

"PERTAINING TO THE MARKING AND MINIMUM MESH SIZE OF GILL NETS"

CHAPTER 4 VAC 20-430-10 ET SEQ.

PREAMBLE

This chapter establishes marking requirements for gill nets to increase their visibility and identification and establishes a minimum mesh size for gill nets to aid in the conservation of fish stocks.

This chapter is promulgated pursuant to authority contained in §§28.2-201 and 28.2-236 of the Code of Virginia. This chapter amends and re-adopts, as amended, Chapter 4VAC20-430-10 et seq. which was promulgated March 27, 2007 and made effective on March 30, 2007. The effective date of this chapter, as amended, is January 1, 2012.

4VAC20-430-10. PURPOSE.

The purpose of this chapter is to minimize gear conflicts between gill net fishermen and conflicts with recreational boaters caused by poor visibility of gill nets, conserve stocks of fish by establishing a minimum mesh size for gill nets, and conserve and protect sea turtles and bottlenose dolphins by establishing maximum mesh sizes for gill nets.

4VAC20-430-15. DEFINITIONS.

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

"*COLREGS Line*" means the COLREGS Demarcation lines, as specified in Coastal Pilot, 35th and 36th editions by Lighthouse Press.

"*River herring*" means any fish of the species *Alosa aestivalis* or *Alosa pseudoharengus*.

4VAC20-430-20. MARKING PROCEDURES FOR DRIFT AND ANCHORED GILL NETS.

Except as provided in 4VAC20-430-40, 4VAC20-430-45, and 4VAC 20-430-50, it shall be unlawful for any person to place, set or fish any gill net, except when licensed as a fixed fishing device, that is not marked in the following manner:

1. One end of each gill net shall be marked by a flag of square dimensions, which shall measure at least 144 square inches.
2. The end of each gill net opposite the square flag marker shall be marked by either a triangular flag of at least 144 square inches or a floating ball of at least 50 inches circumference.

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3. Each flag described in subdivisions 1 and 2 of this section shall be supported on a staff sufficient to maintain the bottom of the flag at least three feet above the surface of the water.
4. The end-marker flags on the same net or flag and floating ball on the same net shall be of identical color.
5. All flag staffs shall be marked with two stripes of two-inch wide reflective material that shall be visible from all sides; all end-marker floating balls shall be marked on three sides with patches of approximately two-inch by two-inch reflective material that shall be visible from all sides above the water line.

4VAC20-430-30. MARKING PROCEDURES FOR STAKED GILL NETS.

A staked gill net is a licensed fixed fishing device that is assigned a fixed location. It shall be unlawful for any person to hang any staked gill net on its poles, to drop such net into the fishing position or to fish such net that is not marked in the following manner:

1. Both ends of each staked gill net shall be marked by a flag of square dimensions, which shall measure at least 144 square inches.
2. Each end-marker flag described in subdivision 1 of this section shall be suspended on a pole or stake at least two feet above the surface of the water.
3. All end-marker flags shall be of blaze-orange color.
4. Each pole or stake in a gill net stand shall be marked at least two feet above the surface of the water, and visible from all sides, with either reflectors (at least two inches in diameter) or reflective tape (at least two inches wide).

4VAC20-430-40. UPRIVER WHITE PERCH AND STRIPED BASS FISHERY EXEMPTION.

During the period December 1 through March 15, it shall be unlawful for any person to place, set or fish any gill net, used for the taking of white perch or striped bass in the areas designated below, that is not marked as described by either 4VAC20-430-20 or 4VAC20-430-30, or in the following manner:

1. Both ends of each gill net shall be marked by a floating buoy of at least 3-1/2 inches in diameter.
2. Both end-marker buoys shall be of blaze-orange color.
3. Areas designated.

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- a. James River. Upstream from a line connecting College Creek and Hog Point.
- b. York River. Upstream from a line connecting the southernmost point of the northern headland of Poropotank Bay and Croaker Landing.
- c. Rappahannock River. Upstream from a line connecting Greenvale Creek and Weeks Creek.

4VAC20-430-45. RECREATIONAL ANCHORED GILL NET EXEMPTIONS.

It shall be unlawful for any person to place, set or fish any anchored gill net up to 110 feet in length and licensed for recreational purposes upstream of the designated boundary lines listed below that is not marked in the following manner:

1. Both ends of each gill net shall be marked by a floating buoy of at least 3-1/2" in diameter.
2. Both end-marker buoys shall be of blaze-orange color.
3. Designated boundary lines.
 - a. James River and its tributaries: a line connecting Hog Point and the downstream point of the mouth of College Creek;
 - b. York River and its tributaries: the Route 33 bridges; and
 - c. Rappahannock River and its tributaries: the Route 360 Bridge.

