

“PERTAINING TO BLUE CRAB FISHERY”**CHAPTER 4 VAC 20-270-10 ET SEQ.****DRAFT****PREAMBLE**

This chapter establishes daily individual, vessel and harvest and possession limits, time limits, season limits, peeler pot limits, and peeler and softshell crab minimum size limits for the commercial blue crab fishery in Virginia and the daily recreational blue crab harvest and possession limit. This chapter is promulgated pursuant to authority contained in §§ 28.2-101, 28.2-201 and 28.2-700 et seq. of the Code of Virginia. This chapter repeals any other chapters that pertain to crab pot bushel limits. This chapter amends and re-adopts, as amended, previous Chapter 4 VAC 20-270-10 et seq., which was promulgated ~~June 25, 2019~~ June 23, 2020 and made effective on July 5, ~~2019~~ 2020. The effective date of this chapter, as amended, is ~~July 5, 2020~~ November 1, 2020.

4 VAC 20-270-10. Purpose.

The purpose of this chapter is to allow for the conservation and rebuilding of the crab resource and to improve the enforceability of other laws pertaining to crabbing.

4 VAC 20-270-15. Definitions.

The following word or term when used in this chapter shall have the following meaning unless the context indicates otherwise:

“Crab” as described in this chapter refers solely to the crustacean *Callinectes sapidus*.

4 VAC 20-270-20. Sunday prohibition and limited exception for possession of male hard crabs.

It shall be unlawful to take or catch crabs for commercial purposes on Sunday. This section shall not apply to the harvest of peeler crabs by crab traps or peeler pots or to the working of floats, pens, or onshore facilities for soft crab shedding operations. Any person licensed to harvest peeler crabs by peeler pot may harvest one bushel of male crabs from his peeler pots on Sunday strictly for the purpose of baiting his peeler pots, and such crabs may not be sold.

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4 VAC 20-270-30. Daily time limits for commercial harvest.

A. It shall be unlawful for any person licensed to catch and sell crabs taken by crab pot or peeler pot to take and harvest crabs from any crab pot or peeler pot, or to retrieve, bait, or set any crab pot or peeler pot, except during the lawful daily time periods described in subsections A, B, C, and D of this section. The lawful daily time periods for the commercial harvesting of crabs by crab pot or peeler pot shall be from 6 a.m. to 2 p.m. during the lawful seasons, as described in Chapter 4 VAC 20-270-40 A, except as described in subsections B, C, and D of this section. The lawful daily time periods for the commercial harvesting of crabs by crab pot or peeler pot shall be from 5 a.m. to 1 p.m. during the months of May, June, July, and August, as described in Chapter 4 VAC 20-270-40 A, except as specified in subsections B, C, and D of this section. Crab pots or peeler pots already on board a boat at the end of the lawful daily time period, as defined in subsections A, B, and C of this section, may be set immediately following the end of lawful daily time period to one hour after the lawful daily time period ends.

B. Any licensed crab pot or peeler pot fisherman who provides an opinion and supporting documentation from an attending physician to the commissioner of an existing medical condition that prevents him from adhering to the daily time limit established in subsection A of this section may be permitted by the commissioner or his designee to take and harvest crabs from his crab pot or peeler pot, or to retrieve, bait, or set his crab pot or peeler pot during an alternate eight-hour daily time limit. That alternative eight-hour daily time limit will be prescribed by the commissioner or his designee in accordance with the medical condition that forms a basis for the exception to the daily time limit as described in subsection A of this section.

Nothing in this regulation shall prohibit any licensed crab pot or peeler pot fisherman, who has been granted an exception to the eight-hour work schedule, on a medical basis, from using another licensed crab pot or peeler pot fisherman as a mate; provided, however, during the designated alternate work hours, only the crab pots or peeler pots of the fisherman receiving the exception shall be fished. Further, it shall be unlawful for the licensed crab fisherman, who has been granted an exception, or his mate, who is a licensed crab pot or peeler pot fisherman, to fish, set, retrieve, or bait, during the alternate work hours, any crab pot or peeler pot that is not owned and licensed by the fisherman granted the exception.

C. Any licensed crab pot or peeler pot fisherman who requests and obtains an alternate eight-hour daily time limit permit shall be authorized to take and harvest crabs from his crab pot or peeler pot or to retrieve, bait, or set his crab pot or peeler pot one hour earlier than described in subsection A of this section, only for the months of June, July, August, and September. During the months of March, April, May, October, ~~and November,~~ and December the lawful daily time period described in subsection A of

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this section applies to any crab pot or peeler pot licensee. The alternate lawful daily time periods for the commercial harvesting of crabs by crab pot or peeler pot shall be from 4 a.m. to 12 noon from June 1 through August 31 and from 5 a.m. to 1 p.m. from September 1 through September 30. Licensed crab pot or peeler pot fishermen must apply for this permit on an annual basis and shall adhere to the alternate daily time limit from the day the permit is issued through September 30, as well as subdivisions 1, 2, and 3 of this subsection.

