"ESTABLISHMENT OF OYSTER SANCTUARY AREAS"

CHAPTER 4VAC20-650-10 ET SEQ.

PREAMBLE

This chapter establishes Oyster Sanctuary Areas in the Chesapeake Bay and its tributaries, Potomac tributaries of Virginia, and on the Seaside of Eastern Shore. This chapter is promulgated pursuant to authority contained in §§28.2-201 and 28.2-507 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous Chapter 4VAC20-650-10 et seq., which was adopted May 26, 2009 and made effective on June 1, 2009. The effective date of this chapter, as amended, is October 1, 2010.

4VAC20-650-10. PURPOSE.

The purpose of this chapter is to protect and promote the oyster resources within the designated sanctuary areas and to protect oyster replenishment efforts.

4VAC20-650-20. Oyster Sanctuary areas.

The following Oyster Sanctuary Areas are established:

1. The Wreck Shoals-James River Oyster Sanctuary Area consisting of all public oyster grounds, with a boundary defined as beginning at James River Channel Marker 6; thence westerly to James River Channel Marker 10A; thence northeasterly to a point at Lat. 37° 04' 24" N, Long. 76° 34' 39" W; thence southeasterly to a point at Lat. 37° 04' 02" N. Long. 76° 34' 06" W; thence southeasterly to James River Channel Marker 6, the point of beginning.

2. Smith Island Sanctuary – Beginning at a point in Smith Island Bay near the western shore of Smith Island, said point being approximately 9,900 feet north-northwest of the Cape Charles Light House and the northern most point on Ballard Fish and Oyster Co., Inc. oyster lease, plat 16613, said point being corner 85, having NAD 83 Geographic Coordinates of 37° 08.3987390' N, 75° 54.0094551'W; thence in a northeasterly direction along the inshore oyster lease line of Thomas J. O'Conner, III, plat 17720, to corner 106, 37° 08.5079488'N, 75° 53.9121013'W; thence northeasterly to corner 107, 37° 08.5406502'N, 75° 53.8494541'W; thence east-northeasterly to corner 207, 37° 08.5420829'N, 75° 53.8281776'W; thence east-northeasterly along the inshore oyster lease line of Mark R. Heath, plat 17721, to corner 108, 37° 08.5446005' N, 75° 53.7907806'W; thence north-northeasterly to corner 109, 37° 08.5895883'N, 75° 53.7864524'W; thence northeasterly to corner 110, 37° 08.6921483'N, 75° 53.6226465'W; thence northeasterly to corner 111, 37° 08.7546771'N, 75° 53.4568175'W; thence northeasterly to corner 112, 37° 08.7754748'N, 75° 53.3619827'W; thence southeasterly along the inshore oyster lease line of H. M. Terry Co., Inc. to corner 18, 37° 08.7544364'N, 75° 53.3207742'W; thence southeasterly to corner 17, 37° 08.7306590'N, 75° 53.2980718'W; thence southeasterly to corner 16, 37° 08.6251318'N, 75° 53.1579039'W; thence easterly to corner 15, 37° 08.6225028' N, 75° 53.1025432'W; thence north-northeasterly to corner 14, 37° 08.6626612'N, 75°

