

SHELLFISH MANAGEMENT DIVISION EVALUATION, 12/06/2022

PUBLIC HEARING: Proposal to amend Chapter 4 VAC 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest" to modify the transfer of eligibility to pay the oyster resource user fee as described in clause (ii) of subsection A of § 28.2-541 of the Code of Virginia, regarding transfers to non-relatives and regarding requests of documented medical hardships or active military leave.

ISSUES: Some participants in the oyster fishery and holders of oyster resource user fees that allow participation in the fishery are not able to transfer their eligibility to pay this user fee under current regulation to non-family members. Additionally, some individuals who have passed away or have become ill have not been able to meet current regulatory requirements for the transfer of this eligibility.

BACKGROUND: Beginning in the 1960's oyster harvests and harvest effort (number of harvesters) in Virginia have fluctuated from year to year, but generally trended in a downward trajectory until they reached record lows in the 1990's and into the early 2000's with harvest in many years of less than 100,000 bushels. For most of this time most areas were only open to harvest by patent tong and hand tongs, with some limited areas open to harvest by dredge in the Pocomoke and Tangier Sounds.

Large scale oyster restoration and replenishment has been ongoing in some fashion in Virginia since at least 1929, when the Conservation and Replenishment Department was officially created, but has also fluctuated in its intensity over the years. Coinciding with the record low harvests of the 1990s and into the 2000's, replenishment and restoration were intensified and focused on restoring the oyster fishery to an economically viable level. In the 2005-2010 period new fisheries management strategies were developed, such as harvest rotations, light replenishment efforts (shell planting) directly on harvest areas and the use of a small dredge or "hand scrape" in areas that were previously only open to hand or patent tonging.

By 2014 this combined effort had resulted in a rapid increase in the number of oysters harvested and the number of harvesters participating in the fishery. The efficiency of the hand scrape, combined with the harvest rotation and replenishment activities resulted in harvest amounts not seen in decades. At the same time, the increases in the number of harvesters and the efficiency of the gear utilized indicated that the recovery would likely not be

sustainable if harvest effort continued to increase. At this time the Commission, working with its Shellfish Management Advisory Committee (SMAC) began to develop the current regulations limiting the number of participants in the fishery and establishing the transferability requirements for participation in the fishery through the purchase of the oyster user fee described in code. After many months of meetings and the Commission reversing an initial attempt at limited entry regulation after just a single month, the current language regarding the transferability and number of licenses set as a target (600) was finalized in August of 2016.

Harvest and harvest effort has been relatively stable since effort controls were implemented. The number of active harvesters has been relatively consistent in the 300-400 range for several years, and at the same time the oyster populations, as indicated by joint VIMS-MRC surveys, has increased. Based on the most recently completed survey (fall 2021) the Virginia oyster population is at or near a 30 plus year high as a combined average across all areas surveyed.

More recently, staff and the Commission have been approached by several persons who have wanted to transfer their user fee eligibility to persons other than direct family members and, for a variety of reasons, have not met the current regulatory requirement of 40 days of harvest history in the previous calendar year needed to do so. The Commission directed staff to work with SMAC to develop recommendations on Amendments to regulation that could allow the transfer of the oyster all gear user fee in some of the circumstances that have been presented to staff and the Commission. The SMAC, working with staff, provided the following recommendations:

Military obligation:

Eligible to transfer to non-family member without the 40 days or more of harvest in the previous years.

Medical:

Must have 40 days or more of harvest, previous 2 years.

Family:

Transfer to a direct family member as stated in regulation 4 VAC 20-720-15-D (1)

Death:

Eligible to transfer to a non-family member, with 40 days or more of reported harvest the previous 2 years and paid the Oyster User Fee each year.

Over 70 years old or older:

Eligible to transfer to a non-family member **IF** the Oyster User Fee has been paid for 5 consecutive years or more and a cap of no more than 50 Oyster User Fee transfers per calendar year.

This recommendation was unanimously approved by the 8 members of SMAC who attended the September 28th meeting.

After internal deliberations between staff and senior management, it was determined that the intent to ease the regulatory restrictions in most of the cases that come to staff and the Commission, and that were addressed by the SMAC recommendation, could be accomplished by allowing any person who has paid the oyster resource user fee to transfer eligibility to a non-family member if they have paid the fee for five consecutive calendar years. In addition, it was determined that clarification on the approval of medical and military exceptions was needed. Both changes are reflected in the language of the draft regulation.

These proposed changes will likely lead to an increase in harvest effort as many of those eligible to pay the oyster resource user fee, ~50% in recent years, do not actively participate in the fishery, but have paid the user fee for five or more years. It is probable that any transfer to a non-family member would likely be to a person who intends to actively participate in the fishery. Additionally, some SMAC members and oyster harvesters feel that this change will “devalue” a user fee held by a person who actively participates in the fishery or who is truly a “full time” waterman and has 40 days or more of harvest history.

STAFF

RECOMMENDATION:

Staff recommends adopting Amendments to Chapter 4 VAC 20-720-10 et seq., “Pertaining to Restrictions on Oyster Harvest to modify the transfer of eligibility to pay the oyster resource user fee as described in clause (ii) of subsection A of § 28.2-541 of the Code of Virginia, regarding transfers to non-relatives and regarding requests of documented medical hardships or active military leave.

VIRGINIA MARINE RESOURCES COMMISSION
“PERTAINING TO RESTRICTIONS ON OYSTER HARVEST”
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PREAMBLE

This chapter establishes times of closure and other restrictions, for conservation purposes, on the harvest of oysters from all oyster grounds in the tidal waters of the Commonwealth. This chapter is promulgated pursuant to authority contained in §§ 28.2-201, 28.2-507, and 28.2-518 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous Chapter 4 VAC 20-720-10 et seq., which was adopted ~~August 24, 2021~~ August 23, 2022 and effective ~~October 1, 2021~~ October 1, 2022. The effective date of this chapter, as amended, is ~~October 1, 2022~~ January 1, 2023.

4 VAC 20-720-10. Purpose.

The purpose of this chapter is to conserve Virginia's oyster resources, especially oyster broodstock.

4 VAC 20-720-15. Control Date, License Moratorium, Transferability and Agents.

A. The Commission hereby establishes July 1, 2014, as the control date for management of all public oyster fisheries in Virginia. Participation by any individual in any public oyster fishery after the control date may not be considered in the calculation or distribution of oyster fishing rights should entry limitations be established. Any individual entering the public oyster fishery after the control date will forfeit any right to future participation in the public oyster fishery should further entry limitations be established by the Commission.

B. Only individuals who paid the oyster resource user fee described in § 28.2-541(A)(ii) of the Code of Virginia in any year, from 2013 through 2016, may pay that fee in 2017, for harvest of oysters from public ground in 2017. In any year following 2017, eligibility to pay the oyster resource user fee described in § 28.2-541 (A) (ii) of the Code of Virginia shall be limited to those individuals who paid the oyster resource user fee for harvest of oysters from public ground in the previous year.

C. Should the number of people eligible to pay the oyster resource user fee described in § 28.2-541(A)(ii) of the Code of Virginia in any given year fall below 600, a random drawing shall be held to award eligibility to pay that oyster resource user fee to individuals who were not previously eligible until the number of persons eligible to pay the fee reaches 600. Any Commercial Fisherman Registration Licensees may apply for the random drawing.

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D. Any person eligible to pay the oyster resource user fee described in clause (ii) of subsection A of § 28.2-541 of the Code of Virginia, or such person's legal representative, may transfer the eligibility to pay such user fee to:

1. A transferee who is the transferor's spouse, sibling, parent, child, grandparent, or grandchild and who possesses a current Commercial Fisherman Registration License and intends to participate in the public oyster fishery.
2. A transferee other than a person described in subdivision 1 of this subsection if the transferor has ~~documented by mandatory reporting and buyers reports 40 days or more of public oyster harvest during the previous calendar year~~ paid the oyster resource user fee described in § 28.2-541(A)(ii) of the Code of Virginia for the past five consecutive calendar years.

All transfers under this subsection shall be documented on a form provided by the Marine Resources Commission.

E. Exceptions to subsection B of this section shall only apply to those individuals who previously paid the oyster resource user fee described in § 28.2-541(A)(ii) of the Code of Virginia and shall be based on documented medical hardships or active military leave that prevented the fisherman from fully satisfying the requirements of subsection B of the section. The Commissioner, in consultation with the Shellfish Management Division, shall have final authority of approval or denial concerning such medical hardship or active military leave exception requests.

F. No person shall serve as an agent for any public oyster gear licensee.

4 VAC 20-720-20. Definitions.

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

“Aid to navigation” means any public or private day beacon, lighted channel marker, channel buoy, lighted channel buoy, or lighthouse that may be at, or adjacent to, any Latitude and Longitude used in area descriptions.

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“Clean culled oyster” means any oyster taken from natural public beds, rocks, or shoals that is 3 inches or greater in shell length.

