

## SHELLFISH MANAGEMENT DIVISION EVALUATION, 3/26/2024

**PUBLIC HEARING:** Proposal to amend Chapters 4VAC20-1290-10 et seq., "Pertaining to Restrictions on the Harvest of Shellfish and in Condemned Shellfish Areas" and, 4VAC20-1090-10 et seq., "Pertaining to License Requirements and License Fees" to lower the cost to the public of the shellfish relay process.

The purpose of amending these regulations is to decrease regulatory burden and decrease the cost to the public of relaying shellfish.

**ISSUES:** Current regulations requires that individuals pay a \$150.00 daily fee for each relay permit that is issued by the Commission for the relaying of shellfish from condemned to open shellfish growing waters as classified by the Virginia Department of Health. The proposed regulatory change would require that the fee be paid only one time each calendar year. Individual permits would still be required but would be issued without additional cost to the permittee.

### STAFF

**RECOMMENDATION:** Staff recommends amending Chapters 4VAC20-1290-10 et seq., "Pertaining to Restrictions on the Harvest of Shellfish and in Condemned Shellfish Areas" and, 4VAC20-1090-10 et seq., "Pertaining to License Requirements and License Fees".

### Attachments:

1. Public Notice
2. Draft Regulation



# COMMONWEALTH of VIRGINIA

*Marine Resources Commission*  
Building 96  
380 Fenwick Road  
Fort Monroe, VA 23651

Travis A. Voyles  
Secretary of Natural and Historic  
Resources

Jamie L. Green  
Commissioner

## NOTICE

The Virginia Marine Resources Commission invites public comment on proposed amendments to regulations, as shown below. By March 11, 2024, the proposed draft regulations may be viewed on the VMRC web calendar at <https://mrc.virginia.gov/calendar.shtm>.

In accordance with Section 28.2-209 of the Code of Virginia, a public hearing on the proposed amendments to these regulations will be held on Tuesday, March 26, 2024, at the Virginia Marine Resources Commission, 380 Fenwick Road, Bldg. 96, Fort Monroe, Virginia.

Written public comments on the Shellfish Management Division proposals or on shellfish items not on the agenda must be provided by 12:00 p.m., Monday, March 25, 2024, to Andrew Button, VMRC Shellfish Management Division, 380 Fenwick Road, Bldg. 96, Fort Monroe, Virginia 23651, or sent by email to [Andrew.button@mrc.virginia.gov](mailto:Andrew.button@mrc.virginia.gov) with the subject heading "Commission Comments".

The Commission may review Shellfish Management Division items as early as 9:30 a.m.

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### **I. Chapter 4VAC20-1350-10 et seq., "Pertaining to General Oyster Planting Ground Lease Renewal Fee"**

The Commission proposes to amend Chapter 4VAC20-1350-10 et seq., "Pertaining to General Oyster Planting Ground Lease Renewal Fee" to allow for online applications and payments.

The purpose of amending this regulation is to increase regulatory efficiency by allowing for online applications and payments.

### **II. Chapter 4VAC20-1090-10 et seq., "Pertaining to License Requirements and License Fees"**

The Commission proposes to amend Chapter 4VAC20-1090-10 et seq., "Pertaining to License Requirements and License Fees" to lower the cost to the public of the shellfish relay process.

The purpose of amending this regulation is to decrease regulatory burden and decrease the cost to the public of relaying shellfish.

*An Agency of the Natural and Historic Resources Secretariat*  
[www.mrc.virginia.gov](http://www.mrc.virginia.gov)  
Telephone (757) 247-2200 Information and Emergency Hotline 1-800-541-4646

### **III. Chapter 4VAC20-1290-10 et Seq., " Pertaining to Restrictions on the Harvest of Shellfish and in Condemned Shellfish Areas"**

The Commission proposes to amend Chapter 4VAC20-1290-10 et seq., "Pertaining to Restrictions on the Harvest of Shellfish and in Condemned Shellfish Areas" to lower the cost to the public of the shellfish relay process.

