



Hard-Shell Clam Laws

CHAPTER 7 HARD-SHELL CLAMS

08.02.07.01 Recreational Hard-Shell Clam Daily Catch Limit in Worcester County.

A person may not catch more than 250 hard-shell clams (*M. mercenaria*) per day for personal consumption and use.

08.02.07.02 Use of Hard-Shell Clam Dredges in Tangier Sound and Pocomoke Sound.

A. Size of Dredge. A person may not catch hard-shell clams in the waters of Tangier Sound and Pocomoke Sound with a hydraulic dredge or mechanical dredge more than 36 inches in width.

B. Areas Where Hard-Shell Clams May Be Taken by Dredge. Subject to the provisions of Regulation .03C of this chapter, a licensed person may catch hard-shell clams with a dredge in the following waters:

(1) Tangier Sound. In the waters of Tangier Sound bounded on the south by the Maryland-Virginia line, and bounded on the north as follows: beginning at tenth point at the mouth of Big Annemessex River and following the dredging line to Porpoise Point, thence along shore to Hazard Point, thence in a northwesterly direction following the dredging line to South Point on Little Deal Island, thence in a southwesterly direction in a straight line to Mussel Hole Point, thence in a straight line through Solomons Lump Light to the shore on the northerly tip of Smith Island.

(2) Pocomoke Sound. In the waters of Pocomoke Sound which are southwesterly of a straight line drawn from Maryland-Virginia boundary marker "D" to the most easterly point at the mouth of Gunby Creek, with the exception of the waters of Apes Hole Creek which are westerly of a line drawn from Long Point to the southernmost point at the mouth of Cedar Gut.

C. Report of Catch. Any person licensed to catch hard-shell clams with a hydraulic clam dredge shall maintain and submit to the Department any records of catches from the waters of Tangier Sound and Pocomoke Sound the Department may require.

08.02.07.03 General.

A. Size Limit.

(1) Except as provided in §A(2) of this regulation, a person may not possess hard-shell clams harvested from State waters with a transverse dimension of less than 1 inch.

(2) A person may possess not more than 10 percent of the catch per bag which measures less than the minimum size specified in §A(1) of this regulation.

B. Gear. The use of hand-held gear is permitted in the Atlantic Ocean and Coastal Bays.

Natural Resources Title, Maryland Annotated Code

§ 4-1001. Definitions

(a) In this subtitle the following words have the meanings indicated.

(b) "Buy boat" means any boat engaged or used in buying, selling, or transporting oysters caught by other boats.

(c) "Chesapeake Bay" means the waters, commonly known as the Chesapeake Bay as defined by the charts of the Oyster Survey of 1906 to 1912, and its amendments.

(d) "County waters" means the waters lying within the territorial limits of any county in the State as defined by the charts of the Oyster Survey of 1906 to 1912, and its amendments.

(e) "Diving apparatus" means any diving equipment that is supplied with air from the surface through a hose, or diving equipment generally referred to as scuba, the use of which allows a person to catch oysters by hand beneath the water.

(f) "Dredge" includes any dredge, scoop, scrape, or similar device used in catching oysters or clams by dragging.

(g) "Dredge boat" means any sailboat which does not have a screw, propeller, engine, turbine, or other device for self-propulsion, used in catching oysters or clams by dredge.

(h) "Dunnaged boat" means any boat having a false bottom, partition, ceiling, or deck, designed to diminish or having the effect of diminishing visible cargo space.

(i) "Handscrape" means any dredge cast and hauled by hand and without any winch, winder, or spool.

(j) "**Hard-shell clams**" mean mollusks of the species **Mercenaria mercenaria**.

(k) "Harvest" means to take, kill, trap, gather, catch or in any manner reduce any

hard-shell clam, soft-shell clam, or oyster to personal possession or to attempt to engage in this conduct.

(l) "Harvest reserve area" means an area designated by the Department for the restoration and harvesting of oysters on a rotational basis.

(m) "Hydraulic clam dredge" means any device used for dredging clams which consists of a manifold through which water is forced under pressure for the purpose of digging clams and working them into the mouth of the dredge where the clams then are brought up to boat level by means of an escalator. "Hydraulic clam dredge" includes the vessel on which the dredge is carried.