"Coan River Area" means the Public Grounds within the Coan River consisting of Public Grounds 77 and 78 of Northumberland County described as:

Public Ground 77 of Northumberland County is located near the mouth of the Coan River, beginning at a point approximately 2,300 feet northeast of Honest Point and 1,300 feet southwest of Travis Point, said point being Corner 1, located at Latitude 37° 59.5257207' N., Longitude 76° 27.8810639' W.; thence southwesterly to Corner 2, Latitude 37° 59.3710259' N., Longitude 76° 27.9962148' W.; thence southwesterly to Corner 3, Latitude 37° 59.2953830' N., Longitude 76° 28.0468953' W.; thence northwesterly to Corner 4, Latitude 37° 59.3350863' N., Longitude 76° 28.0968837' W.; thence northeasterly to Corner 5, Latitude 37° 59.3965161' N., Longitude 76° 28.0287342' W.; thence northwesterly to Corner 6, Latitude 37° 59.4758507' N., Longitude 76° 28.1112280' W.; thence north-northwesterly to Corner 7, Latitude 37° 59.5079401' N., Longitude 76° 28.1230058' W.; thence northeasterly to Corner 8, Latitude 37° 59.5579153' N., Longitude 76° 27.9889429' W.; thence southeasterly to Corner 1, said corner being the point of beginning.

Public Ground 78 of Northumberland County is located near the mouth of the Coan River, beginning at a point approximately 3,420 feet southeast of Travis Point and 3,260 feet northwest of Great Point, said point being Corner 1, located at Latitude 37° 59.4822275' N., Longitude 76° 27.1878637' W.; thence southeasterly to Corner 2, Latitude 37° 59.3824046' N., Longitude 76° 27.1088650' W.; thence southwesterly to Corner 3, Latitude 37° 59.2283287' N., Longitude 76° 27.8632901' W.; thence northeasterly to Corner 4, Latitude 37° 59.4368502' N., Longitude 76° 27.6868001' W.; thence continuing northeasterly to Corner 5, Latitude 37° 59.5949216' N., Longitude 76° 27.5399436' W.; thence southeasterly to Corner 1, said corner being the point of beginning.

“Corrotoman Hand Tong Area” means all public grounds, in that area of the Corrotoman River between a line beginning at Ball Point, Latitude 37° 40.65133000' N., Longitude 76° 28.4440000' W.; thence easterly to a point at the western side of the mouth of Taylor Creek, at Latitude 37° 40.97331000' N, Longitude 76° 27.59471000' W.; upstream to a line from Bar Point, Latitude 37° 41.65256000' N., Longitude 76° 28.66195000' W.; thence easterly to Black Stump Point, Latitude 37° 41.7360900' N., Longitude 76° 28.1212200' W.

“Deep Rock Area” means all Public Grounds and unassigned grounds, in that area of the Chesapeake Bay near Gwynn Island, beginning at Cherry Point at the western-most point of the eastern headland of Kibble Pond located at Latitude 37° 30.9802148' N., Longitude 76° 17.6764393' W.; thence northeasterly to the Piankatank River, Flashing Green Channel Light “3”, Latitude 37° 32.3671325' N., Longitude 76° 16.7038334' W.; thence east-southeasterly to the Rappahannock River Entrance Lighted Buoy G“1R”, Latitude 37° 32.2712833' N., Longitude 76° 11.4813666' W.; thence southwesterly to the southern-most point of Sandy Point, the northern headland of “The Hole in the Wall”, Latitude 37° 28.1475258' N., Longitude 76° 15.8185670' W.; thence northwesterly along the Chesapeake Bay mean low water line of the barrier islands of Milford Haven, connecting headland to headland at their eastern-most points, and of Gwynn Island to the western-most point of the eastern headland of Kibble Pond on Cherry Point, said point being the point of beginning.

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“Deep Water Shoal State Replenishment Seed Area” or “DWS” means that area in the James River near Mulberry Island, beginning at a point approximately 530 feet west of Deep Water Shoal Light, said point being Corner 1, located at Latitude 37° 08.9433287’ N., Longitude 76° 38.3213007’ W.; thence southeasterly to Corner 2, Latitude 37° 09.5734380’ N., Longitude 76° 37.8300582’ W.; thence southwesterly to Corner 3, Latitude 37° 08.9265524’ N., Longitude 76° 37.0574269’ W.; thence westerly to Corner 4, Latitude 37° 08.4466039’ N., Longitude 76° 37.4523346’ W.; thence northwesterly to Corner 5, Latitude 37° 08.4491489’ N., Longitude 76° 38.0215553’ W.; thence northeasterly to Corner 1, said corner being the point of beginning.

“Great Wicomico River Rotation Area 1” means all Public Grounds and unassigned grounds, in that area of the Great Wicomico River, Ingram Bay, and the Chesapeake Bay, beginning at a point on Sandy Point, Latitude 37° 49.3269652’ N., Longitude 76° 18.3821766’ W.; thence easterly to the southern-most point of Cockrell Point, Latitude 37° 49.2664838’ N., Longitude 76° 17.3454434’ W.; thence easterly following the mean low water line of Cockrell Point to a point on the boundary of Public Ground 115 at Cash Point, Latitude 37° 49.2695619’ N., Longitude 76° 17.2804046’ W.; thence southeasterly to the gazebo on the pier head at Fleeton Point, Latitude 37° 48.7855824’ N., Longitude 76° 16.9609311’ W.; thence southeasterly to the Great Wicomico River Light; Latitude 37° 48.2078167’ N., Longitude 76° 15.9799333’ W.; thence westerly to a point on the offshore end of the southern jetty at the entrance to Towles Creek, Latitude 37° 48.3743771’ N., Longitude 76° 17.9600320’ W.; thence northerly crossing the entrance to Towles Creek at the offshore ends of the jetties and continuing along the mean low water line to Bussel Point, Latitude 37° 48.6879208’ N., Longitude 76° 18.4670860’ W.; thence northwesterly to the northern headland of Cranes Creek, Latitude 37° 48.8329168’ N., Longitude 76° 18.7308073’ W.; thence following the mean low water line northerly to a point on Sandy Point, Latitude 37° 49.3269652’ N., Longitude 76° 18.3821766’ W., said point being the point of beginning.

“Great Wicomico River Rotation Area 2” means all Public Grounds and unassigned grounds, in that area of the Great Wicomico River, Ingram Bay, and the Chesapeake Bay, beginning at a point on Great Wicomico River Light, Latitude 37° 48.2078167’ N., Longitude 76° 15.9799333’ W.; thence due south to a point due east of the southern-most point of Dameron Marsh, Latitude 37° 46.6610003’ N., Longitude 76° 16.0570007’ W.; thence due west to the southern-most point of Dameron Marsh, Latitude 37° 46.6609070’ N., Longitude 76° 17.2670707’ W.; thence along the mean low water line of Dameron Marsh, north and west to Garden Point, Latitude 37° 47.2519872’ N., Longitude 76° 18.4028142’ W.; thence northwesterly to Windmill Point, Latitude 37° 47.5194547’ N., Longitude 76° 18.7132194’ W.; thence northerly along the mean low water to the western headland of Harveys Creek, Latitude 37° 47.7923573’ N., Longitude 76° 18.6881450’ W.; thence east-southeasterly to the eastern headland of Harveys Creek, Latitude 37° 47.7826936’ N., Longitude 76° 18.5469879’ W.; thence northerly along the mean low water line to a point on the offshore end of the southern jetty at the entrance to Towles Creek, Latitude 37° 48.3743771’ N., Longitude 76° 17.9600320’ W., thence easterly to Great Wicomico River Light, Latitude 37° 48.2078167’ N., Longitude 76° 15.9799333’ W., said point being the point of beginning.

"Hand scrape" means any device or instrument with a catching bar having an inside measurement of no more than 22 inches, which is used or usable for the purpose of extracting or removing shellfish from a water bottom or the bed of a body of water.

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“Hand tong” or “ordinary tong” means any pincers, nippers, tongs, or similar device used in catching oysters, which consist of two shafts or handles attached to opposable and complementary pincers, baskets or containers operated entirely by hand, from the surface of the water and has no external or internal power source.

"Indian Creek Area" means all public grounds and unassigned grounds in that area of Indian Creek and its tributaries in Northumberland and Lancaster Counties between a line beginning at a point on the shore on the south side of the creek located at Latitude 37° 041.4021100' N., Longitude 76° 20.7493600' W.; thence in a straight line to a point on shore on the north side of the creek located at Latitude 37° 041.4999200' N., Longitude 76° 20.5974400' W.; thence southeasterly to a line beginning on the south shore of the mouth of the creek located at Latitude 37° 041.2975900' N., Longitude 76° 19.5082500' W.; thence in a straight line to a point on shore on the north side of the mouth of the creek located at Latitude 37° 041.0934000' N., Longitude 76° 18.7589400' W.