The purpose of amending this regulation is to decrease regulatory burden and decrease the cost to the public of relaying shellfish.

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**VMRC DOES NOT DISCRIMINATE AGAINST INDIVIDUALS WITH DISABILITIES; THEREFORE, IF YOU ARE IN NEED OF REASONABLE ACCOMMODATIONS BECAUSE OF A DISABILITY, PLEASE ADVISE MICHELE GUILFORD (757-247-2206) NO LATER THAN FIVE WORK DAYS PRIOR TO THE MEETING DATE AND IDENTIFY YOUR NEEDS.**

**“PERTAINING TO RESTRICTIONS ON THE HARVEST OF SHELLFISH IN CONDEMNED SHELLFISH AREAS”****CHAPTER 4 VAC 20-1290-10 ET SEQ.****PREAMBLE**

This chapter establishes areas in the Chesapeake Bay and its tributaries, Potomac tributaries of Virginia, and on the Seaside of Eastern Shore that have been designated as restricted or prohibited condemned shellfish areas by the Virginia Department of Health, Division of Shellfish ~~Sanitation~~ Safety and Waterborne Hazards, where-in leasing of general oyster planting ground is not allowed. This chapter also establishes permit fees for the daily harvest and relay of shellfish from general oyster planting grounds within restricted shellfish areas. This chapter was promulgated and adopted pursuant to authority contained in § 28.2-201 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous Chapter 4 VAC 20-1290-10 et seq., which was promulgated ~~March 24, 2015~~ May 26, 2015 and made effective on ~~April 1, 2015~~ June 1, 2015. The effective date of this chapter is ~~June 1, 2015~~ April 1, 2024.

**4 VAC 20-1290-10. Purpose.**

The purpose of this chapter is to protect and promote the oyster broodstock within the condemned shellfish areas, within the tidal waters of the Commonwealth, and to protect the public health.

**4 VAC 20-1290-20. Definitions.**

“Daily Restricted Shellfish Area Relay Permit” means a one-day permit issued by the Marine Resources Commission for the relay of shellfish from a general oyster planting ground within a restricted shellfish area.

“Restricted Shellfish Area” means any area designated by the Virginia Department of Health, Division of Shellfish ~~Sanitation~~ Safety and Waterborne Hazards, wherein it shall be unlawful for

**“PERTAINING TO RESTRICTIONS ON THE HARVEST OF SHELLFISH IN CONDEMNED SHELLFISH AREAS”****CHAPTER 4 VAC 20-1290-10 ET SEQ.**

any person, firm, or corporation to take shellfish for any purpose except by permit granted by the Marine Resources Commission, as provided in § 28.2-810 of the Code of Virginia.

“Prohibited Shellfish Area” means any area designated by the Virginia Department of Health, Division of Shellfish ~~Sanitation~~ Safety and Waterborne Hazards, wherein it shall be unlawful for any person, firm, or corporation to take shellfish for any purpose.

**4 VAC 20-1290-30 Restrict leasing of condemned shellfish areas.**

All unassigned or vacant state-owned bottomland designated as a condemned shellfish area that is not assigned to or reserved for riparian owners ~~prior to June 1, 2015~~, by the Virginia Department of Health, and classified as either restricted shellfish area or prohibited shellfish area for the direct harvest of shellfish, shall not be leased as general oyster planting grounds.

**4 VAC 20-1290-40 Permit to relay shellfish from restricted shellfish areas**

A. It shall be unlawful to relay shellfish from a general oyster planting ground within a restricted shellfish area without first obtaining a daily restricted shellfish area relay permit from the Marine Resources Commission.

B. The daily restricted shellfish area relay permit shall be valid for only one calendar day of shellfish relay activities. Shellfish area relay activities authorized by issuance of a daily restricted shellfish area relay permit shall not begin before 6:00 a.m. and shall not extend beyond 6:00 p.m.

