Chapter 1. Administration.

Article 1. Commission; Commissioner.

§ 28.2-100. Definitions.

As used in this title, unless the context requires a different meaning:

"Commission" means the Marine Resources Commission.

"Commissioner" means the Commissioner of Marine Resources.

"Fish" or "marine fish" means those finfish species which spend a major portion of their lives in marine or estuarine waters. Sunfish, crappies, and carp are not considered to be marine fish.

"Fishing", "fisheries" or "to fish" means all operations involved in (i) taking or catching, (ii) using, setting or operating apparatus employed in killing, taking or catching, or (iii) transporting or preparing for market marine fish, shellfish, and marine organisms.

"Habitat" means those state-owned bottomlands, tidal wetlands and coastal primary sand dunes which are subject to regulation under Subtitle III of this title.

"Marine organisms" means those species other than marine finfish or marine shellfish which inhabit marine or estuarine waters. Terrapin and marine mammals are considered to be marine organisms.

"Marine shellfish" or "shellfish" means such species of mollusca as oysters and clams, and such species of crustacea as crabs.

"Officer" means a member of the Virginia Marine Police.

"Territorial sea" means the waters within the belt, three nautical miles wide, that is adjacent to Virginia’s coast and seaward of the mean low-water mark.

"Tidewater Virginia" means the following counties: Accomack, Arlington, Caroline, Charles City, Chesterfield, Essex, Fairfax, Gloucester, Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Prince George, Prince William, Richmond, Spotsylvania, Stafford, Surry, Westmoreland, and York; and the Cities of Alexandria, Chesapeake, Colonial Heights, Fairfax, Falls Church, Fredericksburg, Hampton, Hopewell, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach, and Williamsburg.


The jurisdiction of the Commission shall include the Commonwealth’s territorial sea and extend to the fall line of all tidal rivers and streams except in the case of state-owned bottomlands where jurisdiction extends throughout the Commonwealth. The Commission shall have jurisdiction over all commercial fishing and all marine fish, marine shellfish, marine organisms, and habitat in such areas. In waters of the Albemarle and Currituck watersheds, the Commission’s fisheries management jurisdiction is limited to the recreational and commercial harvest of blue crabs. The Commission’s jurisdiction shall also include the power to exercise regulatory authority over all
structures and improvements built or proposed by riparian property owners in the Potomac River appurtenant to the shore of the Commonwealth. The Commission shall exercise such regulatory authority in the Potomac River consistent with the provisions of Subtitle III (§ 28.2-1200 et seq.), and all regulations, guidance, and policies adopted thereunder.


§ 28.2-102. Commission membership; chairman; qualifications; terms; meetings.
A. The Commission shall consist of a chairman and eight additional members who, to the extent possible, shall be representative of all areas of interest in Virginia’s marine resources, including commercial, recreational and environmental interests. At least one member shall, at the time of his appointment, have earned his livelihood for at least five years by working on Virginia waters and shall be licensed and registered as a commercial fisherman as defined in § 28.2-241, and one member shall be a representative of the sport fishing industry or a recreational fisherman who is not employed by the commercial fishing industry. The members, including the chairman, shall be appointed by the Governor and shall serve at his pleasure.

B. The chairman and two members of the Commission shall hold office for terms coincident with the term of the Governor making the appointments, or until their successors have been appointed and qualified. The terms of the remaining six members shall expire July 1, 1997, and these same six members shall be reappointed effective July 1, 1997, as successors. Their terms shall be as follows: two members shall be appointed for two-year terms, two members shall be appointed for three-year terms, and two members shall be appointed for four-year terms or until their successors are appointed and qualified. Thereafter, all appointments shall be for terms of four years or until their successors are appointed and qualified. No person, except the chairman, shall serve more than two consecutive four-year terms. Any vacancy shall be filled by the Governor for the unexpired term.

C. The chairman shall be an experienced administrator with knowledge of seafood and marine affairs. He shall serve as Commissioner of Marine Resources.

D. Five members shall constitute a quorum of the Commission.

E. The Commission shall meet on the call of the chairman or three members at such times as he or they may deem necessary, and at such places as he or they may designate.


§ 28.2-103. General powers of Commission; promulgation of regulations.
The Commission shall exercise all of the powers herein conferred and may promulgate regulations and guidelines necessary to carry out the provisions of this title. Marine fisheries regulations shall be promulgated according to the procedures established in Article 2 (§ 28.2-209 et seq.) of Chapter 2 of this title. Habitat management regulations and guidelines shall be promulgated in accordance with the procedures established in Article 2 (§ 28.2-209 et seq.) of Chapter 2 of this title, unless specifically provided in subdivision A 8 or A 11 of § 2.2-4006 or subsection C of § 2.2-4011.