“James River Area 1” means all Public Grounds and unassigned grounds, in that area of the James River, beginning the Flashing Green Channel Light #5, located at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W.; thence southeasterly to the Flashing Green Channel Light #3, located at Latitude 37° 01.7124500' N., Longitude 76° 31.8210667' W.; thence southeasterly to the Flashing Green Channel Light #1, located at Latitude 37° 00.7666667' N., Longitude 76° 29.9083333' W.; thence southeasterly to the northeast corner of the western draw span pier of the James River Bridge (U.S. Route 17), Latitude 37° 00.1524824' N., Longitude 76° 28.1581984' W.; thence southwesterly along the upstream side of the James River Bridge to the mean low water line; thence northwesterly along the mean low water line, crossing Kings Creek at the headlands and continuing along the mean low water line to a point on the shore at Rainbow Farm Point in line with VMRC Markers “STH” and “SMT”, located at Latitude 37° 00.1965862' N., Longitude 76° 34.0712010' W.; thence north-northeasterly to a VMRC Marker “STH”, Latitude 37° 00.9815328' N., Longitude 76° 33.5955842' W.; thence to a VMRC Marker “SMT”, at Latitude 37° 01.3228160' N., Longitude 76° 33.3887351' W.; thence to the Flashing Green Channel Light #5, at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W., said point being the point of beginning.

“James River Area 2” means all Public Grounds and unassigned grounds, in that area of the James River, beginning at the Flashing Green Channel Light #5, located at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W.; thence northeasterly to a VMRC Marker “NMT”, Latitude 37° 02.7740540' N., Longitude 76° 32.0960864' W.; thence to a VMRC Marker “NTH” located at Latitude 37° 03.2030055' N., Longitude 76° 31.4231211' W.; thence to a point on the north shore of the river at Blunt (Blount) Point, said point being in line with VMRC Markers “NMT” and “NTH” and located at Latitude 37° 03.3805862' N., Longitude 76° 31.1444562' W.; thence southeasterly along the mean low water line to the upstream side of the James River Bridge (U.S. Route 17); thence westerly along the James River Bridge to the northeast corner of the western draw span pier, Latitude 37° 00.1524824' N., Longitude 76° 28.1581984' W.; thence northwesterly to the Flashing Green Channel Light #1, located at Latitude 37° 00.7666667' N., Longitude 76° 29.9083333' W.; thence northwesterly to the Flashing Green Channel Light #3, located at Latitude 37° 01.7124500' N., Longitude 76° 31.8210667' W.; thence northwesterly to the Flashing Green Channel Light #5, located at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W. said point being the point of beginning

“James River Area 3” means those Public Grounds of Isle of Wight County and Nansemond County (City of Suffolk) located in the James River and Nansemond River west of the Monitor Merrimac Memorial Bridge Tunnel

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(Route I-664), northeast of the Mills E. Godwin, Jr. Bridge (U.S. Route 17) on the Nansemond River, and south of the James River Bridge (U.S. Route 17).

“James River Seed Area” means all public grounds and unassigned grounds in that area of the James River and its tributaries with a southeastern boundary beginning at a point on the shore on the south side of the river at Rainbow Farm Point in Isle of Wight County located at Latitude 37° 00.1965862’ N., Longitude 76° 34.0712010’ W.; thence north-northeasterly to a VMRC Marker “STH”, Latitude 37° 00.9815328 N., Longitude 76° 33.5955842’ W.; thence to a VMRC Marker “SMT”, at Latitude 37° 01.3228160’ N., Longitude 76° 33.3887351’ W.; thence to the Flashing Green Channel Light #5, at Latitude 37° 02.3528833’ N., Longitude 76° 32.7785333’ W.; thence northeasterly to a VMRC Marker “NMT”, Latitude 37° 02.7740540’ N., Longitude 76° 32.0960864’ W.; thence to a VMRC Marker “NTH” located at Latitude 37° 03.2030055’ N., Longitude 76° 31.4231211’ W.; thence to a point on the north shore of the river at Blunt (Blount) Point, in the City of Newport News, located at Latitude 37° 03.3805862’ N., Longitude 76° 31.1444562’ W.; the northern boundary, being a straight line, beginning at a point on the shore on the east side of the river in the City of Newport News, at Latitude 37° 08.4458787’ N., Longitude 76° 37.2855533’ W., thence westerly to the southeast corner of the Deep Water Shoal State Replenishment Seed Area, Latitude 37° 08.4466039’ N., Longitude 76° 37.4523346’ W.; thence westerly to the southwest corner of the Deep Water Shoal State Replenishment Seed Area, Latitude 37° 08.4490472’ N., Longitude 76° 38.0215554’ W.; thence westerly to a point on the shore on the west side of the river at the mouth of Lawnes Creek in Isle of Wight County, Latitude 37° 08.4582990’ N., Longitude 76° 40.2816023’ W.

“Latitude and Longitude” means values that are based upon a geodetic reference system of the North American Datum of 1983 (NAD83). When Latitude and Longitude are used in any area description, in conjunction with any physical landmark, to include aids to navigation, the Latitude and Longitude value is the legal point defining the boundary.

“Little Wicomico River” means that area of the Little Wicomico River inside of Public Ground 43 of Northumberland County, located in the Little Wicomico River near Bridge Creek, beginning at a point approximately 150 feet north of Peachtree Point, said point being Corner 1, located at Latitude 37° 53.2910650’ N., Longitude 76° 16.7312926’ W.; thence southwesterly to Corner 2, Latitude 37° 53.2601877’ N., Longitude 76° 16.8662408’ W.; thence northwesterly to Corner 3, Latitude 37° 53.2678470’ N., Longitude 76° 16.8902408’ W.; thence northeasterly to Corner 4, Latitude 37° 53.3113148’ N., Longitude 76° 16.8211543’ W.; thence southeasterly to Corner 1, said corner being the point of beginning.

“Milford Haven” means all public grounds and unassigned grounds in that area of Milford Haven and its tributaries bound on the west by a line from a point on the southernmost point of land of the north shore of Milford Haven being near the end of State Route 634, Latitude 37° 29.5971’ N., Longitude 76° 18.1822’ W.; thence south-southeasterly to a point on the northeast corner of the pier head of the long pier being on the south shore of Milford Haven immediately west of the Sea Farms Inc. facility, Latitude 37° 29.3546’ N., Longitude 76° 18.1323’ W.; thence following the east side of the pier to the shore and bound on the east by a line from a point on the shore at the western headland of the wash formerly Hills Creek, Latitude 37° 29.0278’ N., Longitude 76° 16.3834’ W.; thence easterly to a point on the north shore of Sandy Point near Latitude 37° 29.0017’ N., Longitude 76° 16.1640’ W.; thence following the shore of the east side of Sandy Point to a point on the shoreline at Latitude 37° 28.6233’ N., Longitude 76° 15.8605’ W.; thence in a line south-southeasterly to a point on the breakwater at Haven Beach, Latitude 37° 26.2006’ N., Longitude 76° 15.1257’ W.

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“Mobjack Bay Area” means that area of Mobjack Bay consisting of Public Ground 2 of Mathews County (Pultz Bar) and Public Ground 25 of Gloucester County (Tow Stake) described as:

Public Ground 2 of Mathews County, known as Pultz Bar, is located in Mobjack Bay, beginning at a point approximately 5,420 feet south of Minter Point, said point being Corner 1, located at Latitude 37° 21.2500000' N., Longitude 76° 21.3700000' W.; thence easterly to Corner 2, Latitude 37° 21.2700000' N., Longitude 76° 20.9600000' W.; thence southerly to Corner 3, Latitude 37° 21.0200000' N., Longitude 76° 20.9400000' W.; thence westerly to Corner 4, Latitude 37° 21.0500000' N., Longitude 76° 21.3300000' W.; thence northerly to Corner 1, said corner being the point of beginning.

Public Ground 25 of Gloucester County, known as Tow Stake, is located in Mobjack Bay, near the mouth of the Severn River, beginning at a point approximately 2,880 feet east-northeast of Tow Stake Point, said point being Corner 1, located at Latitude 37° 20.3883888' N., Longitude 76° 23.5883836' W.; thence northeasterly to Corner 2, Latitude 37° 30.5910482' N., Longitude 76° 23.2372184' W.; thence southeasterly to Corner 3, Latitude 37° 20.3786971' N., Longitude 76° 22.7241180' W.; thence southwesterly to Corner 4, Latitude 37° 19.8616759' N., Longitude 76° 23.5914937' W.; thence northwesterly to Corner 5, Latitude 37° 20.0284019' N., Longitude 76° 23.7717423' W.; thence northeasterly to Corner 1, said corner being the point of beginning.

“Nomini Creek Area” means that area of Nomini Creek inside of Public Grounds 26 and 28 of Westmoreland County.

Public Ground 26 of Westmoreland County is located in Nomini Creek, north of Beales Wharf and east of Barnes Point, beginning at a point approximately 1,400 feet north of Barnes Point, said point being Corner 1, located at Latitude 38° 07.2690219' N., Longitude 76° 42.6784210' W.; thence southeasterly to Corner 2, Latitude 38° 07.0924060' N., Longitude 76° 42.4745767' W.; thence southwesterly to Corner 3, Latitude 38° 06.8394053' N., Longitude 76° 42.6704025' W.; thence northwesterly to Corner 4, Latitude 38° 06.8743004' N., Longitude 76° 42.7552151' W.; thence northeasterly to Corner 5, Latitude 38° 07.0569717' N., Longitude 76° 42.5603535' W.; thence northwesterly to Corner 1, said corner being the point of beginning.

