



Potomac River Fisheries Commission



MARYLAND - VIRGINIA
"Potomac River Compact of 1958"

REGULATION VIII OYSTER MANAGEMENT RESERVE PROGRAM

Revised October 2021

Purpose

The Potomac River Fisheries Commission (PRFC) convened a Blue Ribbon Oyster Panel to develop a Revitalization Oyster Plan for the Potomac River public oyster fishery as a means of "jump starting" the oyster resource in the river. The Panel was directed to develop a financially self-sustaining "put and take" public oyster fishery; consequently the Oyster Management Reserve Program was designed and approved by the Commission.

Section 1Oyster Management Reserve Program

Sec. 1(a) OMR Program Established

The Commission hereby establishes this Regulation with provisions that are designed for and apply only to the Potomac River Oyster Management Reserve Program. Except as noted herein Regulation VIII, the provisions of Regulations I through VII do not apply to the Oyster Management Reserve Program. For the first two years of the Program (2012 and 2013), the Commission will provide funds, purchase triploid eyed oyster larvae and have it set on shell. Participants will plant the spat on shell on the Oyster Management Reserve Area for grow out. From the third year forward, the Program will be self-sustaining and funded by the participants.

Sec. 1(b) OMR Program Dissolution

The Commission hereby establishes the provisions for dissolution of the OMR Program when at least 90 percent of the eligible OMR participants (those participants who possess a valid OMR License and have paid the Planting Surcharge fee for the current year) vote to do so, and send their recommendation for dissolution to the Commission. The provisions for dissolution include the following:

- (1) The OMR Areas shall be opened for harvest for 30 days, dates to be set by the Commission, once the Commission has received the recommendation for dissolution from at least 90 percent of the eligible participants;
- (2) All eligible OMR participants shall be allowed to harvest oysters during those 30 days, and all harvest reports must be submitted and all oyster taxes must be paid;
- (3) Any unused OMR Area identification tags may be returned by eligible participants for a refund, prior to the distribution of the OMR funds;
- (4) The Commission will be refunded from the OMR funds, for the OMR Area identification tags that the Commission purchased and were not issued to OMR participants;
- (5) When the 30-day harvest period is completed, and all of the
- (6) harvest reports and oyster taxes have been received, any OMR funds in the bank shall be divided equally among the eligible OMR participants (as described above);
- (7) At the next regularly scheduled Commission meeting, all OMR Areas will no longer

be designated as OMR Areas and will be reopened for public harvest during the next oyster harvest season.

Section 2Definitions

Hand Tongs – As defined in Regulation II, Section 1(a).

Hand Scrape – As defined in Regulation II, Section 1(e).

Natural Person – As defined in Regulation I, Section 3(a)(2).

Oyster Management Reserve License – A commercial PRFC oyster license, valid exclusively for catching or attempting to catch oysters on any Oyster Management Reserve Area in the Potomac River.

Participant – Any person or natural person who has purchased a PRFC Oyster Management Reserve License in the Oyster Management Reserve Program.

Person – As defined in Regulation I, Section 3(a)(1).

Power Assisted Hand Tongs – As defined in Regulation II, Section 1(b).

Principal Licensee – A natural person who is named on the Oyster Management Reserve License as the assigned user of the License by the person (participant) who purchased the License.

U.S. Standard Bushel Basket – As defined in Regulation II, Section 3(a).

Section 3General Provisions

The provisions of Regulation I, Section 6 and Regulation III, Section 1, Section 2, Section 3, Section 4, and Section 5 apply to the Oyster Management Reserve Program.

Section 4Oyster Management Reserve License

The Oyster Management Reserve License is valid exclusively for taking, catching or attempting to take or catch oysters on any Oyster Management Reserve Area in the Potomac River, and no other oyster license is required. This license shall be good for the licensing year January 1st through December 31st each year. No person may purchase more than three (3) Oyster Management Reserve Licenses.

