

"PERTAINING TO PUBLIC NOTICE OF APPLICATIONS FOR PERMITS FOR CERTAIN USES OF STATE-OWNED BOTTOMLANDS"**CHAPTER 4 VAC 20-120-10 ET SEQ.****PREAMBLE**

This chapter describes the public notice requirements for projects or activities requiring a permit from the Virginia Marine Resources Commission (Commission) pursuant to the requirements of Chapter 12 of Title 28.2 of the Code of Virginia and identifies the specific types of projects and activities for which a public notice is not required.

This chapter is promulgated pursuant to the authority contained in §28.2-103 of the Code of Virginia. This chapter amends and re-adopts, as amended, Chapter 4 VAC 20-120-10 et. seq., which was previously adopted as VR450-01-0015 on November 23, 1982 and made effective on March 1, 1983. The effective date of this chapter is November 1, 2017.

4 VAC 20-120-10. Purpose.

The purpose of this chapter is to establish the public notice requirements that are a part of a public interest review for projects and activities requiring permits from the Commission for uses of state-owned bottomlands pursuant to Chapter 12 of Title §28.2 of the Code of Virginia.

4 VAC 20-120-20. General.

The Commission requires a public notice on all applications which require a permit from the Commission pursuant to Chapter 12 of Title §28.2 of the Code of Virginia except for the following projects or activities:

1. construction projects, structures and activities authorized by general permit or regulation promulgated by the Commission, unless such general permit or regulation specifically requires such public notice;
2. replacement or reconstruction of structures previously authorized or permitted by the Commission, provided such structures do not result in additional encroachment over state-owned bottomlands;
3. taking sediment samples for engineering or geotechnical analysis;
4. recovering objects from state-owned bottoms unless those objects have been identified as underwater historic property, pursuant to § 10.1-2214 of the Code of Virginia or from areas excluded from recovery activity by the Commission in consultation with the Department of Historic Resources;

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- 5. restoring sand to any publically owned beach damaged by sand erosion, or;
- 6. constructing private piers requiring a permit pursuant to § 28.2-1205 (D) of the Code of Virginia.

4 VAC 20-120-30. Content and publication.

- A. The notice shall include the applicant's name and accurately describe the nature, extent, and location of the proposed project.
- B. The public notice shall be placed in a newspaper having general circulation in the area where the project is proposed.
- C. For a project or an activity that also requires a permit from the Norfolk District of the U.S. Army Corps of Engineers (Corps) and for which a Corps public notice is required, a joint state/federal public notice may be used without the placement of a notice in a newspaper by the Commission.
- D. Copies of all comments received will be provided to the Corps and the Department of Environmental Quality.

4 VAC 20-120-40. Commissioner's responsibility and authority.

- A. The Commissioner or his designee shall be responsible for ensuring that the newspaper notice is published, as described in 4VAC20-120-30 B, and shall be the sole judge concerning the adequacy of content of the newspaper notice and selection of the newspaper.
- B. The cost of publication of the notice required in 4VAC20-120-30 B shall be borne by the applicant.

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, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Newport News, Virginia on October 24, 2017.

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COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: Matthew R. Hull for
John M. R. Bull
Commissioner

Subscribed and sworn to before me this 27 day of October 2017.

Jennifer G. Farmer
Notary Public

