

"PERTAINING TO THE TAKING OF SHELLFISH FROM CONDEMNED AREAS"

REGULATION 4 VAC 20-330-10 ET. SEQ.

§ 4VAC20-330-10 Purpose.

The purpose of this chapter is to conserve Virginia's shellfish resources and to protect public health.

Statutory Authority §28.2-801 of the Code of Virginia.

Historical Notes

Derived from VR450-01-0044 §1; eff. May 6, 1987; amended, Virginia Register Volume 11, Issue 22, eff. July 1, 1995.

§ 4VAC20-330-20 Harvesting restrictions.

As required under §28.2-810 of the Code of Virginia, the Commissioner of Marine Resources shall issue special permits to applicants to take and catch shellfish from condemned areas. It shall be unlawful for harvesting to occur, except under the following conditions:

1. Each boat used for harvesting condemned shellfish shall not leave the dock with the gear used for harvesting on board until one hour before sunrise and shall return to the dock before sunset. When said boat is used for other purposes between the hours of sunset and one hour before sunrise only patent tongs may remain on the boat, provided the hoist line shall be disconnected and the bolt removed, separating and disassembling the patent tong gear during said period of time.
2. Shellfish shall be taken and caught from condemned areas only during the lawful season, Monday through Friday, and only between the hours of sunrise and 5 p.m.
3. The culling board of each boat used for harvesting of condemned shellfish shall be clean before sunrise and by 5 p.m. The presence of shellfish on the culling board before sunrise and after 5 p.m. shall be prima facie evidence of a violation of this chapter.

Statutory Authority §28.2-801 of the Code of Virginia.

Historical Notes

Derived from VR450-01-0044 §2; eff. May 6, 1987; amended, Virginia Register Volume 11, Issue 22, eff. July 1, 1995.

§ 4VAC20-330-40 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.

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B. Pursuant to §28.2-822 of the Code of Virginia, in the event any person is convicted in court of a violation of any provision of Chapter 8 of Title 28.2 of the Code of Virginia, or any part of this chapter, or when in the judgment of the Commissioner of Marine Resources it is in the best interest of the industry, the commissioner may revoke the special permit. Any person having said permit revoked shall be entitled to a hearing before the Marine Resources Commission at its next scheduled meeting.

Statutory Authority §28.2-801 of the Code of Virginia.

Historical Notes

Derived from VR450-01-0044 §3; eff. May 6, 1987; amended, Virginia Register Volume 11, Issue 22, eff. July 1, 1995.

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REGULATION 450-01-0044

PREAMBLE

This regulation establishes time of day restrictions for the harvesting of shellfish from condemned grounds.

This regulation is promulgated pursuant to authority contained in §28.2-801 of the Code of Virginia. This regulation amends and re-adopts previous Regulation 450-01-0044, which was adopted May 5, 1987 and effective May 6, 1987. The effective date of this regulation is July 1, 1995.

§1. PURPOSE:

The purpose of this regulation is to conserve Virginia's shellfish resources and to protect public health.

§2. HARVESTING RESTRICTIONS:

As required under §28.2-810 of the Code of Virginia, the Commissioner of Marine Resources shall issue special permits to applicants to take and catch shellfish from condemned areas. It shall be unlawful for harvesting to occur, except under the following conditions:

- A. Each boat used for harvesting condemned shellfish shall not leave the dock with the gear used for harvesting on board until one hour before sunrise and shall return to the dock before sunset. When said boat is used for other purposes between the hours of sunset and one hour before sunrise only patent tongs may remain on the boat, provided the hoist line shall be disconnected and the bolt removed, separating and disassembling the patent tong gear during said period of time.
- B. Shellfish shall be taken and caught from condemned areas only during the lawful season, Monday through Friday, and only between the hours of sunrise and 5:00 p.m.
- C. The culling board of each boat used for harvesting of condemned shellfish shall be clean before sunrise and by 5:00 p.m. The presence of shellfish on the culling board before sunrise and after 5:00 p.m. shall be prima facie evidence of a violation of this regulation.

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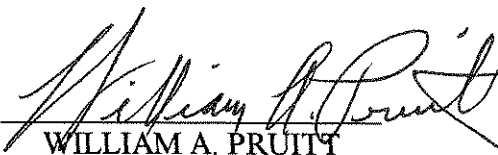
REGULATION 450-01-0044

§3. PENALTY:

- A. As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within twelve months of a prior violation is a Class 1 misdemeanor.
- B. Pursuant to §28.2-822 of the Code of Virginia, in the event any person is convicted in court of a violation of any provision of Chapter 8 of Title 28.2 of the Code of Virginia, or any part of this regulation, or when in the judgment of the Commissioner of Marine Resources it is in the best interest of the industry, the Commissioner may revoke the special permit. Any person having said permit revoked shall be entitled to a hearing before the Marine Resources Commission at its next scheduled meeting.

This is to certify that the foregoing is a true and accurate copy of the regulation passed by the Marine Resources Commission, pursuant to authority vested in the Commission by §28.2-801 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 June 27, 1995.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: 
WILLIAM A. PRUITT
COMMISSIONER

Subscribed and sworn to before me this 27th day of June, 1995.

My Commission expires December 31, 1996.


NOTARY PUBLIC