53.0854858'W; thence northwesterly to corner 153, 37° 08.6768312'N, 75° 53.1394736'W; thence along the inshore oyster lease line of Daniel Scott Long, plat 16802, northeasterly to corner 152, 37° 08.7156785'N, 75° 53.0819599'W; thence northeasterly to corner 151, 37° 08.8330482'N, 75° 52.7283538'W; thence, south-southeasterly onto Smith Island to corner 1, 37° 08.4630004'N, 75° 52.6679990'W; thence, southwesterly to corner 2, 37° 07.9690002'N, 75° 53.0919992'W; thence southwesterly to corner 3, 37° 07.9080005'N, 75° 53.4390002'W; thence southwesterly to corner 4, 37° 07.7800009'N, 75° 53.6839996'W; thence southwesterly to corner 5, 37° 07.6540002'N, 75° 54.3200009'W; thence southwesterly to corner 6, 37° 07.3169996'N, 75° 54.6700007'W.; thence northwesterly, off shore, to corner 170 of Mark R. Heath's oyster lease, plat 17456, 37° 07.3524313'N, 75° 54.6976587'W; thence along the inshore line of said parcel, northwesterly to corner 169, 37° 07.3528695'N, 75° 54.7176135'W; thence north-northeasterly to corner 168, 37° 07.4495084'N, 75° 54.7100342'W; thence northeasterly to corner 92, 37° 07.5477653'N, 75° 54.5615711'W; thence northeasterly along the inshore oyster lease line of Ballard Fish and Oyster Co., Inc., plat 16613, to corner 91, 37° 07.6416382'N, 75° 54.4402745'W; thence northeasterly to corner 90, 37° 07.6890220'N, 75° 54.3527929'W; thence northeasterly to corner 89, 37° 07.7661702'N, 75° 54.0839677'W; thence northeasterly along the inshore oyster lease line of Henry S. Jones, Jr., plat 19450, to corner 254, 37° 07.7879690'N, 75° 53.9324560'W; thence northerly to corner 253, 37° 07.8109207'N, 75° 53.9343385'W; thence westerly to corner 252, 37° 07.8094111'N, 75° 53.9916726'W; thence north-northwesterly to corner 251, 37° 07.8582020'N, 75° 53.9962243'W; thence west-southwesterly to corner 250, 37° 07.8535649'N, 75° 54.0512576'W; thence northwesterly to corner 249, 37° 07.9116397'N, 75° 54.0935389'W; thence westerly to corner 248, 37° 07.9113922'N, 75° 54.0976427'W; thence north-northwesterly along the inshore oyster lease line of Ballard Fish and Oyster Co., Inc., plat 16613, to corner 88, 37° 08.0660474'N, 75° 54.1122194'W; thence northeasterly to corner 87, 37° 08.1821017'N, 75° 54.0516546'W; thence north-northeasterly to corner 86, 37° 08.2555945'N, 75° 54.0483544'W; thence north-northeasterly to corner 85, 37° 08.3987390'N, 75° 54.0094551'W, said point being the point of beginning.

3. Cobb Island Oyster Sanctuary - Beginning at a point in Cobb Bay, near the western shore of Cobb Island and being the southern most point of the oyster lease of John R. Mariner, plat 16866, corner 355, said corner having NAD 83 Geographic Coordinates of 37° 19.3528688'N, 75° 45.9182774'W; thence northeasterly along the inshore line of said oyster lease to corner 354, 37° 19.4051876'N, 75° 45.8386060'W; thence northeasterly to corner 353, 37° 19.5182900'N, 75° 45.6662561'W; thence northeasterly to corner 352, 37° 19.6443229'N, 75° 45.5201098'W; thence southeasterly to a point on Cobb Island, corner 5, 37° 19.2960000'N, 75° 45.3319992'W; thence southwesterly to corner 6, 37° 19.2109998'N, 75° 45.4150006'W; thence southwesterly to a point west of Cobb Island, corner 7, 37° 18.9289998'N, 75° 45.5570001'W; thence southwesterly to corner 8, 37° 18.8050003'N, 75° 45.7710008'W; thence southwesterly to corner 9, 37° 18.2650004'N, 75° 46.3249991'W; thence southwesterly to corner 10, 37° 18.1689997'N, 75° 46.6559996'W; thence northerly to corner 11, 37° 18.6160000'N, 75° 46.6279994'W; thence northeasterly to corner 12, 37° 18.7500009'N, 75° 46.5019997'W; thence northeasterly to the western most point of the oyster lease of J. Steve McCready, plat 16371, corner 90, 37°

18.8870550'N, 75° 46.1567968'W; thence southeasterly along the lease line to corner 89, 37° 18.8653681'N, 75° 46.1241425'W; thence southeasterly along the oyster lease line of R&C Seafood, plat 16986 to corner 374, 37° 18.7448511'N, 75° 46.0512077'W; thence northeasterly to corner 373, 37° 18.9339657'N, 75° 45.7191531'W; thence northeasterly to corner 372, 37° 18.9858220'N, 75° 45.6864128'W; thence northwesterly to corner 355, 37° 19.3528688'N, 75° 45.9182774'W, said point being the point of beginning.

4. Boxtree Oyster Sanctuary - Beginning at a point in Boxtree Creek, said point being the eastern most point on the oyster lease of Edwin E. Brady and Marion Brady, Jr., plat 16344, corner 7, said corner having NAD 83 Geographic Coordinates of 37° 23.7990757'N, 75° 51.5561984'W; thence southeasterly to corner 2, 37° 23.6849997'N, 75° 51.4280006'W; thence southerly to a point in Ramshorn Bay, corner 3, 37° 23.5570008'N, 75° 51.4309991'W; thence southeasterly to corner 4, 37° 23.5009994'N, 75° 51.3100008'W; thence southeasterly to corner 5, 37° 23.4050000'N, 75° 51.2529994'W; thence southwesterly to corner 6, 37° 22.8749994'N, 75° 51.5500012'W; thence westerly to a point on shore, corner 8, 37° 22.9039994'N, 75° 52.3000000'W; thence northeasterly to corner 7, 37° 23.7990757'N, 75° 51.5561984'W, said point being the point of beginning.

