

SHELLFISH MANAGEMENT DIVISION EVALUATION, 3/26/2024

PUBLIC HEARING: Proposal 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.

ISSUES: To increase agency efficiency and reduce regulatory burden to the public, the agency is developing an online lease renewal system as well as implementing an option for individuals to pay for their renewals online. Traditionally the agency has not had the digital capacity to accept renewals and payments online and has relied on traditional hard copy application methods and payments by checks and cash. The digital option would be available for individuals to choose to opt into without removing the hard copy traditional methods.

To allow for more options for renewal applications, the regulation needs to be amended to broaden the acceptable methods in which renewal applications will be available to the applicants. This change will also reduce confusion by removing the redundancy of sending applicants two identical letters, certified and non-certified.

STAFF RECOMMENDATION: Staff recommends amending amend Chapter 4VAC20-1350-10 et seq., "Pertaining to General Oyster Planting Ground Lease Renewal Fee", to allow for online applications and payments.



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 with the subject heading "Commission Comments".

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

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
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.

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 GENERAL OYSTER PLANTING GROUND LEASE RENEWAL FEE”**CHAPTER 4 VAC 20-1350-10 ET SEQ.****PREAMBLE**

The chapter establishes the application procedures and fee for the renewal of general oyster planting ground leases. This chapter is promulgated pursuant to the authority contained in § 28.2-613 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous Chapter 4VAC20-1350-10 et seq., which was promulgated July 23, 2019, and made effective on October 1, 2019. The effective date of this chapter, as amended, is ~~October 1, 2019~~ March 28, 2024.

4 VAC 20-1350-10. Purpose.

The purpose of this chapter is to establish the application procedures and fee for the renewal of general oyster planting ground leases and time limits to request a formal hearing concerning any denial of such renewal.

4 VAC 20-1350-20. Definitions.

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

“General oyster planting ground” means any lease granted for the propagation of oysters or clams as defined under § 28.2-603 of the Code of Virginia.

4 VAC 20-1350-30. General Oyster Planting Ground review form, fee and denial.

- A. Each leaseholder shall complete ~~the~~ an application ~~form~~ for renewal of general oyster planting ground prior to the expiration of each ten-year lease term. ~~The form shall be sent to the leaseholder by regular mail and certified mail approximately two months prior to the ten year lease renewal date.~~
- B. A nonrefundable fee for review of the renewal application, as authorized by § 28.2-613 of the Code of Virginia, shall be \$150 per lease. This fee shall be submitted with the completed

“PERTAINING TO GENERAL OYSTER PLANTING GROUND LEASE RENEWAL FEE”

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~~form application~~, and ~~the completed form and fee~~ both must be received or postmarked on or before the current 10-year lease expiration date.

- C. The review for reassignment of a general oyster planting ground lease shall be conducted by the commissioner considering the requirements of § 28.2-613 of the Code of Virginia and all lease use or production requirements contained within either regulation or guidance as approved by the commission. Failure to meet use or production requirements or failure to return the completed ~~form~~ application and fee by the expiration date of the current ten-year term shall result in denial of the lease renewal.
- D. ~~Any~~ The commissioner’s decision to deny a lease renewal application shall be mailed by certified mail to the last known address for the applicant.

4 VAC 20-1350-40. Request for formal hearing of lease renewal denial.

Any request for a formal hearing, pursuant to § 28.2-216 of the Code of Virginia, to appeal a renewal application denied pursuant to this regulation must be received or postmarked no later than 60-days from the date that notice of the commissioner’s decision is received.

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 §28.2-103 of the Code of Virginia and Acts of Assembly 2018, Chapter 449, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Hampton, Virginia on March 26, 2024.

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION**

“PERTAINING TO GENERAL OYSTER PLANTING GROUND LEASE RENEWAL FEE”

CHAPTER 4 VAC 20-1350-10 ET SEQ.

BY: _____
Jamie L. Green
Commissioner

Subscribed and sworn to before me this _____ day of _____ 2024.

Notary Public

DRAFT