 2.0% by number of clams, which can be passed through a 1-3/8 inch inside diameter culling ring. The 2.0% allowance shall be measured by the marine police officer from each container or pile of clams.

**4VAC20-560-55. PROHIBITION TO LEASE IN A SHELLFISH MANAGEMENT AREA.**

It shall be unlawful for any person to lease any area of the Newport News Shellfish Management Area.

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4VAC20-560-60. PENALTY.

- 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 penalties prescribed by law, any person violating 4 VAC 20-560-50 D shall immediately return all harvested shellfish to the Broodstock Management Area, shall cease harvesting on that day, shall be required to appear before the Marine Resources Commission pursuant to any violation, and all harvesting apparatus shall be subject to seizure.
- C. The Marine Resources Commission may revoke the permit of any person convicted of a violation of this chapter.
- D. All clams in any container or pile found in violation of 4 VAC 20-560-50 F shall be returned to the water by the clammer as directed by the marine police officer.

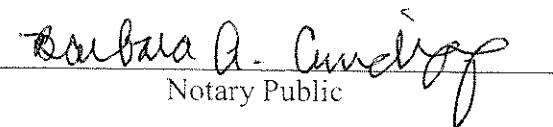
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This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Marine Resources Commission, pursuant to authority vested in the Commission by § 28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Newport News, Virginia on July 28, 2015.

COMMONWEALTH OF VIRGINIA  
MARINE RESOURCES COMMISSION

BY:   
John M. R. Bull  
Commissioner

Subscribed and sworn to before me this 30<sup>th</sup> day of July 2015.

  
Notary Public

BARBARA A. CUNDIFF  
NOTARY PUBLIC  
Commonwealth of Virginia  
Reg. #208684  
My Commission Expires 4-30-2019