(n) "Marketable oyster" means any oyster measuring 3 inches or more from hinge to mouth.

(o) "Natural oyster bar" means any submerged oyster bar, reef, rock, or area represented as an oyster bar on the charts of the Oyster Survey of 1906 to 1912, and its amendments, or any area declared by any circuit court to be a natural oyster bar, or any area on which the Department plants oysters or shells. A natural oyster bar also means any bar beneath the waters of the State where the natural growth of oysters abounds to the extent that the public has resorted to the bar for a livelihood, whether continuously or at intervals, during any oyster season within five years prior to the filing of any application for a lease of the area in question, or within five years prior to the making of a resurvey under the provisions of Subtitle 11. The actual conditions of the area in question at any time within the five-year period shall be considered in determining whether or not the area is a natural oyster bar.

(p) "Packer" means any person having a fixed place of business and buying, selling, packing, shucking, or preparing oysters for sale, trade, barter, or shipment to any dealer, merchant, or retailer.

(q) "Patent tongs" means any pincers, nippers, tongs, or similar device used to catch oysters and clams raised with rope, cable, or other hoisting gear.

(r) "Shinnecock rake" means a hand tool used to catch hard-shell clams or oysters. It usually consists of a tooth bar with projecting long, outwardly, and upwardly curving teeth which are progressively smaller towards the ends, form a basket, and are set transversely at the end of a long, usually wooden handle.

(s) "Soft-shell clams" means mollusks of the species *Mya arenaria* and of the species Genus *Tagelus*.

(t)(1) "Tong" means any pincers, nippers, tongs, or similar device used in catching oysters and clams and consisting of 2 shafts or handles and a metal body composed of 2 opposable and complementary baskets that:

- (i) Are opened, closed, and emptied entirely by hand; and
- (ii) 1. Are lifted by hand; or
2. May use power to assist lifting the tongs with a single lifting cable or rope attached at only a single point on 1 shaft of the tongs.
- (2) "Tong" includes:
 - (i) Shaft tongs; and
 - (ii) Hand tongs.
- (3) "Tong" does not include a patent tong.

(u) "Tong boat" means any boat on or from which tongs or patent tongs are used in catching oysters.

§ 4-1002. Dredging for clams or oysters prohibited.

Notwithstanding any other provision of this title, a person may not catch or attempt to catch clams or oysters by power dredge, hydraulic clam dredge, or other mechanical means in the Atlantic Coastal Bays, as defined in § 8-1802 of this article.

§ 4-1003. Residents authorized to catch oysters or clams

Any resident of the State may catch oysters or clams on any area in the waters of the State from which catching oysters or clams is permitted under the provisions of this subtitle. This section applies to catching oysters or clams by rakes, tongs, patent tongs, dredges, handscrapes, or by other means permitted by law for the particular area. This section applies also to catching clams by hydraulic or mechanical dredges or rigs permitted by law for the particular area. This section does not affect any provision of this subtitle concerning the licensing or regulation of catching oysters or clams, except as specifically provided in this section.

§ 4-1004. Catching Oysters or Clams for Commercial Purposes

License required to catch oysters or clams for commercial purposes

- (a)(1) A person may not catch oysters or clams for commercial purposes in the waters of the State unless the person first obtains a license, but a resident may catch up to 1 bushel each of oysters and clams a day for his own use and consumption without a license, in places and at times prescribed by rule or regulation of the Department. Notwithstanding the preceding sentence, a nonresident may catch in the tidal bays of Worcester County up to 1 bushel of hard clams per day for his own use and consumption.
- (2) The Department shall require an applicant for an oyster license to indicate whether the applicant will use any diving apparatus, including self-contained underwater breathing apparatus, to catch oysters. On this application for a license to catch oysters, the Department shall require the applicant to give the applicant's address and telephone number.

State residency

(b) A person who has been a resident of the State for 12 months immediately preceding his application for a license may obtain a license to catch oysters or clams in the waters of the State.