Public Ground 28 of Westmoreland County is located at the mouth of Nomini Creek, beginning at a point approximately 50 feet west of White Oak Point, said point being Corner 1, located at Latitude 38° 07.6429987' N., Longitude 76° 43.0337082' W.; thence south-southeasterly to Corner 2, Latitude 38° 07.2987193' N., Longitude 76° 43.1101420' W.; thence northwesterly to Corner 3, Latitude 38° 07.7029267' N., Longitude 76° 43.3337762' W.; thence west to the mean low water line, Latitude 38° 07.7031535' N., Longitude 76° 43.3378345' W.; thence northerly and westerly along the mean low water line of Nomini Creek to a point southwest of Cedar Island, Latitude 38° 07.8986449' N., Longitude 76° 43.6329097' W.; thence northeasterly to a point on the mean low water line at the southern-most point of Cedar Island, Latitude 38° 07.8986449' N., Longitude 76° 43.6329097' W.; thence following the mean low water line of the southern and eastern sides of Cedar Island to a point, Latitude 38° 08.0164430' N., Longitude 76° 43.4773169' W.; thence northeasterly to Corner 4, Latitude 38° 08.0712849' N., Longitude 76° 43.4416606' W.; thence northeasterly to a point on the northern headland of Nomini Creek at the mean low water line, said point being Corner 5, Latitude 38° 08.2729626' N., Longitude 76° 43.3105315' W.; thence following the mean low water line of White Point to a

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point northwest of Snake Island, Corner 6, Latitude 38° 08.4066960' N., Longitude 76° 42.9105565' W.; thence southeast, crossing the mouth of Buckner Creek, to a point on the mean low water line of Snake Island, Corner 7, Latitude 38° 08.3698254' N., Longitude 76° 42.8939656' W.; thence southeasterly following the mean low water line of Snake Island to Corner 8, Latitude 38° 08.2333798' N., Longitude 76° 42.7778877' W.; thence south-southwesterly, crossing the mouth of Buckner Creek, to Corner 9, Latitude 38° 08.2134371' N., Longitude 76° 42.7886409' W.; thence southeasterly to a point on the mean low water line of the southern headland of Buckner Creek, Corner 10, Latitude 38° 08.1956281' N., Longitude 76° 42.7679625' W.; thence southwesterly following the mean low water line of Nomini Creek, crossing the mouth of an un-named cove at the narrowest point between the headlands and continuing to follow the mean low water line to a point on White Oak Point, Latitude 38° 07.6428228' N., Longitude 76° 43.0233530' W.; thence west to Corner 1, said point being the point of beginning.

“Oyster” means any shellfish of the species *Crassostrea virginica*.

"Oyster dredge" means any device having a maximum weight of 150 pounds with attachments, maximum width of 50 inches, and maximum tooth length of four inches.

"Oyster patent tong" means any patent tong not exceeding 100 pounds in gross weight, including any attachment other than rope and with the teeth not to exceed four inches in length.

“Oyster resource user fee” means a fee that must be paid each calendar year by anyone who grows, harvests, shucks, packs or ships oysters, for commercial purposes.

“Pocomoke Sound Area” means that area of Pocomoke Sound inside of Public Ground 9 and Public Ground 10 of Accomack County.

Public Ground 9 of Accomack County is located in the Pocomoke Sound, beginning at a corner on the Maryland-Virginia state line, located in the Pocomoke Sound approximately 1.06 nautical miles north-northeast of the northern-most point of North End Point, said point being Corner 1, located at Latitude 37° 57.2711566' N., Longitude 75° 42.2870790' W. (NAD83); thence east-northeasterly along the Maryland-Virginia state line to Corner 2, Latitude 37° 57.2896577' N., Longitude 75° 41.9790727' W.; thence southerly to Corner 3, Latitude 37° 57.2574850' N., Longitude 75° 41.9790730' W.; thence southwesterly to Corner 4, Latitude 37° 57.2288700' N., Longitude 75° 42.0077287' W.; thence west-southwesterly to Corner 5, Latitude 37° 57.2034533' N., Longitude 75° 42.1511250' W.; thence south-southwesterly to Corner 6, Latitude 37° 57.0940590' N., Longitude 75° 42.1935214' W.; thence south-southeasterly to Corner 7, Latitude 37° 57.0551726' N., Longitude 75° 42.1814457' W.; thence southwesterly to Corner 8, Latitude 37° 56.9408327' N., Longitude 75° 42.2957912' W.; thence south-southwesterly to Corner 9, Latitude 37° 56.6574947' N., Longitude 75° 42.3790819' W.; thence southwesterly to Corner 10, Latitude 37° 56.5790952' N., Longitude 75° 42.5228752' W.; thence west-southwesterly to Corner 11, Latitude 37° 56.5712564' N., Longitude 75° 42.5915437' W.; thence south-southeasterly to Corner 12, Latitude 37° 56.5441067' N., Longitude 75° 42.5869894' W.; thence southwesterly to Corner 13, Latitude 37° 56.4575045' N., Longitude 75° 42.7458050' W.; thence west-southwesterly to Corner 14, Latitude 37° 56.2575123' N., Longitude 75° 43.3791097' W.; thence southwesterly to Corner 15, Latitude 37° 55.7408688' N., Longitude 75° 43.7957804' W.; thence westerly to Corner 16, Latitude 37° 55.7575327' N., Longitude 75° 43.9458298' W.; thence northwesterly to Corner 17, Latitude 37° 55.8908661' N., Longitude 75° 44.1291309' W.; thence north-northeasterly to Corner 18, Latitude 37° 55.9908639' N., Longitude 75°

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44.0791266' W.; thence northeasterly to Corner 19, Latitude 37° 56.1241858' N., Longitude 75° 43.8791328' W.; thence north- northeasterly to Corner 20, Latitude 37° 56.4075136' N., Longitude 75° 43.7291361' W.; thence northeasterly to Corner 21, Latitude 37° 56.8241664' N., Longitude 75° 43.2624601' W.; thence north-northeasterly to Corner 22, Latitude 37° 57.0706006' N., Longitude 75° 43.1480402' W.; thence east-northeasterly along the Maryland-Virginia state line to Corner 1, said corner being the point of beginning.

Public Ground 10 of Accomack County is located in the Pocomoke Sound, beginning at a corner on the Maryland-Virginia state line, located in the Pocomoke Sound approximately 2.3 nautical miles westerly of the northern-most point of North End Point, said point being Corner 1, located at Latitude 37° 56.4741881' N., Longitude 75° 45.7051676' W. (NAD83); thence east-northeasterly along the Maryland-Virginia state line to Corner 2, Latitude 37° 56.9261140' N., Longitude 75° 43.7679786' W.; thence south-southwesterly to Corner 3, Latitude 37° 56.1241948' N., Longitude 75° 44.3624962' W.; thence west-southwesterly to Corner 4, Latitude 37° 56.0820561' N., Longitude 75° 44.5826292' W.; thence northerly to Corner 5, Latitude 37° 56.1377309' N., Longitude 75° 44.5817745' W.; thence west-southwesterly to Corner 6, Latitude 37° 56.1259751' N., Longitude 75° 44.6226859' W.; thence southwesterly to Corner 7, Latitude 37° 56.1039335' N., Longitude 75° 44.6692334' W.; thence southerly to Corner 8, Latitude 37° 56.0643616' N., Longitude 75° 44.6750106' W.; thence west-southwesterly to Corner 9, Latitude 37° 55.9742005' N., Longitude 75° 45.1458109' W.; thence west-northwesterly to Corner 10, Latitude 37° 56.0741973' N., Longitude 75° 45.8958329' W.; thence north-northwesterly to Corner 11, Latitude 37° 56.2565760' N., Longitude 75° 46.0000557' W.; thence northeasterly along the Maryland-Virginia state line to Corner 1, said corner being the point of beginning.

"Pocomoke and Tangier Sounds Management Area" or "PTSMA" means the area as defined in §28.2-524 of the Code of Virginia.

“Pocomoke and Tangier Sounds Rotation Area 1” means all public grounds and unassigned grounds, within an area of the PTSMA, in Pocomoke and Tangier Sounds, bounded by a line beginning at a point on the Maryland-Virginia state line, located at Latitude 37° 54.6136000' N., Longitude 75° 53.9739600' W.; thence south to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence westerly to a point, Latitude 37° 53.3633500' N., Longitude 75° 56.5589600' W.; thence south to a point, Latitude 37° 48.4429100' N., Longitude 75° 56.4883600' W.; thence easterly to the north end of Watts Island, Latitude 37° 48.7757800' N., Longitude 75° 53.5994100' W.; thence northerly to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence southeasterly to Pocomoke Sound Shoal Flashing Light Red “8”, Latitude 37° 52.4583300' N., Longitude 75° 49.4000000' W.; thence southeasterly to Messongo Creek Entrance Buoy Green Can "1", Latitude 37° 52.1000000' N., Longitude 75° 47.8083300' W.; thence southeast to Guilford Flats Junction Light Flashing 2+1 Red "GF", Latitude 37° 50.9533300' N., Longitude 75° 46.6416700' W.; thence southerly to a point on a line from Guilford Flats Junction Light to the northern-most point of Russell Island, where said line intersects the PTSMA boundary, Latitude 37° 48.4715943' N., Longitude 75° 46.9955932' W.; thence clockwise following the PTSMA boundary to a point on the Maryland-Virginia state line, said point being the point of beginning.