C. A daily restricted shellfish area relay permit shall only be issued to a lawfully licensed oyster aquaculture product owner permittee or a clam aquaculture product owner permittee.

D. Any person whose commercial fisherman registration license, oyster aquaculture product

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owner permit, or clam aquaculture product owner permit is currently revoked or rescinded by the Marine Resources Commission pursuant to §§ 28.2-232 or 28.2-528 of the Code of Virginia shall not be authorized to possess a daily restricted shellfish area relay permit. Any person who fails to pay at any time, all fees, costs, and the current annual rent for the general oyster planting ground identified for harvest or relay of shellfish shall be subject to either non-issuance or termination of that daily restricted shellfish area relay permit.

E. The daily restricted shellfish area relay permit shall include (i) the name, address, and telephone number of the permittee; (ii) the location of the Virginia Department of Health, Division of Shellfish ~~Sanitation~~ Safety and Waterborne Hazards, restricted shellfish area; (iii) the general oyster planting ground lease numbers the shellfish will be harvested from; (iv) the location of the Virginia Department of Health, Division of Shellfish ~~Sanitation~~ Safety and Waterborne Hazards approved relay area; (v) the general oyster planting ground lease numbers the shellfish will be planted on; (vi) the vessel identification for each vessel used to relay shellfish (Coast Guard documentation number, Virginia license number, or hull/VIN number); (vii) the vehicle identification number for each vehicle used to relay shellfish (Virginia license number or VIN number); (viii) the identification and address of any offloading location or facility; and (ix) if cages will be used and conform to the provisions established by Chapter 4VAC20-310, “Pertaining to the Relaying of Shellfish”.

F. Any harvest of shellfish from a restricted shellfish area, including any loading of vessels or vehicles, and planting of shellfish from a restricted shellfish area shall be conducted under Marine Resources Commission staff supervision. All scheduling of harvesting and planting of shellfish from a restricted shellfish area shall be determined by the Marine Police area supervisors based on the availability of Marine Resources Commission staff and weather conditions. Permittees shall notify the Marine Police supervisors of the restricted shellfish harvest area and corresponding

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planting areas no later than one week before any restricted shellfish area relay activities can occur.

G. ~~Upon~~ Prior to approval of any daily restricted shellfish area relay permit and before issuance of said permit, the permittee shall pay the Marine Resources Commission a onetime fee of \$150.00 ~~for each day of planned shellfish relay activities~~ for the calendar year that shellfish relay will occur.

**4 VAC 20-1290-50 Penalty.**

A. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter, except section 4 VAC 20-1290-40 of this chapter, shall be guilty of a Class 3 misdemeanor and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

B. As set forth in § 28.2-821 of the Code of Virginia, any person violating any provision of section 4 VAC 20-1290-40 of this chapter shall be guilty of a Class 1 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, as amended, duly advertised according to statute, recorded in the Commission minutes book, at its meeting held in Hampton, Virginia, on March 26, 2024.

**COMMONWEALTH OF VIRGINIA  
MARINE RESOURCES COMMISSION**

“PERTAINING TO RESTRICTIONS ON THE HARVEST OF SHELLFISH IN  
CONDEMNED SHELLFISH AREAS”

CHAPTER 4 VAC 20-1290-10 ET SEQ.

BY: \_\_\_\_\_

**Jamie L. Green**  
**Commissioner**

Subscribed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

\_\_\_\_\_  
Notary Public

DRAFT



“PERTAINING TO LICENSING REQUIREMENTS AND LICENSE FEES”

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PREAMBLE

This chapter establishes licenses required of persons to take, catch, harvest, possess or market fish, oysters, crabs, clams or other seafood species, for commercial purposes, in the tidal waters of Virginia. This chapter establishes oyster resource user fees to address oyster resource replenishment and harvest reporting needs. This chapter establishes recreational licenses and licenses used for non-commercial purposes, required of persons to take, catch, harvest, or possess finfish or blue crab, for recreational purposes, in the tidal waters of Virginia.