1. It shall be unlawful for two or more licensed crab pot or peeler pot fishermen, or their agents, to crab aboard the same vessel if their authorized eight-hour daily time limits are not identical.
2. Requests for an alternate eight-hour time limit permit shall be submitted to the Marine Resources Commission annually and prior to May 15. Requests submitted on or after May 15 will not be considered.
3. Once any legal crab pot or peeler pot licensee obtains an alternate eight-hour daily time limit permit, that permittee shall be legally bound by the alternate eight-hour daily time limit as described in this subsection.

D. The lawful daily time periods for the commercial harvest of crabs by crab pot or peeler pot may be rescinded by the Commissioner of Marine Resources when the commissioner determines that a pending weather event is sufficient cause for the removal of crab pots from the tidal waters of the Commonwealth.

4 VAC 20-270-40. Season limits.

A. In 2020, the lawful season for the commercial harvest of crabs by crab pot shall be March 17 through ~~November 30~~ December 19. In 2021, the lawful season for the commercial harvest of crabs by crab pot shall be March 17 through November 30. For all other lawful commercial gear used to harvest crabs, as described in 4 VAC 20-1040, the lawful seasons for the harvest of crabs shall be April 1 through October 31.

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B. It shall be unlawful for any person to harvest crabs or to possess crabs on board a vessel, except during the lawful season, as described in subsection A of this section.

C. It shall be unlawful for any person knowingly to place, set, fish or leave any hard crab pot in any tidal waters of Virginia from December 1, 2020, through March 16, 2021. It shall be unlawful for any person to knowingly place, set, fish, or leave any lawful commercial gear used to harvest crabs, except any hard crab pot or any gear as described in 4 VAC 20-460-25, in any tidal waters of Virginia from November 1, 2020, through March 31, 2021.

D. It shall be unlawful for any person knowingly to place, set, fish or leave any fish pot in any tidal waters from March 12 through March 16, except as provided in subdivisions 1 and 2 of this subsection.

1. It shall be lawful for any person to place, set, or fish any fish pot in those Virginia waters located upriver of the following boundary lines:

a. In the James River the boundary shall be a line connecting Hog Point and the downstream point at the mouth of College Creek.

b. In the York River the boundary lines shall be the Route 33 bridges at West Point.

c. In the Rappahannock River the boundary line shall be the Route 360 bridge at Tappahannock.

d. In the Potomac River the boundary line shall be the Route 301 bridge that extends from Newberg, Maryland to Dahlgren, Virginia.

2. This subsection shall not apply to legally licensed eel pots as described in 4VAC20-500-50.

E. It shall be unlawful for any person to place, set, or fish any number of fish pots in excess of 10% of the amount allowed by the gear license limit, up to a maximum of 30 fish pots per vessel, when any person on that vessel has set any crab pots.

1. This subsection shall not apply to fish pots set in the areas described in subdivision D 1 of this section.

2. This subsection shall not apply to legally licensed eel pots as described in 4VAC20-500.

3. This subsection shall not apply to fish pots constructed of a mesh less than one-inch square or hexagonal mesh.

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A. It shall be unlawful for any person to place, set or fish or attempt to place, set or fish more than 210 peeler crab pots in Virginia tidal waters.

B. The lawful crab pot license categories and crab pot limits are as follows:

1. up to 85 crab pots.
2. up to 127 crab pots.
3. up to 170 crab pots.
4. up to 255 crab pots.
5. up to 425 crab pots.

C. It shall be unlawful for any person to knowingly place, set or fish any amount of crab pots that exceeds that person’s crab pot limit, as described in subsection B of this section.

4 VAC 20-270-51. Daily commercial harvester, vessel, and harvest and possession limits.

A. Any barrel used by a harvester to contain or possess any amount of crabs will be equivalent in volume to no more than three bushels of crabs.

B. From July 5, 2020, through ~~November 30~~ December 19, 2020, and April 1, 2021, through July 4, 2021, any commercial fisherman registration licensee legally licensed for any crab pot license, as described in 4VAC20-270-50 B, shall be limited to the following maximum daily harvest and possession limits for any of the following crab pot license categories:

1. 10 bushels, or three barrels and one bushel, of crabs, if licensed for up to 85 crab pots.
2. 14 bushels, or four barrels and two bushels, of crabs, if licensed for up to 127 crab pots.
3. 18 bushels, or six barrels, of crabs, if licensed for up to 170 crab pots.
4. 29 bushels, or nine barrels and two bushels, of crabs, if licensed for up to 255 crab pots.
5. 47 bushels, or 15 barrels and two bushels, of crabs, if licensed for up to 425 crab pots.