“Pocomoke and Tangier Sounds Rotation Area 2” means all public grounds and unassigned grounds, within an area of the PTSMA, in Pocomoke and Tangier Sounds, bounded by a line beginning at the house on Great Fox Island, located at Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence southerly to the north end of Watts Island, Latitude 37° 48.7757800' N., Longitude 75° 53.5994100' W.; thence westerly to a point,

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Latitude 37° 48.4429100' N., Longitude 75° 56.4883600' W.; thence northerly to a point, Latitude 37° 53.3633500' N., Longitude 75° 56.5589600' W.; thence easterly to the house on Great Fox Island, said house being the point of beginning. Also, Pocomoke and Tangier Sounds Rotation Area 2 shall include all Public Grounds and unassigned grounds in the PTSMA in Pocomoke Sound bounded by a line beginning at a point on the Maryland-Virginia state line, Latitude 37° 54.6136000' N., Longitude 75° 53.9739600' W.; thence following the PTSMA boundary clockwise to a point on the line from the northern-most point of Russell Island to Guilford Flats Junction Light Flashing 2+1 Red "GF", where said line intersects the PTSMA boundary, Latitude 37° 48.4715943' N., Longitude 75° 46.9955932' W.; thence northerly to Guilford Flats Junction Light Flashing 2+1 Red "GF", Latitude 37° 50.9533300' N., Longitude 75° 46.6416700' W.; thence northwesterly to Messongo Creek Entrance Buoy Green Can "1", Latitude 37° 52.1000000' N., Longitude 75° 47.8083300' W.; thence northwesterly to Pocomoke Sound Shoal Flashing Light Red "8", Latitude 37° 52.4583300' N., Longitude 75° 49.4000000' W.; thence northwesterly to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence northerly to a point on the Maryland-Virginia state line, said point being the point of beginning.

"Public oyster ground" means all those grounds defined in § 28.2-551 of the Code of Virginia or by any other acts of the General Assembly pertaining to those grounds, all those grounds set aside by court order, and all those grounds set aside by order of the Marine Resources Commission, and may be redefined by any of these legal authorities.

“Rappahannock River Area 7” means all public grounds, in that area of the Rappahannock River, bounded downstream by a line from Rogue Point, located at Latitude 37° 40.0400000' N., Longitude 76° 32.2530000' W.; thence west-northwesterly to Flashing Red Buoy “8”, Latitude 37° 40.1580000' N., Longitude 76° 32.9390000' W.; thence southwesterly to Balls Point, Latitude 37° 39.3550000' N., Longitude 76° 34.4440000' W.; and bounded upstream by a line from Punchbowl Point, Latitude 37° 44.6750000' N., Longitude 76° 37.3250000' W.; thence southeasterly to Monaskon Point, Latitude 37° 44.0630000' N., Longitude 76° 34.1080000' W.

“Rappahannock River Area 8” means all public grounds, in that area of the Rappahannock River, bounded downstream by a line from Monaskon Point, located at Latitude 37° 44.0630000' N., Longitude 76° 34.1080000' W.; thence northwesterly to Punchbowl Point, Latitude 37° 44.6750000' N., Longitude 76° 37.3250000' W.; and bounded upstream by a line from Jones Point, Latitude 37° 46.7860000' N., Longitude 76° 40.8350000' W.; thence north-northwesterly to Sharps Point, Latitude 37° 49.3640000' N., Longitude 76° 42.0870000' W.

“Rappahannock River Area 9” means all public grounds, in that area of the Rappahannock River, bounded downstream by a line from Sharps Point, located at Latitude 37° 49.3640000' N., Longitude 76° 42.0870000' W.; thence south-southeasterly to Jones Point, Latitude 37° 46.7860000' N., Longitude 76° 40.8350000' W.; and bounded upstream by the Thomas J. Downing Bridge (U.S. Route 360).

“Rappahannock River Rotation Area 1” means all public grounds, in that area of the Rappahannock River and Chesapeake Bay, bounded by a line offshore and across the mouth of the Rappahannock River from a point on the mean low water line of Windmill Point, located at Latitude 37° 36.8200000' N., Longitude 76° 16.9460000' W.; thence southeast to Windmill Point Light, Latitude 37° 35.7930000' N., Longitude 76° 14.1800000' W.; thence southwesterly to Stingray Point Light, Latitude 37° 33.6730000' N., Longitude 76° 16.3620000' W.; thence westerly to a point on the mean low water line of Stingray Point, Latitude 37° 33.6920000' N., Longitude 76° 17.9860000' W.; and bounded upstream by a line from the mean low water line west of Broad Creek, Latitude

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37° 33.9520000' N., Longitude 76° 19.3090000' W.; thence northeasterly to a VMRC Buoy on the Baylor line, Latitude 37° 34.5310000' N., Longitude 76° 19.1430000' W.; thence northeasterly to a VMRC Buoy, Latitude 37° 34.6830000' N., Longitude 76° 19.1000000' W.; thence northwesterly to a VMRC Buoy, Latitude 37° 35.0170000' N., Longitude 76° 19.4500000' W.; thence northwesterly to Sturgeon Bar Light “7R”, Latitude 37° 35.1500000' N., Longitude 76° 19.7330000' W.; thence continuing northwesterly to Mosquito Point Light “8R”, Latitude 37° 36.1000000' N., Longitude 76° 21.3000000' W.; thence northwesterly to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.

“Rappahannock River Rotation Area 2” means all public grounds, in that area of the Rappahannock River, bounded downstream by a line from the southern-most corner of the house on Mosquito Point, located at Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.; thence southeast to Mosquito Point Light “8R”, Latitude 37° 36.1000000' N., Longitude 76° 21.3000000' W.; thence continuing southeasterly to Sturgeon Bar Beacon “7R”, Latitude 37° 35.1500000' N., Longitude 76° 19.7330000' W.; thence west-southwesterly to a VMRC Buoy, Latitude 37° 34.9330000' N., Longitude 76° 21.0500000' W.; thence southwesterly to a VMRC Buoy, Latitude 37° 34.8830000' N., Longitude 76° 21.1000000' W.; thence southwesterly to a pier west of Hunting Creek at Grinels, Latitude 37° 34.4360000' N., Longitude 76° 26.2880000' W.; and bounded on the upstream by a line from Mill Creek Channel Marker “4”, Latitude 37° 35.0830000' N., Longitude 76° 26.9500000' W.; thence northeasterly to Mill Creek Channel Marker “2”, Latitude 37° 35.4830000' N., Longitude 76° 24.5670000' W.; thence northeasterly to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.

“Rappahannock River Rotation Area 3” means all public grounds, in that area of the Rappahannock River, beginning from the north channel fender at the Robert O. Norris, Jr. Bridge, located at Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence southeast to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.; thence southwest to Mill Creek Channel Marker “2”, Latitude 37° 35.4830000' N., Longitude 76° 24.5670000' W.; thence southwesterly to Mill Creek Channel Marker “4”, Latitude 37° 35.0830000' N., Longitude 76° 24.9500000' W.; thence northeasterly to Parrotts Creek Channel Marker “1”, Latitude 37° 36.0330000' N., Longitude 76° 25.4170000' W.; thence northerly to VMRC Buoy, Latitude 37° 36.3330000' N., Longitude 76° 25.2000000' W.; thence northerly to the north channel fender of the Robert O. Norris, Jr. Bridge, said point being the point of beginning.

“Rappahannock River Rotation Area 4” means all public grounds, in that area of the Rappahannock River, Corrotoman River and Carter Creek, beginning at the White Stone end of the Robert O. Norris, Jr. Bridge (State Route 3), located at Latitude 37° 38.1290000' N., Longitude 76° 24.7220000' W.; thence along said Bridge to the north channel fender, Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence westerly to the VMRC Buoy “5-4”, Latitude 37° 38.0050000' N., Longitude 76° 30.0280000' W.; thence northerly to Old House Point, Latitude 37° 39.1390000' N., Longitude 76° 29.6850000' W.; thence northeasterly to Ball Point, Latitude 37° 41.6600000' N., Longitude 76° 28.6320000' W.; thence southeasterly to VMRC reef marker “Ferry Bar – North”, Latitude 37° 40.3000000' N., Longitude 76° 28.5000000' W.; thence southwesterly to VMRC reef marker “Ferry Bar – South”, Latitude 37° 40.1670000' N., Longitude 76° 28.5830000' W.; thence southeasterly to a duck blind west of Corrotoman Point, Latitude 37° 39.8760000' N., Longitude 76° 28.4200000' W.; thence southerly to VMRC Buoy “543”, Latitude 37° 39.2670000' N., Longitude 76° 27.8500000' W.; thence southerly to VMRC Buoy “Drumming-West”, Latitude 37° 38.8830000' N., Longitude 76° 27.6830000' W.; thence southerly to

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VMRC Buoy “Drumming-East”, Latitude 37° 38.8330000' N., Longitude 76° 27.5670000' W.; thence northeasterly to Orchard Point, Latitude 37° 38.9240000' N., Longitude 76° 27.1260000' W.