§ 4-1005. Instruments permitted for Catching Oysters or Clams

In general

(a) Subject to restrictions promulgated pursuant to this subtitle, a person may catch oysters or clams in the waters of the State only by hand, rakes, tongs, patent tongs, diving apparatus, dredges, handscrapes, cultch material suspended on strings, in trays, in bags, or similar devices. Soft-shell clams may be caught by hydraulic or mechanical dredges or rigs.

Size and weight of patent tongs

(b) The Department may make uniform the size and weight of patent tongs in waters where patent tongs are permitted. However, any person using any size or weight patent tongs on June 1, 1964, may continue to use them.

Oyster spat

(c) A person may catch oyster spat in the waters of the State by suspended means such as cultch material on strings, trays, bags, or similar devices, which do not touch the bottom and do not interfere with navigation.

§ 4-1006. Areas off-limits to catching oysters or clams

Federal Research Laboratory at Oxford

(a) A person may not catch oysters or clams within 400 yards of the Federal Research Laboratory at Oxford.

Polluted Areas

(b)(1) A person may not catch oysters or clams on any area closed by the Department of the Environment due to pollution.

(2) However, oysters may be transplanted from areas deemed polluted during the closed season in accordance with the provisions of [§ 4-1009](#) of this subtitle and [§ 4-1106](#) of this title.

(3)(i) If the Department of the Environment closes any area to the catching of oysters or clams under this subsection, in addition to the notice required in subparagraph (ii) of this paragraph, the Department of Natural Resources shall mark the area so that the area can be seen from the water.

(ii) The Department of Natural Resources shall adopt rules and regulations to provide for the marking in a plain and visibly obvious fashion of any area that is closed to the catching of oysters or clams because of pollution. Even in the absence of such marking devices, a person may not catch oysters or clams in a restricted area as designated by the Department of the Environment if notice has been given to the appropriate governing body and the committee of watermen of any county affected by the restriction.

Stationary blinds or blind-sights

(c) During the open season for migratory wild waterfowl, a person may not catch oysters in Charles County within 500 yards of any stationary blind or blind site which is occupied and is being used for hunting migratory wild waterfowl.

§4-1006.1 SAV Protection Zones

Definitions

Gear prohibited from SAV protection zone

(f) A person may not use the following gear in a SAV protection zone:

- (1) A hydraulic clam dredge;
- (2) A traditional bottom dredge; and
- (3) A shinnecock rake.

§4-1007. Buying stations for oysters and clams

In general

(a) The Department may designate by rule or regulation certain areas of the State, known as buying stations, where a person who catches oysters and clams may sell them.

Sales of oysters or clams required in buying stations

(b) (1) A person may not sell his catch in any place not designated a buying station.

(2) A person may not buy oysters or clams from the person who catches them in any place not designated a buying station.

Purchase of clams for use as bait

(c) However, any person may buy soft-shell clams anywhere for his own consumption or use as bait, but not for resale from the person who catches them. However, the person who catches the soft-shell clams shall assume responsibility for paying the tax imposed by § 4-1035 of this subtitle.

Buying ticket requirements

(d) (1) For every sale of oysters or clams at a buying station, the buyer shall:

- (i) Fill out the buying ticket;
 - (ii) Distribute copies to the seller and the Department; and
 - (iii) Maintain a copy.
- (2) The Department shall print up and make available to the buyer of oysters or clams the necessary forms required under this subsection.

**Subtitle 10 Part III. Hard Shell Clams
§4-1021 Pocomoke and Tangier Sounds**

Rules and regulations relating to dredges

- (a) The Department may adopt rules and regulations governing the type, number, and size of dredges used in Pocomoke and Tangier sounds and governing those areas in which dredges may be operated. A person may have two dredges aboard any boat if no more than one dredge is in operation at any given time.

Seasons, night restrictions

- (b) A person may not catch clams in Pocomoke and Tangier sounds between sunset on one day and sunrise the following day or on Sundays. The season for catching hard-shell clams by dredge under this section is from September 15 in each year to May 31 of the year following, inclusive.

Oysters prohibited aboard when dredge aboard

- (c) A person may not have any oysters aboard any boat in Pocomoke or Tangier sounds when a dredge is aboard.