C. From March 17, 2021, through March 31, 2021, any commercial fisherman registration licensee legally licensed for any crab pot license, as described in 4VAC20-270-50 B, shall be limited to the

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following maximum daily harvest and possession limits, for any of the following crab pot license categories:

1. Eight bushels, or two barrels and two bushels, of crabs, if licensed for up to 85 crab pots.
2. 10 bushels, or three barrels and one bushel, of crabs, if licensed for up to 127 crab pots.
3. 13 bushels, or four barrels and one bushel, of crabs, if licensed for up to 170 crab pots.
4. 21 bushels, or seven barrels of crabs, if licensed for up to 255 crab pots.
5. 27 bushels, or nine barrels of crabs, if licensed for up to 425 crab pots.

D. When a single harvester or multiple harvesters are on board any vessel, that vessel's daily harvest and possession limit shall be equal to only one daily harvest and possession limit, as described in subsections B and C of this section, and that daily limit shall correspond to the highest harvest and possession limit of only one licensee on board that vessel.

E. When transporting or selling one or more legal crab pot licensee's crab harvest in bushels or barrels, any agent shall possess either the crab pot license of that one or more crab pot licensees or a bill of lading indicating each crab pot licensee's name, address, commercial fisherman registration license number, date, and amount of bushels or barrels of crabs to be sold.

F. If any police officer finds crabs in excess of any lawful daily bushel, barrel, or vessel limit, as described in this section, that excess quantity of crabs shall be returned immediately to the water by the licensee or licensees who possess that excess over lawful daily harvest or possession limit. The refusal to return crabs, in excess of any lawful daily harvest or possession limit, to the water shall constitute a separate violation of this chapter.

G. When any person on board any boat or vessel possesses a crab pot license, it shall be unlawful for that person or any other person aboard that boat or vessel to possess a Seafood Buyers Boat License and buy any crabs on any day.

4 VAC 20-270-52. Area Restriction.

A. It shall be unlawful for any person to use any gear, except crab pots or peeler pots, to harvest crabs from the waters of Back Bay and North Landing River or within the jurisdiction of the Albemarle and Currituck watersheds as described in § 28.2-101 of the Code of Virginia.

B. It shall be unlawful to possess, sell, or offer for sale crabs taken by any means other than crab pot or peeler pot from the waters described in this section.

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4 VAC 20-270-55. Minimum size limits.

A. From March 17 through July 15, it shall be unlawful for any person to harvest, possess, sell or offer for sale more than 10 peeler crabs, per United States standard bushel, or 5.0% of peeler crabs in any other container, that measure less than 3-¼ inches across the shell from tip to tip of the longest spikes. From July 16 through ~~November 30~~ December 19, it shall be unlawful for any person to harvest, possess, sell or offer for sale more than 10 peeler crabs, per United States standard bushel, or 5.0% of peeler crabs in any other container, that measure less than 3-½ inches across the shell from tip to tip of the longest spikes, except as described in subsections B and C of this section.

B. From July 16 through ~~November 30~~ December 19, it shall be unlawful for any person to harvest, possess, sell or offer for sale more than 10 peeler crabs, per United States standard bushel, or 5.0% of peeler crabs in any other container, that are harvested from waters on the ocean side of Accomack and Northampton counties and measure less than 3-¼ inches across the shell from tip to tip of the longest spikes, except as described in subsection C of this section.

C. In the enforcement of these peeler crab minimum size limits aboard a vessel, the marine police officer shall select a single container of peeler crabs of his choosing to determine if the contents of that container violate the minimum size and tolerance described in this section. If the officer determines the contents of the container are in violation, then the officer shall return all peeler crabs on board the vessel to the water alive.

D. It shall be unlawful for any person to take, catch, harvest, possess, sell or offer for sale, or to destroy in any manner, any soft crab that measures less than 3-½ inches across the shell from tip to tip of the longest spikes.

4 VAC 20-270-56. Daily Recreational harvest and possession limit.

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It shall be unlawful to take by using an unlicensed dip net or hand line, or two crab pots, or to harvest or possess for personal use aboard any vessel, more than one bushel of hard crabs or two dozen peeler crabs per day.

4 VAC 20-270-58. Repealed.

4 VAC 20-270-60. 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 Hampton, Virginia on October 27, 2020.

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION**

By: _____

**Steven G. Bowman
Commissioner**

Subscribed and sworn to before me this ____ day of October 2020.

Notary Public