“Rappahannock River Rotation Area 5” means all public grounds, in that area of the Rappahannock River, beginning at the Greys Point end of the Robert O. Norris, Jr. Bridge (State Route 3), located at Latitude 37° 36.8330000' N., Longitude 76° 25.9990000' W.; thence northeasterly along the bridge to the north channel fender, Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence west-northwesterly to VMRC Buoy “5-4”, Latitude 37° 38.0050000' N., Longitude 76° 30.0280000' W.; thence westerly to Buoy “R6”, Latitude 37° 38.0330000' N., Longitude 76° 30.2830000' W.; thence south to the eastern headland of Whiting Creek, Latitude 37° 36.6580000' N., Longitude 76° 30.3120000' W.

“Rappahannock River Rotation Area 6” means all public grounds, in that area of the Rappahannock River, beginning on the eastern headland of Whiting Creek, located at Latitude 37° 36.6580000' N., Longitude 76° 30.3120000' W.; thence north to Buoy “R6”, Latitude 37° 38.0330000' N., Longitude 76° 30.2830000' W.; thence northwesterly to VMRC White House Sanctuary Buoy, Latitude 37° 38.1500000' N., Longitude 76° 30.5330000' W.; thence northwesterly to VMRC Towles Point Area Buoy, Latitude 37° 38.8330000' N., Longitude 76° 31.5360000' W.; thence northwesterly to Flashing Red Buoy “8” off Rogue Point, Latitude 37° 40.1580000' N., Longitude 76° 32.9390000' W.; thence southwesterly to Balls Point, Latitude 37° 39.3550000' N., Longitude 76° 34.4440000' W.

“Seed Oyster” means any oyster taken by any person from natural beds, rocks, or shoals that is more than 30 days from harvest for human consumption.

“Unassigned ground” means all grounds either not assigned pursuant to §28.2-600 through §28.2-633 of the Code of Virginia, established pursuant to §28.2-551 of the Code of Virginia, set aside by court order, or those grounds set aside by declarations or regulation by the Marine Resources Commission, and as may be redefined by any of these legal authorities.

“Upper Chesapeake Bay - Blackberry Hangs Area” means all public grounds and unassigned grounds, in that area of the Chesapeake Bay, bounded by a line, beginning at a point approximately 300 feet east of the mean low water line of the Chesapeake Bay and approximately 1230 feet southwest of the end of the southern-most stone jetty at the mouth of the Little Wicomico River, said point being Corner 1, Latitude 37° 53.1811193' N., Longitude 76° 14.1740146' W.; thence east-southeasterly to Corner 2, Latitude 37° 52.9050025' N., Longitude 76° 11.9357257' W.; thence easterly to Corner 3, Latitude 37° 52.9076552' N., Longitude 76° 11.6098145' W.; thence southwesterly to Corner 4, Latitude 37° 52.8684955' N., Longitude 76° 11.6402444' W.; thence east-southeasterly to Corner 5, Latitude 37° 52.7924853' N., Longitude 76° 11.0253352' W.; thence southwesterly to Corner 6, Latitude 37° 49.4327736' N., Longitude 76° 13.2409959' W.; thence northwesterly to Corner 7, Latitude 37° 50.0560555' N., Longitude 76° 15.0023234' W.; thence north-northeasterly to Corner 8, Latitude 37° 50.5581183' N., Longitude 76° 14.8772805' W.; thence north-northeasterly to Corner 9, Latitude 37° 52.0260950' N., Longitude 76° 14.5768550' W.; thence northeasterly to Corner 1, said corner being the point of beginning.

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“Yeocomico River Area” means that area of the North West Yeocomico River, inside Public Ground 8 of Westmoreland County and those areas of the South Yeocomico River inside Public Grounds 100, 102, 104, 107, and 112 of Northumberland County described as:

Public Ground 8 of Westmoreland County is located in the North West Yeocomico River, beginning at a point approximately 1455 feet northeast of Crow Bar and 1850 feet northwest of White Point, said point being Corner 1, located at Latitude 38° 02.7468214' N., Longitude 76° 33.0775726' W.; thence southeasterly to Corner 2, Latitude 38° 02.7397202' N., Longitude 76° 33.0186286' W.; thence southerly to Corner 3, Latitude 38° 02.6021644' N., Longitude 76° 33.0234175' W.; thence westerly to Corner 4, Latitude 38° 02.6006669' N., Longitude 76° 33.0824799' W.; thence northerly to Corner 1, said corner being the point of beginning.

Public Ground 100 of Northumberland County is located in the South Yeocomico River, beginning at said point being Corner 1, located at Latitude 38° 00.2292779' N., Longitude 76° 32.2244222' W.; thence southwesterly to Corner 2, Latitude 38° 00.2183904' N., Longitude 76° 32.2488009' W.; thence westerly to Corner 3, Latitude 38° 00.2156893' N., Longitude 76° 32.3156220' W.; thence northwesterly to Corner 4, Latitude 38° 00.4024997' N., Longitude 76° 32.3338888' W.; thence continuing northeasterly to Corner 5, Latitude 38° 00.5806170' N., Longitude 76° 32.1957546' W.; thence continuing easterly to Corner 6, Latitude 38° 00.5798424' N., Longitude 76° 31.9506788' W., thence continuing southeasterly to Corner 7, Latitude 38° 00.5076459' N., Longitude 76° 31.9387425' W. thence heading along the mean low water southwesterly to Corner 1, said corner being the point of beginning.

Public Ground 102 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 630 feet south of Mundy Point and 1745 feet southwest of Tom Jones Point, said point being Corner 1, located at Latitude 38° 01.2138059' N., Longitude 76° 32.5577201' W.; thence east-northeasterly to Corner 2, Latitude 38° 01.2268644' N., Longitude 76° 32.4497849' W.; thence southwesterly to Corner 3, Latitude 38° 01.1091209' N., Longitude 76° 32.5591101' W.; thence northerly to Corner 1, said corner being the point of beginning.

Public Ground 104 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 670 feet north of Walker Point and 1900 feet northwest of Palmer Point, said point being Corner 1, located at Latitude 38° 00.8841841' N., Longitude 76° 32.6106215' W.; thence southeasterly to Corner 2, Latitude 38° 00.8609163' N., Longitude 76° 32.5296302' W.; thence southeasterly to Corner 3, Latitude 38° 00.6693092' N., Longitude 76° 32.4161866' W.; thence southwesterly to Corner 4, Latitude 38° 00.6418466' N., Longitude 76° 32.5394849' W.; thence northwesterly to Corner 1, said corner being the point of beginning.

Public Ground 107 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 1000 feet southwest of Barn Point and 1300 feet northwest of Tom Jones Point, said point being Corner 1, located at Longitude 38° 01.1389367' N., Latitude 76° 32.3425617' W.; thence east-southeasterly to Corner 2, Latitude 38° 01.4106421' N., Longitude 76° 32.1077962' W.; thence southwesterly to Corner 3, Latitude 38° 01.2717197' N., Longitude 76° 32.2917989' W.; thence north-northwesterly to Corner 1, said corner being the point of beginning.

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Public Ground 112 of Northumberland County is located in the Yeocomico River, beginning at said point being Corner 1, located at Latitude 38° 01.8449428' N., Longitude 76° 32.2191877' W.; thence northeasterly to Corner 2, Latitude 38° 01.8783929' N., Longitude 76° 31.9970988' W.; thence southeasterly to Corner 3, Latitude 38° 01.7997003' N., 76° 31.9569302' W.; thence continuing southeasterly to Corner 4, 38° 01.6848729' N., Longitude 76° 31.5931801' W.; thence southerly to Corner 5, Latitude 38° 01.5760153' N., 76° 31.5931801' W.; thence westerly to Corner 6, Latitude 38° 01.6860521' N., Longitude 76° 32.2820100' W., thence northerly to Corner 1, said corner being the point of beginning.

“York River Hand Tong Area” means that area of the York River consisting of a portion of Public Ground 31 of Gloucester County (Aberdeen Rock), Public Ground 901 of Gloucester and King and Queen County and that portion of Public Ground 4 of King and Queen County that is in waters approved by the Virginia Department of Health for the harvest of Shellfish (Bell Rock) described as:

Public Ground 31 of Gloucester County, known as Aberdeen Rock, is that portion of Public Ground between a line from Upper York River Green Channel Marker 9, Latitude 37° 19.35986' N., Longitude 76° 35.99789' W.; thence northeasterly to Gum Point, Latitude 37° 19.74276' N., Longitude 76° 35.49063' W.; upstream to a line from the Flashing Yellow VIMS Data Buoy “CB”, Latitude 37° 20.4670000' N., Longitude 76° 37.4830000' W.; thence northeasterly to the inshore end of the wharf at Clay Bank.