§ 28.2-104. Commissioner; general powers and duties.
The Commissioner shall:

1. Enforce the marine fishery and habitat laws and regulations;
2. Serve as chief executive officer of the Commission and devote full time to the duties of the office;
3. Appoint all personnel; and
4. Establish and equip a permanent office on the Virginia Peninsula.

For purposes of this section, "Virginia Peninsula" shall include the Cities of Hampton, Newport News, Williamsburg, and Poquoson, and the Counties of James City and York.


§ 28.2-104.1. Living shorelines; development of general permit; guidance.
A. As used in this section, unless the context requires a different meaning:

'Living shoreline' means a shoreline management practice that provides erosion control and water quality benefits; protects, restores or enhances natural shoreline habitat; and maintains coastal processes through the strategic placement of plants, stone, sand fill, and other structural and organic materials.

B. The Commission, in cooperation with the Department of Conservation and Recreation, the Department of Environmental Quality, and local wetlands boards, and with technical assistance from the Virginia Institute of Marine Science, shall establish and implement a general permit regulation that authorizes and encourages the use of living shorelines as the preferred alternative for stabilizing tidal shorelines in the Commonwealth. The regulation shall provide for an expedited permit review process for qualifying living shoreline projects requiring authorization under Chapters 12 (§ 28.2-1200 et seq.), 13 (§ 28.2-1300 et seq.), and 14 (§ 28.2-1400 et seq.). In developing the general permit, the Commission shall consult with the U.S. Army Corps of Engineers to ensure the minimization of conflicts with federal law and regulation.

C. The Commission, in cooperation with the Department of Conservation and Recreation and with technical assistance from the Virginia Institute of Marine Science, shall develop integrated guidance for the management of tidal shoreline systems to provide a technical basis for the coordination of permit decisions required by any regulatory entity exercising authority over a shoreline management project. The guidance shall:

1. Communicate to stakeholders and regulatory authorities that it is the policy of the Commonwealth to support living shorelines as the preferred alternative for stabilizing tidal shorelines;
2. Identify preferred shoreline management approaches for the shoreline types found in the Commonwealth;
3. Explain the risks and benefits of protection provided by various shoreline system elements associated with each management option; and
4. Recommend procedures to achieve efficiency and effectiveness by the various regulatory entities exercising authority over a shoreline management project.

2011, c. 885; 2014, cc. 112, 143.

§ 28.2-105. Legal representation for employees in criminal prosecution; compensation.
If any Commission employee is prosecuted on any criminal charge arising out of any act committed in the discharge of his official duties, the Commissioner may employ special counsel approved by the Attorney General to defend the employee. The compensation for special counsel shall, subject to the approval of the Attorney General, be paid out of the funds appropriated for the administration of the Commission.


Article 2. Support Activities.

§ 28.2-106. Virginia Marine Police; law-enforcement responsibilities; qualifications; oath.
A. The law-enforcement division of the Commission shall be designated as the Virginia Marine Police. It shall exercise such powers and duties as the General Assembly may confer upon it by law and as provided in regulations adopted pursuant to law, including but not limited to:

1. Patrolling the tidal waters and shoreline of the Chesapeake Bay, its tidal tributaries, and territorial sea;

2. Enforcing marine fishery and habitat conservation laws and regulations;

3. Enforcing health laws pertaining to the harvesting of seafood from condemned areas;

4. Enforcing or assisting other agencies in enforcing laws pertaining to the removal of obstructions and abandoned vessels from the water, to boating operation and navigation, and to larceny on the water;

5. Providing for water-borne safety;

6. Conducting search and rescue activities; and

7. Protecting from terrorist attack federal and state water-related installations and other water-related locations within the tidal waters of the Commonwealth as may be designated by federal or state officials as important to national security.

B. Officers of the Virginia Marine Police shall have the same powers as (i) sheriffs and other law-enforcement officers to enforce all of the criminal laws of the Commonwealth, and (ii) regular conservation police officers appointed pursuant to Chapter 2 (§ 29.1-200 et seq.) of Title 29.1.

C. A person shall be (i) at least twenty-one years old and (ii) a high school graduate or equivalent to qualify for appointment as an officer.