Sec. 4(a) Natural Person as a Participant (i.e. individual)

Any natural person desiring to participate in the Oyster Management Reserve Program shall pay a license fee of \$550.00 (see Section 5 of this Regulation) between December 1 (for the following year) and March 31 each year and hold a valid PRFC Commercial License Registration. This license cannot be used by anyone except this licensee (participant). The participant is responsible for complying with all provisions in this Regulation, including submitting oyster harvest reports and complying with the identification tagging requirements.

Sec. 4(b) Person as a Participant (i.e. company)

Any person desiring to participate in the Oyster Management Reserve Program shall pay a license fee of \$550.00 (see Section 5 of this Regulation) between December 1 (for the following year) and March 31 each year and hold a valid PRFC Commercial License Registration. A natural person must be named as “principal licensee” on the Oyster Management Reserve License as the assigned user of the License, by the participant. This license cannot be used by anyone except the principal licensee. Except when renewing this license, if the participant wants to assign this license to a different natural person as the principal licensee, there will be a fee of \$50.00. The participant is responsible for complying with all provision in this Regulation, including submitting oyster harvest reports and complying with the identification tagging requirements.

Sec. 4(c) Crew

Crew Any participant who purchased an Oyster Management Reserve License, under Section 4(a) or 4(b) above, may purchase up to two (2) additional license(s) for crew member(s) at a fee of \$600.00 each. Each crew license entitles the participant to an additional share of the harvest. Such crew member license is only valid when an eligible participant or principal licensee with a valid Oyster Management Reserve License is aboard the boat or vessel.

Sec. 4(c)(2) Helper

Any participant who purchased an Oyster Management Reserve License, under Section 4(a) or 4(b) above, may purchase one additional license for a helper at a fee of \$100.00. A helper license, so purchased, does not that participant to an additional share of the harvest. Such helper license is only valid when an eligible participant or principal licensee with a valid Oyster Management Reserve License is aboard the boat or vessel.

Sec. 4(d) Possession of Valid License

Each person on board any boat taking, catching or attempting to take or catch oysters on any Oyster Management Reserve Area is required to possess a valid Oyster Management Reserve License for the year of such taking.

Sec. 4(e) OMR License Planting Surcharge

Any person desiring to purchase any Oyster Management Reserve (OMR) License(s) shall first pay an OMR License planting surcharge as established from time to time by Commission Order, not to exceed \$750 per person per year. This OMR License planting surcharge fee must be paid in full, in addition to the published OMR License fees, and prior to any OMR License being issued.

Section 5Program Eligibility Requirements

Sec. 5(a) Delayed Entry

There is an initial three-year delay for harvesting oysters on any Oyster Management Reserve Area for each participant entering the Oyster Management Reserve Program:

- (1) Each participant must purchase an Oyster Management Reserve License and hold a valid PRFC Commercial License Registration (CLR) for the previous three (3) consecutive years, to be eligible to take, catch or attempt to take or catch oysters on any Oyster Management Reserve Area.
- (2) A crew license purchased by a participant must also have been purchased for the previous three (3) consecutive years to be eligible to take, catch or attempt to take or catch oysters on any Oyster Management Reserve Area.
- (3) A helper license may be purchased by a participant at any time.

Sec. 5(b) 2012 Season Participants

The 20 participants entered in the Oyster Management Reserve Program for the 2012 season, who each purchased an Oyster Hand Scrape License and paid the surcharge fee, will be grandfathered in for the 2013 season when they purchase an Oyster Management Reserve License, and it will be counted as year-2 in the Program for those 20 people.

Sec. 5(c) OMR License Transfers

Notwithstanding the provisions of subsection 5(a), any licensed Oyster Management Reserve (OMR) participant may transfer his OMR License to another person for a fee of \$100.00. The new OMR participant would assume the previous participant's history/time in the OMR Program, and would be eligible to take, catch or attempt to take or catch oysters on any Oyster Management Reserve Area providing an OMR License, CLR and Planting Surcharge fee were paid in full for each of the previous three consecutive years.