Public Ground 901 of Gloucester and King and Queen County is located in the York River at the mouth of the Propotank River, beginning at said point being Corner 1, located at Latitude 37° 26.0291178' N., Longitude 76° 42.4769473' W.; thence northwesterly to Corner 2, Latitude 37° 26.1502199' N., Longitude 76° 42.5504403' W.; thence continuing northwesterly to Corner 3, Latitude 37° 26.2593188' N., 76° 42.5639668' W.; thence southeasterly to Corner 4, 37° 26.0537949' N., Longitude 76° 42.3217587' W.; thence southwestly to Corner 5, Latitude 37° 26.0023548' N., 76° 42.4076221' W.; thence northwesterly to Corner 1, said corner being the point of beginning.

Public Ground 4 of King and Queen County, known as Bell Rock, is located in the York River, beginning at said point being Corner 1, located at Latitude 37° 29.1377467' N., Longitude 76° 45.0390139' W.; thence southerly to Corner 2, Latitude 37° 29.0456979 ' N., Longitude 76° 45.0642131 ' W.; thence northwesterly to Corner 3, Latitude 37° 29.5582048 ' N., 76° 45.8484481 ' W.; thence continuing northwesterly to Corner 4, 37° 29.8480848' N., Longitude 76° 46.5362330' W.; thence northeasterly to Corner 5, Latitude 37° 30.0087805' N., 76° 46.3513889' W.; thence continue southeasterly to Corner 6, Latitude 37° 29.6554103' N., Longitude 76° 45.5620462' W., thence continuing southeasterly to Corner 7, Latitude 37° 29.1838193' N., 76° 44.8908342' W., thence continue southeasterly to Corner 8, Latitude 37° 29.1094227' N., 76° 44.7985114' W., thence continue southeasterly to Corner 9, Latitude 37° 28.9796379' N., 76° 44.6726329' W., thence continue southeasterly to Corner 10, Latitude 37° 28.7771294' N., 76° 44.5058580' W., thence continue southeasterly to Corner 11, Latitude 37° 28.6286905' N., 76° 44.4140389' W., thence continue southeasterly to Corner 12, Latitude 37° 28.4745509' N., 76° 44.3267558' W., thence continue southeasterly to Corner 13, Latitude 37° 28.4379124' N., 76° 44.2964890' W., thence continue southeasterly to Corner 14, Latitude 37° 28.3255929' N., 76° 44.2037875' W., thence continue southeasterly to Corner 15, Latitude 37°

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28.2389865' N., 76° 44.1706101' W., thence continue southeasterly to Corner 16, Latitude 37° 28.2157560' N., 76° 44.1552324' W., thence westerly to Corner 17, Latitude 37° 28.1396622' N., 76° 44.3698473' W., thence northerly to Corner 18, Latitude 37° 28.7398061' N., 76° 44.7807027' W., thence continue northerly to Corner 19, Latitude 37° 28.8838652' N., 76° 44.8818391' W., thence easterly to Corner 20, Latitude 37° 28.9140411' N., 76° 44.8163514' W thence northwesterly to Corner 1, said corner being the point of beginning.

“York River Rotation Area 1” means all public grounds in the York River, within Gloucester County, between a line from Upper York River Flashing Red Channel Marker “8”, Latitude 37° 17.8863666' N., Longitude 76° 34.6534166' W.; thence northeasterly to Red Day Marker “2” at the mouth of Cedar Bush Creek, Latitude 37° 18.6422166' N., Longitude 76° 33.8216000' W.; upstream to a line from the Upper York River Green Channel Marker 9, Latitude 37° 19.35986' N., Longitude 76° 35.99789' W.; thence northeasterly to Gum Point, Latitude 37° 19.7427600' N., Longitude 76° 35.4906300' W.

“York River Rotation Area 2” means all public grounds in the York River, within Gloucester County, from the George P. Coleman Memorial Bridge (U.S. Route 17), upstream to a line from Upper York River Flashing Red Channel Marker “8”, Latitude 37° 17.8863666' N., Longitude 76° 34.6534166' W.; thence northeasterly to Red Day Marker “2” at the mouth of Cedar Bush Creek, Latitude 37° 18.6422166' N., Longitude 76° 33.8216000' W.

4 VAC 20-720-30. Standing stock criteria.

Any public oyster ground or unassigned ground may be closed to harvest by the Commissioner of Marine Resources, when it is determined by the Oyster Replenishment Department that the standing stock of oysters has been depleted by 50% or more. The initial estimate of standing stock for each area shall be the volume of oysters as of October 1 of the current year as determined by the Oyster Replenishment Department.

4 VAC 20-720-35. Public oyster ground harvest season.

The Marine Resources Commission shall be authorized to extend the public oyster harvest season in the James River Seed Area, including the Deep Water Shoal State Replenishment Area, but the extension shall not be established to go beyond June 30.

4 VAC 20-720-40. Open oyster harvest season and areas.

A. It shall be unlawful for any person to harvest oysters from public and unassigned grounds outside of the seasons and areas set forth in this section.

B. It shall be unlawful to harvest clean cull oysters from the public oyster grounds and unassigned grounds except during the lawful seasons and from the lawful areas as described in this subsection.

1. James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area: October 1, 2022, through April 30, 2023 (hand tong only).

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2. Milford Haven: November 1, 2022 through March 31, 2023 (hand tong only).
3. Rappahannock River Area 9: October 1, 2022, through March 31, 2023 (hand tong only).
4. Corrotoman Hand Tong Area: October 1, 2022, through March 31, 2023.
5. Little Wicomico River: October 1, 2022 through December 31, 2022 (hand tong only).
6. Nomini Creek Area: October 1, 2022, through January 31, 2023 (hand tong only).
7. Yeocomico River Area: October 1, 2022, through December 31, 2022 (hand tong only).
8. Coan River Area: October 1, 2022, through December 31, 2022 (hand tong only).
9. Indian Creek: March 1, 2023, through March 31, 2023 (hand tong only).
10. York River Hand Tong Area: October 1, 2022, through March 31, 2023 (hand tong only).
11. York River Rotation Area 1: November 1, 2022, through March 31, 2023 (hand tong only).
12. Pocomoke Sound Area Public Ground 10: November 1, 2022, through November 15, 2022 (hand tong only).
13. Pocomoke Sound Area Public Ground 9: November 1, 2022, through January 31, 2023 (hand tong only).
14. Rappahannock River Rotation Area 2: December 1, 2022 through January 31, 2023 (hand scrape only).
15. Rappahannock River Rotation Area 4: October 17, 2022, through November 30, 2022 and February 1, 2023 through February 28, 2023 (hand scrape only).
16. Rappahannock River Area 7: December 1, 2022, through December 31, 2022 (hand scrape only).
17. Rappahannock River Area 8: January 1, 2023 through January 31, 2023 (hand scrape only).
18. Great Wicomico River Rotation Area 2: December 1, 2022, through January 31, 2023 (hand scrape only).
19. James River Areas 1, 2, and 3: October 17, 2022, through February 14, 2023 (hand scrape only).
20. Upper Chesapeake Bay - Blackberry Hangs Area: February 1, 2023 through February 28, 2023 (hand scrape only).
21. York River Area 2: January 1, 2023 through February 28, 2023 (hand scrape only).

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22. Pocomoke Sound Area Public Ground 9: February 1, 2023 through February 28, 2023 (hand scrape only).

23. Pocomoke Sound Area Public Ground 10: November 15, 2022 through November 30, 2022 and February 1, 2023 through February 28, 2023 (hand scrape only).

24. Pocomoke and Tangier Sounds Rotation Area 2: December 1, 2022, through February 28, 2023 (dredge only).

25. Deep Rock Area: November 1, 2022 through March 15, 2023 (patent tong only).

26. Rappahannock River Rotation Area 1: October 17, 2022 through February 28, 2023 (patent tong only).

27. Seaside of the Eastern Shore (for clean cull oysters only): November 1, 2022 through March 31, 2023 (by hand and hand tong only).

C. It shall be unlawful to harvest seed oysters from the public oyster grounds or unassigned grounds except during the lawful seasons. The harvest of seed oysters from the lawful areas is described in this subsection.

1. James River Seed Area: October 1, 2022 through May 31, 2023 (hand tong only).

2. Deep Water Shoal State Replenishment Seed Area: October 1, 2022 through May 31, 2023 (hand tong only).

4 VAC 20-720-50. REPEALED

4 VAC 20-720-60. Day and time limit.

A. It shall be unlawful to take, catch, or possess oysters on Saturday and Sunday from the public oyster grounds or unassigned grounds in the waters of the Commonwealth of Virginia, for commercial purposes, except that this provision shall not apply to any person harvesting no more than one bushel per day by hand or ordinary tong for household use only during the season when the public oyster grounds or unassigned grounds are legally open for harvest.

B. From October 1, 2022, through October 31, 2022, it shall be unlawful for any person to harvest or attempt to harvest oysters prior to sunrise or after 11 a.m. from the areas described in 4VAC20-720-40 B. Beginning on November 1, 2022, it shall be unlawful for any person to harvest or attempt to harvest oysters prior to sunrise or after 2 p.m. from the areas described in 4VAC20-720-40 B 1 through B 13 and 4VAC20-720-40

C. Beginning on November 1, 2022, it shall be unlawful for any person to harvest or attempt to harvest oysters prior to sunrise or after noon from the areas described in 4VAC20-720-40 B 14 through B 26. In addition, it shall be unlawful for any boat with an oyster dredge or hand scrape aboard to leave the dock until one hour before sunrise or return to the dock after sunset.

