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with proposed amendment

VIRGINIA MARINE RESOURCES COMMISSION **PAGE 1 OF 2**
“PERTAINING TO ON-BOTTOM SHELLFISH AQUACULTURE ACTIVITIES”
REGULATION 4 VAC 20-335-10 ET SEQ.

PREAMBLE

The Commonwealth of Virginia has a long history of leasing State-owned submerged land for private shellfish culture and recognizes the potential economic and environmental benefits associated with increased shellfish production.

In recent years, some shellfish growers have begun using low-profile structures such as nets and trays to provide additional protection for the shellfish placed on their leased ground.

This regulation authorizes shellfish aquaculture structures that may be placed on and immediately above privately leased shellfish grounds without an individual permit from the Habitat Management Division of the Marine Resources Commission.

This regulation is promulgated pursuant to the authority contained in §28.2-103 and §28.2-201 of the Code of Virginia. The effective date of this regulation is January 1, 1998.

4 VAC 20-335-10. Purpose.

The purpose of this regulation is to specify the criteria for shellfish aquaculture structures that may be employed on privately leased shellfish planting ground.

4 VAC 20-335-20. Definitions.

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

“Commission” means the Marine Resources Commission.

“Shellfish” means native molluscan species or molluscan species imported in accordance with §28.2-825 of the Code of Virginia.

4 VAC 20-335-30. Requirements and conditions.

- A. The activity must be conducted on planting ground leased in accordance with Chapter 6 of Title 28.2 of the Code of Virginia.
- B. Leased planting ground must be properly marked in accordance with §28.2-607 and subsequent regulations (4 VAC 20-290-10 et seq.).

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- C. In addition to the required marking of the boundary of the lease, the boundary of the area containing the structures shall be identified with markers meeting the description for markers identified in 4 VAC 20-290-30 while structures are located on the bottom.
- D. Any structures placed on the bottom must be non-toxic and shall not be known to leach any materials which would violate any water quality standards set by the Department of Environmental Quality.
- E. Structures shall not extend higher than 12 inches above the bottom substrate.
- F. ~~No new structures shall be placed on existing stands of submerged aquatic vegetation.~~
No new structures authorized by this regulation shall be placed in or upon submerged aquatic vegetation beds or unvegetated areas that are documented as historically supporting SAV or areas where there is potential for submerged Aquatic Vegetation restoration as established by the Commission pursuant to § 28.2-1204.1 of the Coded of Virginia and regulation 4VAC 20-1160; Criteria for the Definition of Existing beds of Submerged Aquatic Vegetation and the Delineation of Areas Where There is Potential for Submerged Aquatic Vegetation Restoration.
- G. No structures may cause more than a minimal adverse effect on navigation.
- H. Shellfish must be harvested in accordance with all applicable laws and regulations.
- I. The Commission may direct removal of any structures which fail to meet the requirements and conditions of this regulation.

This is to certify that the foregoing is a true and accurate copy of the Regulations passed by the Marine Resources Commission, pursuant to the authority vested in the Commission by §28.2-103 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 November 25, 1997.

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION**

BY: _____

COMMISSIONER

Subscribed and sworn to before me this _____ day of December, 1997.

Notary Public

My Commission expires _____ .