§ 4-1021.1. Catching hard-shelled clams by mechanical means prohibited

A person may not catch hard-shell clams by hydraulic clam dredge or other mechanical means in the Atlantic Coastal Bays, as defined in [§ 8-1802](#) of this article.

§ 4-1021.2. Somerset County

Regulations relating to use of patent tongs

- (a) The Department may adopt regulations governing the use of patent tongs to harvest hard-shell clams in areas of Somerset County where the use of patent tongs to catch oysters is authorized.

Application of section to Somerset County only

- (b)(1) This subsection applies only in Somerset County.

- (2) A person may not catch hard-shell clams with patent tongs:
- (i) Between sunset on any day and sunrise the following day; or
 - (ii) On Sundays.
- (3) The season for catching hard-shell clams with patent tongs is the same as the season for catching oysters with patent tongs as provided in [§ 4-1008.1](#) of this subtitle or as altered by regulations adopted under [§ 4-2A-05](#) of this title.

§ 4-1022. Use of shinnecock rake to catch hard-shell clams prohibited; Worcester County exception

In general

- (a) A person may not catch hard-shell clams in the waters of the State with a shinnecock rake or similar device.

Worcester County exception

- (b) Notwithstanding the provisions of subsection (a) of this section, a person may catch hard-shell clams with a handscrape, shinnecock rake, or hydraulic dredge in the waters of Worcester County. Unless a person first obtains the permission of the shore or wharf owner, he may not catch hard-shell clams within 300 feet of any shore or wharf.

§ 4-1023. Worcester County

Notwithstanding the provisions of this subtitle, the Department may adopt and modify rules and regulations governing catching hard-shell clams in the waters of Worcester County. These rules and regulations may specify the type and size of gear used, maximum quantity of clams caught per day, minimum size of clams caught, season for catching clams, days of the week and hours of the day when clams may be caught or landed, and the areas in which clams may be caught with any type of gear. A person may not catch clams by handscrape, shinnecock rake, hydraulic dredge, or any mechanical means from June 1 to September 15.

§ 4-1024. License required to catch hard-shell clams by rake in Worcester County

In general

- (a) Any person desiring to catch hard-shell clams by rake in the waters of Worcester County shall apply to the Department for a license.

Information required for license

(b) Every applicant shall exhibit to the Department satisfactory evidence showing the name or number and size of the boat. Each applicant shall certify that he is the bona fide owner of the boat, that a nonresident of the State does not hold a lien on the boat, and that he has been a State resident for at least one year prior to making the application. The applicant shall supply any other information the Department requires.

[§§ 4-1025 and 4-1026 repealed]

§ 4-1027. License required to ship or sell hard-shell clams

In general

(a) A person shall obtain a license before engaging in the business of shipping or selling hard-shell clams taken from the waters of the State.

Persons selling their own catch

(b) This section does not apply to any person selling his own catch.

§ 4-1028. Taxes paid by hard-shell clam dealers

Every hard-shell clam dealer shall pay a special tax of 25 cents for each bag, which shall contain no more than 105 hard-shell clams, on all clams sold by the dealer. All taxes pursuant to this section shall be remitted to the Department in accordance with its rules and regulations for deposit to the credit of the Fisheries Research and Development Fund and shall be used solely to replenish the hard-shell clam resources of the State.

§ 4-1029. Deposit of revenues

Any money received by the Department for licenses, fees, or taxes shall be transmitted by the Department to the State Comptroller for deposit to the credit of the Fisheries Research and Development Fund.

§ 4-1030. Landing of catches in State required

Any hard-shell clams caught in the waters of the State shall be landed in the State. However, the Department may waive the provisions of this subsection in case of emergency, necessity, or for other good cause.

§ 4-1031. Possession of undersized clams prohibited

Transverse dimension defined

(a) In this section, “transverse dimension” means the measurement across both shells of a hard-shell clam at the widest point perpendicular to the hinge line where the two shells meet.

Clams caught outside State

(c) A clam dealer may possess hard-shell clams having a transverse dimension of less than the size required by the Department if the dealer offers a bill of lading approved by the Department as proof that all clams were caught in waters outside the State.