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C. On the seaside of the Eastern Shore, it shall be unlawful for any person to harvest by hand or attempt to harvest oysters by hand prior to sunrise or after sunset. It shall be unlawful for any person to harvest oysters by hand tong or attempt to harvest oysters by hand tong prior to sunrise or after 2 pm.

4 VAC 20-720-70. Gear restrictions.

A. It shall be unlawful for any person to harvest oysters in the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area, and the areas described in 4 VAC 20-720-40 B 1 through B 13 except by hand tong. It shall be unlawful for any person to have a hand scrape or oyster dredge on board a boat that is harvesting or attempting to harvest oysters from public grounds by hand tong.

B. It shall be unlawful to harvest oysters by any gear from the seaside of the Eastern Shore except by hand or hand tong. It shall be unlawful to harvest oysters that are not submerged at mean low water by any gear other than by hand.

C. It shall be unlawful to harvest oysters from the areas described in 4 VAC 20-720-40 B 14 through B 23 by any gear except hand scrape.

D. It shall be unlawful for any person to have more than one hand scrape on board their vessel while he is harvesting oysters or attempting to harvest oysters from public grounds. It shall be unlawful for any person to have a hand tong on board his vessel while he is harvesting or attempting to harvest oysters from public grounds by hand scrape.

E. It shall be unlawful to harvest oysters from the Pocomoke and Tangier Sound Rotation Area 2, except by an oyster dredge.

F. It shall be unlawful to harvest oysters from the areas described in 4 VAC 20-720-40 B 25 and B 26 except by patent tong.

4 VAC 20-720-75. Gear license.

A. It shall be unlawful for any person to harvest shellfish, with a hand scrape from the public oyster grounds, as described in 4 VAC 20-720-70 C, unless that person has first obtained a valid hand scrape license.

B. It shall be unlawful for any person to harvest shellfish, with an oyster dredge from the public oyster grounds, as described in 4 VAC 20-720-70 E, unless that person has first obtained a valid oyster dredge license.

C. It shall be unlawful for any person to harvest shellfish with a patent tong from the public oyster grounds, as described in 4 VAC 20-720-70 F unless that person has first obtained a valid oyster patent tong license.

D. It shall be unlawful for any person to harvest shellfish, with a hand tong from the public oyster grounds, as described in 4 VAC 20-720-70 A, unless that person has first obtained a valid hand tong license.

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E. It shall be unlawful for any person to harvest shellfish, by hand from the public oyster grounds on the seaside of the Eastern Shore, as described in 4 VAC 20-720-70 B, unless that person has first obtained a valid oyster by hand license. It shall be unlawful for any person to harvest shellfish, from the public oyster grounds on the seaside of the Eastern Shore by hand tong, as described in 4 VAC 20-720-70 B, unless that person has first obtained a valid oyster hand tong license.

4 VAC 20-720-80. Quotas and harvest limits.

A. It shall be unlawful for any person who does not possess a valid commercial fisherman’s registration license and a valid gear license required for any harvest area, as described in 4 VAC 20-720-75 A and B, and has not paid the current year’s oyster resource user fee to harvest or possess any oysters for commercial purposes. Any individual who possesses a valid hand scrape or dredge license and paid the oyster resource user fee, as described in this subsection, shall be limited to a maximum harvest of eight bushels per day. It shall be unlawful for any vessel to exceed a daily vessel limit of 16 bushels clean cull oysters when the vessel is using the hand scrape or oyster dredge.

B. It shall be unlawful for any person who does not possess a valid commercial fisherman’s registration license and a valid gear license required for any harvest area, as described in 4 VAC 20-720-75, and has not paid the current year’s oyster resource user fee to harvest or possess any oysters for commercial purposes. Any individual who possesses a valid hand or hand tong license and paid the oyster resource user fee, as described in this subsection, shall be limited to a maximum harvest of 14 bushels per day. It shall be unlawful for any vessel to exceed a daily vessel limit of 28 bushels clean cull oysters when the vessel is using hand tongs or harvesting by hand.

C. It shall be unlawful for any person who does not possess a valid commercial fisherman’s registration license and a valid gear license required for any harvest area, as described in 4 VAC 20-720-75, and has not paid the current year’s oyster resource user fee to harvest or possess any oysters for commercial purposes. Any individual who possesses a valid patent tong license and paid the oyster resource user fee, as described in this subsection, shall be limited to a maximum harvest of eight bushels per day. It shall be unlawful for any vessel to exceed a daily vessel limit of 16 bushels of clean cull oysters harvested from the areas described in 4 VAC 20-720-40 B when the vessel is using patent tongs.

D. In the Pocomoke and Tangier Sounds Rotation Area 2, it shall be unlawful to possess on board any vessel more than 250 hard clams.

E. It shall be unlawful to possess any blue crabs on board any vessel with an oyster scrape or oyster dredge.

4 VAC 20-720-85. James River Seed Quota and Monitoring.

A. An oyster seed harvest quota of 90,000 bushels of seed is established for the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area. Once it has been projected and announced

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that the quota of seed has been attained, it shall be unlawful for any person to harvest seed oysters from these areas.

B. Of the 90,000-bushel seed quota described in subsection A of this section, no more than 30,000 bushels of this quota may be harvested from October 1 through December 31. However, if it is projected and announced that 30,000 bushels of seed have been harvested before December 31, it shall be unlawful for any person to harvest seed oysters from that date forward until January 1.

C. Of the 90,000-bushel seed quota described in subsection A of this section, no more than 60,000 bushels of this quota may be harvested from January 1 through May 31.

D. Any person harvesting or landing oyster seed from the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area, shall report monthly on forms provided by the Virginia Marine Resources Commission all harvest of seed oysters. Reporting requirements shall consist of that person's Commercial Fisherman Registration License number, daily number of bushels of seed oysters harvested, harvest rock location, planting location (any lease numbers), and buyer name.

E. It shall be unlawful for any person harvesting seed oysters from the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area, to fail to contact the Virginia Marine Resources Commission Interactive-Voice-Response (IVR) System within 24 hours of harvest or landing, and provide that person's name, Commercial Fisherman Registration License number, time, date, daily number of bushels of seed oysters harvested, harvest rock location, the planting location (any lease numbers), and buyer name.

4 VAC 20-720-90. Harvest permit required for the James River Areas.

A permit is required for the James River Areas 1, 2, and 3. It shall be unlawful for any person to harvest, or attempt to harvest, oysters from the James River Areas without first obtaining a harvest permit from the Marine Resources Commission as required by §28.2-518 of the Code of Virginia.

4 VAC 20-720-91. Harvest Permit required for the James River Seed Area, including the Deep Water Shoal State Replenishment Area.

A. A harvest permit shall be required for the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area, for the harvesting of seed oysters. It shall be unlawful for any person to harvest or attempt to harvest seed oysters from the James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area, without first obtaining and having on board a harvest permit.

B. The Commissioner may cease granting permits required by § 28.2-535 or 28.2-546 of the Code of Virginia, when he determines that the seed areas currently open to harvest are becoming depleted and the additional granting of such permits could seriously injure the seed areas.

4 VAC 20-720-95. [Repealed.]

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4 VAC 20-720-100. Seed oyster planting procedures.

A. The marine police officer at the point of seed harvest may require that a marine police officer be present during the seed planting. When this is required, it will be specified on the seed transfer permit. If a marine police officer is required to be present at planting, the planter shall notify the marine police officer in the area prior to planting. It shall be unlawful for the permittee or planter to plant the oysters without a marine police officer being present.

B. The planting of seed oysters shall consist of spreading the oysters loosely on the bottom of the planting area. It shall be unlawful to plant seed oysters in any manner except by spreading the oysters loosely on the bottom.

C. Seed oysters shall be placed on a designated and marked area of the private ground from which said oysters are not to be removed until after December 31 if placed prior to December 31. Any seed oysters placed January 1 through May 31 are not to be removed until after May 31. It shall be unlawful to remove these seed oysters within 30 days of being placed on private ground.

4 VAC 20-720-105. [Repealed.]

4 VAC 20-720-106. [Repealed.]

4 VAC 20-720-110. Penalty.

A. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision 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. In addition to the penalty prescribed by law, any person violating any provision of this chapter shall destroy, in the presence of a marine police officer, all shellfish in his possession, or, at the direction of the marine police officer, shall place the shellfish overboard on the nearest oyster sanctuary or closed shellfish area, and shall cease harvesting on that day. All harvesting apparatus may be subject to seizure, and, pursuant to § 28.2-232 of the Code of Virginia, all licenses and permits may be subject to revocation following a hearing before the Virginia Marine Resources Commission.

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, 28.2-507, and 28.2-518, of the Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at the meeting held in Hampton, Virginia, December 6, 2022.

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COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: _____

Jamie L. Green
Commissioner

Subscribed and sworn to before me this _____ day of _____ 2022.

Notary Public

DRAFT