D. Each officer shall qualify before the clerk of the circuit court of the county or city in which he resides, or in which his district may be, by taking the oaths prescribed by law.

§ 28.2-106.1. Patrol and enforcement of federal safety zones and restricted areas.
Pursuant to federal authorization or upon request from a federal agency, the Virginia Marine Police, conservation police officers of the Department of Game and Inland Fisheries, and the marine patrol divisions of police departments located in Tidewater Virginia may patrol and enforce all federal security zones, federal safety zones, and federal restricted areas located within the tidal waters of the Commonwealth.


§ 28.2-106.2. Establishment, patrol, and enforcement of state water safety zones and restricted areas; penalty.
A. The Commission is authorized, following consultation with the U.S. Coast Guard and the U.S. Army Corps of Engineers, to establish, by regulation, state water safety zones and restricted areas within the tidal waters of the Commonwealth wherein public access shall be restricted or prohibited in the interest of public safety. Such zones or areas shall be consistent with federal law and made effective immediately upon establishment by the Commission. When, in the judgment of the Commissioner, time is of the essence and circumstances require action before a meeting of the Commission may be convened, the Commissioner is authorized, following consultation with the U.S. Coast Guard and the U.S. Army Corps of Engineers, to establish state water safety zones or restricted areas, subject to ratification by the Commission at its next regularly scheduled meeting. The provisions of the Administrative Process Act (§ 2.2-4000 et seq.) and §§ 28.2-209 through 28.2-215 shall not apply to regulations promulgated under this section. The Commission shall publicize the establishment and location of state water safety zones and restricted areas.

B. The Virginia Marine Police shall patrol and enforce all state water safety zones and restricted areas.

C. In times of officially declared national or state emergency, the Governor may adjust the boundaries of state water safety zones or restricted areas by executive order. Upon termination of emergency status, the boundaries shall return to those set forth in regulations.

D. A violation of any regulation promulgated under this section is a Class 1 misdemeanor.

2003, c. 389.

The Commission shall take steps to implement an effective marine police radio dispatch system. In establishing and operating such a system on a permanent basis, the Commissioner may negotiate appropriate leases or other necessary agreements for base radio stations.


A. The Marine Patrols Fund is continued and hereinafter referred to as the Fund, which shall consist of moneys appropriated to it by the General Assembly. The Comptroller shall annually distribute moneys from the Fund for the following purposes:

1. To cover the Commission’s costs for its operation of a marine police dispatch service.

2. To reimburse each county or city in Tidewater Virginia or any county abutting Smith Mountain

5 11/17/2018
Lake for its operation of a marine patrol or for providing marine patrol services in waters under
the jurisdiction of the Commonwealth. The amount to be paid to each county or city shall be as
specifically provided for in the General Appropriations Act. The Comptroller, upon certification
by the Commissioner, shall make such payments no later than February 1. The total amount
provided to any county or city shall not exceed twenty dollars per motorboat registered in the
locality on January 1 of that year, as determined by the records of the Board of Game and Inland Fisheries.

B. If total distributions allowable under subsection A of this section exceed the amount of
revenues appropriated to the Fund, each qualifying county or city shall receive a prorated share.

C. The Commissioner may obtain from any county or city seeking funds under this section any
information he needs to determine the amount of funds to which such county or city may be
entitled.

D. For the purposes of this section, the terms “marine patrol” and “marine patrol services” mean
water-borne law-enforcement, safety, and rescue activities.


As used in this article, unless the context requires a different meaning:

"Ballast water" means any water or matter taken on board a vessel to control or maintain trim,
 draft, stability or stresses of the vessel, without regard to the manner in which it is carried.

"Commercial vessel" means a self-propelled ship in commerce of 300 gross tons or more. The
term "commercial vessel" does not include a vessel of the United States Department of Defense or
United States Coast Guard subject to the requirements of § 1103 of the National Invasive Species
Act of 1996, or any vessel of the Armed Forces, as defined in 33 U.S.C. § 1322 (a)(14), that is
subject to the uniform national discharge standards for vessels of the Armed Forces under 33

"Federal guidelines" means the provisions of 33 C.F.R. Part 151, Subpart D, "Ballast Water
Management for Control of Nonindigenous Species in Waters of the United States."

"Operator" means any person who owns, operates, charters, rents or otherwise exercises control
over or responsibility for a vessel.

2001, c. 312.