This chapter is promulgated pursuant to authority contained in § 28.2-201 of the Code of Virginia and amends and re-adopts, as amended, previous Chapter 4 VAC 20-1090-10 et seq. which was promulgated ~~July 27, 2021~~ February 28, 2023 and made effective on ~~August 1, 2021~~ March 3, 2023. The effective date of this chapter, as amended, is ~~March 3, 2023~~ April 1, 2024.

**4 VAC 20-1090-10. Purpose.**

The purpose of this regulation is to specify the fees for each license required of any person to take, catch, harvest, possess or market fish, oysters, crabs, clams or other seafood species in the tidal waters of Virginia for commercial purposes or to take, catch or possess any species for recreational purposes. The license fees described in this regulation supersede those fishing license fees described in Title 28.2 of the Code of Virginia.

**4 VAC 20-1090-20. [Repealed]**

**4 VAC 20-1090-30. License fees.**

The following listing of license fees applies to any person who purchases a license for the purposes of harvesting for commercial purposes, or fishing for recreational purposes, during any calendar year. The fees listed below include a \$1 agent fee.

<b>1. COMMERCIAL LICENSES</b>	
Commercial Fisherman Registration License	\$190.00
Commercial Fisherman Registration License for a person 70 years or older	\$90.00
Delayed Entry Registration.	\$190.00

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Delayed Entry Registration License for a person 70 years or older	\$90.00
Seafood Landing License for each boat or vessel	\$175.00
For each Commercial Fishing Pier over or upon subaqueous beds (mandatory)	\$83.00
Seafood Buyer's License -- For each boat or motor vehicle	\$63.00
Seafood Buyer's License -- For each place of business	\$126.00
Clam Aquaculture Product Owner's Permit	\$10.00
Oyster Aquaculture Product Owner's Permit	\$10.00
Clam Aquaculture Harvester's Permit	\$5.00
Oyster Aquaculture Harvester's Permit	\$5.00
Nonresident Harvester's License	\$444.00
<b>2. OYSTER RESOURCE USER FEES</b>	
Any licensed commercial fisherman harvesting oysters by hand	\$50.00
For any harvester using one or more gear types to harvest oysters or for any registered commercial fisherman who solely harvests or possesses any bushel limit described in 4 VAC 20-720-80, only one oyster resource user fee, per year, shall be paid	\$300.00
On any business shucking or packing no more than 1,000 gallons of oysters	\$500.00
On any business shucking or packing more than 1,000 but no more than 10,000 gallons of oysters	\$1,000.00
On any business shucking or packing more than 10,000 but no more than 25,000 gallons of oysters	\$2,000.00
On any business shucking or packing more than 25,000 gallons of oysters	\$4,000.00
On any oyster buyer using a single truck or location	\$100.00
On any oyster buyer using multiple trucks or locations	\$300.00
Commercial aquaculture operation, on riparian assignment or general oyster planting grounds	\$50.00
<b>3. OYSTER HARVESTING, SHUCKING, RELAY AND BUYERS LICENSES</b>	
Any person purchasing oysters caught from the public grounds of the Commonwealth or the Potomac River, for a single place of business with one boat or motor vehicle used for buying oysters	\$50.00
Any person purchasing oysters caught from the public grounds of the Commonwealth or the Potomac River, for a single place of business with multiple boats or motor vehicles used for buying oysters	\$100.00
For each person taking oysters by hand, or with ordinary tongs	\$10.00
For each single-rigged patent tong boat taking oysters	\$35.00