Section 6Oyster Management Reserve Areas Established

Sec. 6(a) Areas Defined

Cobb Island Bar (360 acres) and Ragged Point Bar and Addition (302 acres), as charted on the Natural Oyster Bar charts #25-4, #26-10 and #26-11, are designated as Oyster Management Reserve Areas. The Commission may designate other Potomac River areas or oyster bars in the future by Order of the Commission, as the Program expands.

Sec. 6(b) Oyster Management Reserve Area Closed

It shall be unlawful for any person to take, catch or attempt to take or catch oysters by any means at any time on Cobb Island Bar, Ragged Point Bar and Addition, or other areas/bars designated as Oyster Management Reserve Areas unless the person is a participant or crew who meets the eligibility criteria in Section 5(a) of this Regulation and the Oyster Management Reserve Areas have been announced as being open and ready for harvest by the Commission.

Section 7Provisions for the Taking or Catching of Oysters

Sec. 7(a) Devices for Taking or Catching Oysters

An eligible participant or crew may take, catch or attempt to take or catch oysters from any Oyster Management Reserve Area by hand tongs, power assisted hand tongs or by hand scrapes and by no other means.

Sec. 7(b) Dates and Times for Taking Oysters

The dates and times during which oysters may be taken or caught on Oyster Management Reserve Areas will be determined by a majority vote of the eligible participants (see Section 5(a)) each year. The Commission will then announce the Oyster Management Reserve Areas as being open and ready for harvest and will notify all eligible participants.

Sec. 7(c) Containers for Oysters

All oysters on board the boat which have been harvested from any Oyster Management Reserve Area must be contained in PRFC approved containers, no larger than a U.S. Standard Bushel Basket.

Sec. 7(d) Identification Tags Required

Each container of oysters harvested from an Oyster Management Reserve Area must be tagged with a completed PRFC issued Oyster Management Reserve Area identification tag before leaving the harvest area. No container of oysters harvested from an Oyster Management Reserve Area may be removed from the boat without said tag being firmly affixed to the container. These identification tags may be purchased from the PRFC for \$2.00 per tag. Unused tags can be returned to the PRFC for a refund within 24 months of date of purchase.

Sec. 7(e) Reporting Requirements

Every participant shall keep an accurate and complete daily account of his or his boat's oyster catches from the Oyster Management Reserve Areas on forms supplied by the Commission. Such daily records of the oyster catches shall be delivered to, or mailed in time to arrive at, the Commission office no later than Thursday of the following week.

Section 8Limited Entry

When a cap on the number of Oyster Management Reserve Licenses is recommended by participants and approved by the Commission, then the Program becomes a limited entry plan. At the limited entry stage, Oyster Management Reserve Licenses will be allowed to be surrendered and reassigned (Regulation I, Section 1(e)) by the Commission, for a fee of \$100.00

Section 9Commission Responsibilities

The Commission will be responsible for: accepting and tracking the fees paid into the Oyster Management Reserve Program; tracking and notifying eligible participants; providing the group of participants (by April 15 each year) an accounting of the amount of money available for buying oyster seed; checking on current cost and availability of seed from the hatcheries; and providing results of the oyster survey on the Oyster Management Reserve Areas. Commission staff will coordinate the logistics of planting oyster seed with the participants.

Section 10Participant’s Guidelines

The participants invested their money, time, and energy in this Oyster Management Reserve Program with the vision of developing a financially self-sustaining “put and take” public oyster fishery in the Potomac River. The Commission supports this Program and is willing to allow the participants the flexibility to develop their own guidelines for their recommendations for such things as planting sites, sources of seed, dates and times to open the reserves, size or harvest limits. This Program should not constrain the participants from catching and marketing these oysters at the optimal time in the best interest of the participants.

Section 11Severability Clause

If any word, clause, sentence, paragraph or section of the regulations shall, for any reason, be adjudged by any court or competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the word, clause, sentence, paragraph or section thereof so found unconstitutional and invalid.

Section 12Effective Date

These regulations shall take full force and effect thirty (30) days, or more, after their final adoption by the Commission.