4 VAC 20-430-50. DRIFT GILL NET FISHERY EXEMPTION.

During the period February 15 through May 31, inclusive, it shall be unlawful for any person to place, set, or fish any drift gill net, in the areas designated below, that is not marked in the following manner:

1. Both end-marker buoys and all floats or buoys between the ends shall be of blaze orange or fluorescent paint color.
2. Areas designated.
 - a. James River. Upstream of the Jamestown Ferry Docking Station.

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- b. Mattaponi and Pamunkey Rivers. Upstream of the Route 33 bridges at West Point.
- c. Rappahannock River. Upstream of the Route 360 bridge at Tappahannock.

4VAC20-430-55. BUOY MARKING PROCEDURES.

Any gill net placed, set or fished in accordance with 4VAC20-430-20, 4VAC20-430-40 or 4VAC 20-430-50 shall have both buoys inscribed with the last four numbers of the licensee's commercial fisherman registration license.

4VAC20-430-60. MINIMUM MESH SIZE.

- A. It shall be unlawful for any person to place, set or fish any gill net with a stretched mesh of less than 2-7/8 inches, except as provided in subsection C of this section.
- B. Mesh measurement is defined as the inside stretched distance between two knots on opposite sides of the same mesh.
- C. As provided in §28.2-305 of the Code of Virginia, mullet gill nets less than 200 yards long shall consist of a stretched mesh not less than two inches stretched measure after having been tarred. Any person utilizing a mullet gill net may not take or possess quantities of species other than mullet which comprise more than 15% of their total daily catch, in pounds.

4VAC20-430-65. MAXIMUM MESH SIZE AND TENDING REQUIREMENTS.

- A. It shall be unlawful for any person to place, set or fish any gill net with a stretched mesh of greater than or equal to seven inches in Virginia waters east of the COLREGS Line and north of the North Carolina-Virginia border and south of Wachapreague Inlet (37° 34.6' N) from April 1 through January 14, except as described in 4VAC20-320-65 and 4VAC20-252-135.
- B. It shall be unlawful for any person to place, set or fish any gill net with a stretched mesh of greater than or equal to seven inches in Virginia waters east of the COLREGS Line and north of Wachapreague Inlet (37° 34.6' N) and south of Chincoteague (37° 56.0'S) from April 16 through January 14, except as described in 4VAC20-320-65 and 4VAC20-252-135.
- C. It shall be unlawful for any person to place, set or fish any anchored gill net with a stretched mesh of greater than or equal to seven inches east of the COLREGS Line and north of the North Carolina-Virginia border and south of the Maryland-Virginia border in Virginia waters from sunset to sunrise from June 1 through October 31 unless that fisherman remains within 0.5 nautical miles of the closest portion of each anchored gill net, except as described in 4VAC20-320-65.

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- D. Any anchored gill net with a stretched mesh of greater than or equal to seven inches set east of the COLREGS Line and north of the North Carolina-Virginia border in Virginia waters and south of the Maryland-Virginia border and fished from sunset to sunrise from June 1 through October 31, must be brought back to port with the vessel, except as described in 4VAC20-320-65.
- E. It shall be unlawful for any person to place, set or fish any gill net with a stretched mesh of greater than or equal to seven inches east of the COLREGS Line and north of the North Carolina-Virginia border and south of the Maryland-Virginia border in Virginia waters from sunset to sunrise from November 1 through December 31, except as described in 4VAC20-252-135.
- F. Any gill net with a stretched mesh of greater than or equal to seven inches set east of the COLREGS Line and north of the North Carolina-Virginia border and south of the Maryland-Virginia border in Virginia waters and fished from sunset to sunrise from November 1 through December 31, must be brought back to port with the vessel, except as described in 4VAC20-252-135.
- G. Mesh measurement is defined as the inside stretched distance between two knots on opposite sides of the same mesh.

4VAC20-430-70. ENFORCEMENT PROVISIONS.

In the enforcement of this chapter the Marine Patrol Officer shall consider the following:

1. If only one end or buoy of a gill net is found to be marked as required by this chapter, then a warning shall be issued by a Marine Patrol Officer, and the net owner shall have 24 hours to mark the net as provided in this chapter.
2. If both ends of a gill net are found in violation, a Marine Patrol Officer shall confiscate the net immediately unless at least one remaining buoy is inscribed with the last four numbers of the licensee's commercial fisherman registration license.

4VAC20-430-80. PENALTIES.

- A. As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this chapter, other than 4VAC20-430-60C, shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter, other than 4VAC20-430-60 C, committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

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- B. As set forth in §28.2-305 of the Code of Virginia, any person violating any provision of 4VAC20-430-60 C of this chapter shall be guilty of a Class 3 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 and recorded in the Commission's minute book, at its meeting held in Newport News, Virginia on June 28, 2011.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: Jack H. Travelstead
for **Steven G. Bowman**
Commissioner

Subscribed and sworn to before me this 29th day of June, 2011.

JANE E. WARREN NOTARY PUBLIC Commonwealth of Virginia Reg. #7191792 My Commission Expires <u>3-31-12</u>
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Jane E. Warren
NOTARY PUBLIC