



townhall.virginia.gov

Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Marine Resources Commission
Virginia Administrative Code (VAC) Chapter citation(s)	4 VAC 20-720
VAC Chapter title(s)	Pertaining to Restrictions on Oyster Harvest
Action title	2022-2023 Oyster Harvest Seasons
Final agency action date	August 23, 2022
Date this document prepared	July 22, 2022

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

[RIS1]

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Virginia Marine Resources Commission (VMRC) is amending Chapter 4 VAC 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest", the areas of public oyster harvest, public oyster harvest seasons and oyster resource conservation measures if they wish these to be different from those which are established by 28.2-506 of The Code of Virginia. VMRC has no requirement to change the oyster season established by code, but may do so, per section 28.2-507 of the Code of Virginia, "in order to protect or promote the growth of oysters". Any changes to the season established in code should take into account this requirement. VMRC may establish methods and seasons of harvest in those areas described in 28.2-524 of the Code of Virginia that "promote the oyster or clam fishery". This is what allows VMRC to establish a season and area for dredging oysters in the Pocomoke and Tangier Sounds, as dredging is a benefit to the oyster fishery and not the oyster resource. There are two other areas described in Code Section 28.2-524 in the main stem of the Bay, one from Smith Point to Windmill Point and the second in the mouth of the Piankatank River, where an oyster season can be established that

promotes and protects the fishery rather than the oyster resource as is required by Code Section 28.2-507.

[RIS2]
Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

[Mandate] VMRC is authorized by § 28.2-201 of the Code of Virginia to promulgate regulations and guidelines necessary to carry out the provisions of Title 28.2, including marine fisheries regulations.

[Impetus] Prior to October 1st of each year, The Commission meets to establish, by regulation, Chapter 4 VAC 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest", the areas of public oyster harvest, public oyster harvest seasons and oyster resource conservation measures if they wish these to be different from those which are established by 28.2-506 of The Code of Virginia.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On August 23, the Commission will hold a public hearing for amendments to Chapter 4 VAC 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest", to establish the 2022-2023 areas of public harvest, public oyster harvest seasons, and oyster resource conservation measures.