

“PERTAINING TO CRABBING”**CHAPTER 4VAC20-270-10 ET SEQ.****DRAFT****PREAMBLE**

This chapter establishes time limits, season limits, peeler pot limits and peeler and softshell crab minimum size limits for commercial and recreational crabbing in Virginia and 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 4VAC20-270-10 et seq., which was promulgated ~~May 24, 2011~~ November 19, 2012 and made effective on ~~June 1, 2011~~ November 26, 2012. The effective date of this chapter, as amended, is ~~November 26, 2012~~ March 1, 2013.

4VAC20-270-10. 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 VAC20-270-15. Definitions.

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

4VAC20-270-20. 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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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 this subsection or subsection C or 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. from March 17 through April 30 and September 1 through December 15, 2012, except as described in subsection B and E of this section, and from 5 a.m. to 1 p.m. during the months of May, June, July, and August, except as specified in subsection C or 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 this subsection or subsection C or D of this section, may be set during the period starting immediately following the lawful daily time period and ending one hour after the lawful daily time period.

B. The lawful daily time periods for the commercial harvesting of crabs by crab pot or peeler pot in 2013 shall begin March 16 and end November 30, with the lawful daily time periods described in subsection A of this section in effect for March 16 through November 30, 2013.

C. 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.

D. 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

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the months of March, April, May, October, and November, and from December 1 through December 15, 2012, the lawful daily time period described in subsection A of 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. Individuals 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. After January 1, 2012, 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.

E. 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 he determines that a pending weather event is sufficient cause for the removal of crab pots from the tidal waters of the Commonwealth.

4VAC20-270-40. Season limits.

A. The lawful season for the harvest of male crabs shall be March 17 through December 15, 2012, and March 16 through November 30, 2013. The lawful season for the harvest of female crabs shall be March 17 through December 15, 2012, and March 16 through November 20, 2013.

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 or peeler crab pot in any tidal waters of Virginia from December 16, 2012, through March 15, 2013.

D. It shall be unlawful for any person knowingly to place, set, fish or leave any fish pot in any tidal waters from March 11 through March 15, 2013 except as provided in subdivisions 1 and 2 of this subsection.

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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 lawful eel pots as described in 4VAC20-500-50.

4VAC20-270-50. Peeler crab pot and crab pot limits.

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.

4VAC20-270-51. Harvester and Vessel 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 3 bushels of crabs.

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~~A.B.~~ The lawful harvest in bushels of crabs by crab pot license category is as follows:

From March 16, 2013, through November 30, 2013,~~it shall be unlawful for any person to harvest in any one day or to possess aboard any vessel any amount of crabs in excess of the following bushel limits, as determined by that licensee’s crab pot license category: any harvester legally licensed for a crab pot license, as defined in 4VAC20-270-50 B, shall be limited to the following harvest and possession limits shown below:~~

- ~~27 bushels for harvesters with a legal crab pot license allowing up to 85 crab pots.~~
- ~~32 bushels for harvesters with a legal crab pot license allowing up to 127 crab pots.~~
- ~~38 bushels for harvesters with a legal crab pot license allowing up to 170 crab pots.~~
- ~~45 bushels for harvesters with a legal crab pot license allowing up to 255 crab pots.~~
- ~~55 bushels for harvesters with a legal crab pot license allowing up to 425 crab pots.~~
- 1.) 27 bushels, or 9 barrels, of crabs, if licensed for up to 85 crab pots.
- 2.) 32 bushels, or 10 barrels and 2 bushels, if licensed for up to 127 crab pots.
- 3.) 38 bushels, or 12 barrels and 2 bushels, if licensed for up to 170 crab pots.
- 4.) 45 bushels, or 15 barrels, if licensed for up to 255 crab pots.
- 5.) 55 bushels, or 18 barrels and 1 bushel, if licensed for up to 425 crab pots.

~~B.C.~~ When multiple harvesters are on board any vessel, that vessel’s harvest and possession limit shall be equal to the sum of each licensee’s crab pot license category bushel limit. only one harvest and possession limit, as described in 4VAC20-270-51 B, and that limit shall correspond to the highest harvest and possession limit of only one licensee on board that vessel.

~~C.D.~~ 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

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Fisherman Registration License number, date, and amount of bushels or barrels of crabs to be sold.

~~D.E.~~ If any police officer finds crabs in excess of any lawful bushel or barrel limit, as described in ~~subsections A and B~~ of this section, that excess quantity of crabs shall be returned immediately to the water by the licensee or licensees who possess that excess over any single or combined lawful harvest limit. The refusal to return crabs in excess of any harvest limit to the water shall constitute a separate violation of this chapter.

~~E.F.~~ The bushel and barrel limits described in this chapter replace any provisions for bushel limits described in previous 4 VAC 20-300.

4VAC20-270-52. 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.

4VAC20-270-55. Minimum size limits.

A. From March 16 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 December 15, 2012, and July 16 through November 30, 2013 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.

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B. From July 16 through December 15, 2012, and July 16 through November 30, 2013, 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.

4VAC20-270-56. Recreational harvest limit.

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

4VAC20-270-58. License revocation.

- A. Any person convicted by a court of two crab fishery-related violations, may be subject to having his license(s) to take crabs revoked in accordance with the provisions of § 28.2-232 of the Code of Virginia.
- B. Any person serving as an agent who is convicted by a court of two crab fishery-related violations may be subject to having his authority to serve as an agent revoked by the Commission.
- C. Any crab licensee whose agent is convicted by a court of two crab fishery-related violations may be subject to having any of his licenses to take crabs revoked by the Commission.

4VAC20-270-60. Penalty.

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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 February 26, 2013.

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION**

By: _____

**Jack G. Travelstead
Commissioner**

Subscribed and sworn to before me this _____ day of February, 2013.

Notary Public