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For each double-rigged patent tong boat taking oysters	\$70.00
Oyster Dredge Public Ground	\$50.00
Oyster Hand Scrape	\$50.00
To shuck and pack oysters, for any number of gallons under 1,000	\$12.00
To shuck and pack oysters, for 1,000 gallons, up to 10,000	\$33.00
To shuck and pack oysters, for 10,000 gallons, up to 25,000	\$74.00
To shuck and pack oysters, for 25,000 gallons, up to 50,000	\$124.00
To shuck and pack oysters, for 50,000 gallons, up to 100,000	\$207.00
To shuck and pack oysters, for 100,000 gallons, up to 200,000	\$290.00
To shuck and pack oysters, for 200,000 gallons or over	\$456.00
<del>One day permit to</del> To relay condemned shellfish from a general oyster planting ground	\$150.00
<b>4. BLUE CRAB HARVESTING AND SHEDDING LICENSES, EXCLUSIVE OF CRAB POT LICENSES</b>	
For each person taking or catching crabs by dip nets	\$13.00
For ordinary trotlines	\$13.00
For patent trotlines	\$51.00
For each single-rigged crab-scrape boat	\$26.00
For each double-rigged crab-scrape boat	\$53.00
For up to 210 peeler pots	\$36.00
For up to 20 tanks and floats for shedding crabs	\$9.00
For more than 20 tanks or floats for shedding crabs	\$19.00
For each crab trap or crab pound	\$8.00
<b>5. CRAB POT LICENSES</b>	
For up to 85 crab pots	\$48.00
For over 85 but not more than 127 crab pots	\$79.00
For over 127 but not more than 170 crab pots	\$79.00
For over 170 but not more than 255 crab pots	\$79.00
For over 255 but not more than 425 crab pots	\$127.00
<b>6. HORSESHOE CRAB, LOBSTER AND SHRIMP LICENSES</b>	

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For each person harvesting horseshoe crabs by hand	\$16.00
For each boat engaged in fishing for, or landing of, lobster using less than 200 pots	\$41.00
For each boat engaged in fishing for, or landing of, lobster using 200 pots or more	\$166.00
For each person commercial shrimp trawling	\$100.00
<b>7. CLAM HARVESTING LICENSES</b>	
For each person taking or harvesting clams by hand, rake or with ordinary tongs	\$24.00
For each single-rigged patent tong boat taking clams	\$58.00
For each double-rigged patent tong boat taking clams	\$84.00
For each boat using clam dredge (hand)	\$19.00
For each boat using clam dredge (power)	\$44.00
For each boat using hydraulic dredge to catch soft shell clams	\$83.00
For each person taking surf clams	\$124.00
Water Rake Permit	\$24.00
<b>8. CONCH (WHELK) HARVESTING LICENSES</b>	
For each boat using a conch dredge	\$58.00
For each person taking channeled whelk by conch pot	\$51.00
<b>9. FINFISH HARVESTING LICENSES</b>	
Each pound net	\$41.00
Each stake gill net of 1,200 feet in length or under, with a fixed location	\$24.00
All other gill nets up to 600 feet	\$16.00
All other gill nets over 600 feet and up to 1,200 feet	\$24.00
Each person using a cast net or throw net or similar device	\$13.00
Each fyke net head, weir, or similar device	\$13.00
For fish trotlines	\$19.00
Each person using or operating a fish dip net	\$9.00
On each haul seine used for catching fish, under 500 yards in length	\$48.00
On each haul seine used for catching fish, from 500 yards in length to 1,000 yards in length	\$146.00
For each person using commercial hook and line	\$31.00
For each person using commercial hook and line for catching striped bass only	\$31.00