5. Parramore Island Sanctuary - Beginning at a point, corner 1, in Swash Bay, near the western shore of Parramore Island, being approximately 1,550 feet northeast of the northern most point of the oyster lease of John Barr, plat 19331, said corner having NAD 83 Geographic Coordinates of 37° 32.7759991'N, 75° 39.1639995'W; thence in a east-southeasterly direction, onto Parramore Island, to corner 2, 37° 32.7529993'N, 75° 39.0129998'W; thence south-southeasterly to, a point on shore, corner 3, 37° 32.2970002'N, 75° 39.0090007'W; thence northwesterly, off shore, to corner 4, 37° 32.3579996'N, 75° 39.1610007'W; thence north-northwesterly to corner 1, 37° 32.7759991'N, 75° 39.1639995'W, said point being the point of beginning.

6. Hillcrest Oyster Sanctuary - Beginning at a point in Brockenberry Bay, on the south side of the entrance channel to Oyster Slip and approximately 139 feet south-southwest of Day Marker 14, said point being corner 1, having NAD 83 Geographic Coordinates of 37° 17.3320003'N, 75° 55.1269999'W; thence southeasterly to corner 2, 37° 17.2680001'N, 75° 54.8050006'W; thence east-northeasterly to corner 3, 37° 17.3050000'N, 75° 54.5899996'W; thence northeasterly to corner 4, 37° 17.4090006'N, 75° 54.5039998'W; thence northeasterly to corner 5, 37° 17.5909997'N, 75° 54.4389995'W; thence northeasterly to corner 6, 37° 17.7330004'N, 75° 54.2999997'W; thence south-southeasterly to corner 7, 37° 17.5039998'N, 75° 54.0680001'W; thence south-southeasterly to corner 8, 37° 17.3660002'N, 75° 53.9980006'W; thence south-southeasterly to corner 9, 37° 16.8299992'N, 75° 53.9940006'W; thence south-southwesterly to corner 10, 37° 16.4400007'N, 75° 54.0729995'W; thence northwesterly to corner 11, 37° 16.6400008'N, 75° 54.3490009'W; thence west-northwesterly to corner 12, 37° 16.7200007'N, 75° 54.5290004'W; thence west-southwesterly to corner 13, 37° 16.7550008'N, 75° 55.1040003' W; thence west-southwesterly to corner 14, 37° 16.7039996'N, 75° 55.6450007'W; thence

northeasterly to corner 15, 37° 17.0609995'N, 75° 55.0360003'W; thence northeasterly to corner 16, 37° 17.1370004'N, 75° 54.9509998'W; thence northwesterly to corner 17, 37° 17.2660006' N, 75° 55.0820004'W; thence west-southwesterly to corner 18, 37° 17.2610009'N, 75° 55.2330009'W; thence northerly to corner 19, 37° 17.2979996'N, 75° 55.2310007'W; thence northeasterly to corner 1, 37° 17.3320003'N, 75° 55.1269999'W, said point being the point of beginning.

7. All constructed oyster reef sanctuary areas marked by a "no harvesting" sign provided by the Conservation and Replenishment Department.

4VAC20-650-30. Closure of sanctuary areas.

A. All Oyster Sanctuary Areas shall be closed to the harvest of oysters, except that Seaside of the Eastern Shore Oyster Sanctuary Areas shall be closed to the harvest of all shellfish. Any person harvesting oysters or shellfish from the specified areas shall be guilty of a violation of this chapter.

B. It shall be unlawful for any person to possess any gear that could be used to harvest shellfish on public or unassigned oyster grounds within 100 feet any oyster sanctuary area, and such possession shall be considered as prima facie evidence of a violation of this chapter.

4VAC20-650-40. 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.

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CHAPTER 4VAC20-650-10 ET SEQ.

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 and 28.2-507 of the Code of Virginia, as amended, duly advertised according to statute, recorded in the Commission minutes book, at its meeting held in Newport News, Virginia, on September 28, 2010.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

JANE E. WARREN
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7191792
My Commission Expires 3/31/12

BY: _____
Steven G. Bowman
Commissioner

Subscribed and sworn to before me on this 30th day of Sept., 2010.

_____
Notary Public