§ 28.2-110. Filing requirements; penalty.
A. The operator, or a ship agent acting on behalf of the operator, of a commercial vessel that
enters into Virginia waters shall file a Ballast Water Control Report form with the Virginia
Maritime Association as the designated agent of the Commission (i) within seventy-two hours of
the completion of the discharge of ballast water if the commercial vessel discharges ballast water
into Virginia waters, or (ii) prior to the commercial vessel’s departure from Virginia waters if the
commercial vessel does not discharge ballast water into Virginia waters. The operator, or ship
agent of an operator, shall not be required to file a Ballast Water Control Report form if the
commercial vessel’s previous port-of-call is located within the United States Exclusive Economic
Zone and a ballast water control report was previously filed upon entering the first port-of-call within the United States Exclusive Economic Zone. A Ballast Water Control Report form shall be deemed to have been filed when it is hand delivered to the Virginia Maritime Association, sent by electronic mail or facsimile transmission and received by the Virginia Maritime Association, or sent to the Virginia Maritime Association by registered or certified mail, return receipt requested. The services of the Virginia Maritime Association shall be provided at no cost to the Commission. The fees assessed by the Virginia Maritime Association shall only be that amount necessary to cover the expenses for the reporting services provided to vessel operators and any associated recordkeeping related to the ballast water reporting requirements of this article. If in the judgment of the Commission or the Virginia Maritime Association, the Virginia Maritime Association is unable to satisfactorily perform its responsibilities, the Commission may (i) select another agent, provided proper notice of the change in the designated agent has been given to operators, or (ii) assume responsibility for carrying out the provisions of this section.

B. For commercial vessels whose point of origin is located outside the United States Exclusive Economic Zone and whose first port of call within the United States Exclusive Economic Zone is within Virginia waters, the filing of a copy of the completed form submitted by the operator to the National Ballast Water Information Clearinghouse of the Smithsonian Environmental Research Center with the Virginia Maritime Association shall be deemed compliance with the reporting requirements of this section.

C. Any operator of a commercial vessel who knowingly fails to file a Ballast Water Control Report form with the Virginia Maritime Association within the applicable time period set forth in subsection A, or who knowingly makes any false statement in a Ballast Water Control Report form submitted to the Virginia Maritime Association, shall be guilty of a Class 1 misdemeanor.

§ 28.2-111. Adoption of guidelines and forms.
A. The Commission shall adopt the federal guidelines as the guidelines governing voluntary ballast water management practices to be followed by the operators of commercial vessels. The guidelines adopted by the Commission shall not require a commercial vessel to be operated in a manner that may threaten the safety of the commercial vessel, its crew or its passengers.

B. The Commission shall adopt Ballast Water Control Report forms, consistent with the form adopted by the United States Coast Guard and set forth in 33 C.F.R. Part 151, Subpart D, Appendix, to monitor compliance with the guidelines adopted pursuant to this section. The Commission shall adopt procedures to distribute the Ballast Water Control Report form to the operator of a commercial vessel, or to a ship agent for the operator, at the time the commercial vessel enters state waters or as soon thereafter as practicable.

C. The Commission shall submit copies of the forms received from operators of commercial vessels and ship agents acting on behalf of operators of commercial vessels with the National Ballast Water Information Clearinghouse of the Smithsonian Environmental Research Center on a quarterly basis. The Virginia Maritime Association shall submit such forms to the Commission monthly.

2001, c. 312;2002, c. 40;2010, c. 815.

§ 28.2-111. Adoption of guidelines and forms.
A. The Commission shall adopt the federal guidelines as the guidelines governing voluntary ballast water management practices to be followed by the operators of commercial vessels. The guidelines adopted by the Commission shall not require a commercial vessel to be operated in a manner that may threaten the safety of the commercial vessel, its crew or its passengers.

B. The Commission shall adopt Ballast Water Control Report forms, consistent with the form adopted by the United States Coast Guard and set forth in 33 C.F.R. Part 151, Subpart D, Appendix, to monitor compliance with the guidelines adopted pursuant to this section. The Commission shall adopt procedures to distribute the Ballast Water Control Report form to the operator of a commercial vessel, or to a ship agent for the operator, at the time the commercial vessel enters state waters or as soon thereafter as practicable.

C. The Commission shall submit copies of the forms received from operators of commercial vessels and ship agents acting on behalf of operators of commercial vessels with the National Ballast Water Information Clearinghouse of the Smithsonian Environmental Research Center on a quarterly basis. The Virginia Maritime Association shall submit such forms to the Commission monthly.

2001, c. 312;2002, c. 40;2010, c. 815.