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For up to 100 fish pots	\$19.00
For over 100 but not more than 300 fish pots	\$24.00
For over 300 fish pots	\$62.00
For up to 100 eel pots	\$19.00
For over 100 but not more than 300 eel pots	\$24.00
For over 300 eel pots	\$62.00
For each person electrofishing catfish	\$100.00
<b>10. MENHADEN HARVESTING LICENSES</b>	
<b>Any person purchasing more than one of the following licenses, as described in this subsection, for the same vessel, shall pay a fee equal to that for a single license for the same vessel.</b>	
On each boat or vessel under 70 gross tons fishing for the purse seine menhaden reduction sector	\$249.00
On each vessel 70 gross tons or over fishing for the purse seine menhaden reduction sector	\$996.00
On each boat or vessel under 70 gross tons fishing for the purse seine menhaden bait sector	\$249.00
On each vessel 70 gross tons or over fishing for the purse seine menhaden bait sector	\$996.00
<b>11. COMMERCIAL GEAR FOR RECREATIONAL USE</b>	
Up to five crab pots with a terrapin excluder device	\$36.00
Up to five crab pots without a terrapin excluder device	\$46.00
Crab trotline (300 feet maximum)	\$10.00
One crab trap or crab pound	\$6.00
One gill net up to 300 feet in length	\$9.00
Fish dip net	\$7.00
Fish cast net	\$10.00
Up to two eel pots	\$10.00
<b>12. SALTWATER RECREATIONAL FISHING LICENSE</b>	
Individual, resident (one year)	\$17.50
Individual, resident (two years)	\$33.50
Individual, resident (three years)	\$49.50
Individual, resident (four years)	\$65.50
Individual, nonresident (one year)	\$25.00

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Temporary 10-Day, resident	\$10.00
Temporary 10-Day, nonresident	\$10.00
Recreational boat, resident	\$48.00
Recreational boat, nonresident, provided a nonresident may not purchase a recreational boat license unless his boat is registered in Virginia	\$76.00
Head Boat/Charter Boat, resident, six or less passengers	\$190.00
Head Boat/Charter Boat, nonresident, six or less passengers	\$380.00
Head Boat/Charter Boat, resident, more than six passengers, plus \$5.00 per person, over six persons	\$190.00
Head Boat/Charter Boat, nonresident, more than six passengers, plus \$5.00 per person, over six persons	\$380.00
Rental Boat, resident, per boat, with maximum fee of \$703	\$14.00
Rental Boat, nonresident, per boat, with maximum fee of \$1270	\$18.00
Commercial Fishing Pier (Optional)	\$632.00
Disabled Resident Lifetime Saltwater License	\$10.00
Disabled Nonresident Lifetime Saltwater License	\$10.00
Reissuance of Saltwater Recreational Boat License	\$5.00
<b>13. COMBINED SPORTFISHING LICENSE</b>	
<b>This license is to fish in all inland waters and tidal waters of the Commonwealth during open season.</b>	
Residents	\$39.50
Nonresidents	\$71.00
<b>14. COMBINED SPORTFISHING TRIP LICENSE</b>	
<b>This license is to fish in all inland waters and tidal waters of the Commonwealth during open season, for five consecutive days.</b>	
Residents	\$24.00
Nonresidents	\$31.00
<b>15. TIDAL BOAT SPORTFISHING LICENSE</b>	
Residents	\$126.00
Nonresidents	\$201.00
<b>16. LIFETIME SALTWATER RECREATIONAL FISHING LICENSES</b>	
Individual Resident Lifetime License	\$276.00

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Individual Nonresident Lifetime License	\$500.00
Individual Resident Lifetime License age 45 – 50	\$132.00
Individual Nonresident Lifetime License age 45 – 50	\$240.00
Individual Resident Lifetime License age 51 – 55	\$99.00
Individual Nonresident Lifetime License 51 – 55	\$180.00
Individual Resident Lifetime License age 56 – 60	\$66.00
Individual Nonresident Lifetime License age 56 – 60	\$120.00
Individual Resident Lifetime License age 61 – 64	\$35.00
Individual Nonresident Lifetime License age 61 – 64	\$60.00
Individual Resident Lifetime License age 65 and older	\$5.00

4 VAC 20-1090-40. Penalty.

A. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter, except as provided in subsection B of this section, shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

B. As set forth in § 28.2-549 of the Code of Virginia, any person willfully failing to pay oyster resource user fees to the Commission shall be guilty of a Class 1 misdemeanor.

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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 meeting held in Hampton, Virginia on March 26, 2024.

COMMONWEALTH OF VIRGINIA  
MARINE RESOURCES COMMISSION

By: \_\_\_\_\_

Jamie L. Green  
Commissioner

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 2024.

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Notary Public

DRAFT