

"PERTAINING TO THE TAKING OF HARD CLAMS"

REGULATION 4 VAC 20-590-10 ET. SEQ.

§ 4VAC20-590-10 Purpose.

The purpose of this chapter is to prohibit clammers who possess permits to harvest relay clams from working in clean waters, without first obtaining authorization from Marine Resources Commission law enforcement. The possibility of mixing relay clams with clean clams will therefore be eliminated. In addition, a maximum size limit is established for the conservation of brood stock.

Statutory Authority §§28.2-201 and 28.2-810 of the Code of Virginia.

Historical Notes

Derived from VR450-01-0077 §1; eff. June 15, 1992; amended, Virginia Register Volume 10, Issue 9, eff. January 1, 1994; Volume 11, Issue 17, eff. April 14, 1995.

§ 4VAC20-590-20 Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Chowder clam" means any hard clam that cannot pass through a 2-7/8 inch inside diameter culling ring.

"Operations Office" means Marine Resources Commission Law Enforcement Operations Office.

Statutory Authority §§28.2-201 and 28.2-810 of the Code of Virginia.

Historical Notes

Derived from VR450-01-0077 §2; eff. June 15, 1992; amended, Virginia Register Volume 10, Issue 9, eff. January 1, 1994; Volume 11, Issue 17, eff. April 14, 1995.

§ 4VAC20-590-30 Special permit restrictions.

A. During the relay season, it shall be unlawful for any person possessing a permit for relay clam harvest as required by §28.2-810 of the Code of Virginia, to harvest clams from clean waters without first obtaining authorization from the Operations Office.

B. Any clammer who has been issued a permit for relay clams, shall notify the Operations Office before his boat leaves the dock, either by marine radio (channel 17) or by telephone (1-800-541-4646, (804) 247-2265 or (804) 247-2266), of his intent to patent tong clams in a nonrestricted area on that day. Each permitted clammer shall provide the Operations Office with his name, relay permit number, boat name, present location (for possible verification), departure time, destination and buyer to whom the clams will be sold.

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C. Each permitted clammer shall also notify the Operations Office at the time his boat returns to the dock and furnish his catch count.

Statutory Authority §§28.2-201 and 28.2-810 of the Code of Virginia.

Historical Notes

Derived from VR450-01-0077 §3; eff. June 15, 1992; amended, Virginia Register Volume 10, Issue 9, eff. January 1, 1994; Volume 11, Issue 17, eff. April 14, 1995.

§ 4VAC20-590-40 Allowance for chowder clams; return of containers of clams in violation.

A. It shall be unlawful to possess any amount of hard clams taken from restricted areas which consists of more than 10% chowder clams by number. The 10% allowance shall be measured by the Marine Patrol Officer from each container or pile of clams.

B. All clams in any container or pile found in violation of this chapter shall be returned to the water by the clammer as directed by the Marine Patrol Officer.

Statutory Authority §§28.2-201 and 28.2-810 of the Code of Virginia.

Historical Notes

Derived from VR450-01-0077 §4; eff. June 15, 1992; amended, Virginia Register Volume 10, Issue 9, eff. January 1, 1994; Volume 11, Issue 17, eff. April 14, 1995.

§ 4VAC20-590-50 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.

Statutory Authority §§28.2-201 and 28.2-810 of the Code of Virginia.

Historical Notes

Derived from VR450-01-0077 §5; eff. June 15, 1992; amended, Virginia Register Volume 10, Issue 9, eff. January 1, 1994; Volume 11, Issue 17, eff. April 14, 1995.

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REGULATION 450-01-0077

PREAMBLE

This regulation establishes the procedure for obtaining authorization to patent tong hard clams in non-restricted (clean) areas by clambers who possess special permits to harvest clams in restricted (polluted) areas. It restricts permitted clambers to work only polluted bottom, or notify Marine Resources Commission Law Enforcement and work only clean bottom. This regulation further establishes a maximum size limit for clams in restricted areas.

This regulation is promulgated pursuant to authority contained in §§28.2-201 and 28.2-810 of the Code of Virginia. This regulation amends previous Regulation 450-01-0077, which was adopted November 23, 1993 and effective January 1, 1994. The effective date of this regulation is April 14, 1995.

§ 1. PURPOSE:

The purpose of this regulation is to prohibit clambers who possess permits to harvest relay clams from working in clean waters, without first obtaining authorization from Marine Resources Commission Law Enforcement. The possibility of mixing relay clams with clean clams will therefore be eliminated. In addition, a maximum size limit is established for the conservation of brood stock.

§2. DEFINITIONS:

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"Chowder clam" means any hard clam that cannot pass through a 2⁷/₈ inch inside diameter culling ring.

"Operations Office" means Marine Resources Commission Law Enforcement Operations Office.

§3. SPECIAL PERMIT RESTRICTIONS:

- A. During the relay season, it shall be unlawful for any person possessing a permit for relay clam harvest as required by §28.2-810 of the Code of Virginia, to harvest clams from clean waters without first obtaining authorization from the Operations Office.

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- B. Any clammer who has been issued a permit for relay clams, shall notify the Operations Office before their boat leaves the dock either by marine radio (channel 17) or by telephone (1-800-541-4646 or 247-2265/2266), of their intent to patent tong clams in a non-restricted area on that day. Each permitted clammer shall provide the Operations Office with their name, relay permit number, boat name, present location (for possible verification), departure time, destination and buyer to whom the clams will be sold.
- C. Each permitted clammer shall also notify the Operations Office at the time their boat returns to the dock and furnish their catch count.

§4. ALLOWANCE FOR CHOWDER CLAMS, RETURN OF CONTAINERS OF CLAMS IN VIOLATION:

- A. It shall be unlawful for any person to possess any amount of hard clams taken from restricted areas which consists of more than 10 percent chowder clams by number. The 10 percent allowance shall be measured by the Marine Patrol Officer from each container or pile of clams.
- B. All clams in any container or pile found in violation of this regulation shall be returned to the water by the clammer as directed by the Marine Patrol Officer.

§5. PENALTY:

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.

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 §§28.2-201 and 28.2-810 of the Code of Virginia, and recorded in the Commission's minute book, at the meeting held in Newport News, Virginia on March 28, 1995.

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REGULATION 450-01-0077

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: William P. Brant
COMMISSIONER

SUBSCRIBED AND SWORN TO BEFORE ME THIS 17th DAY OF April,
1995.

MY COMMISSION EXPIRES 12/31/95.

Deborah R. McCalister
NOTARY PUBLIC