

**"PERTAINING TO MARKING OF LEASED OYSTER PLANTING GROUND"**

**REGULATION 4 VAC 20-290-10 ET. SEQ.**

**§ 4VAC20-290-10 Purpose.**

The purpose of this chapter is to describe the proper manner and method of marking leased oyster planting ground during such times when the ground is required to be marked or for such other instances when a lessee may desire to mark the ground.

Statutory Authority §§28.2-201 and 28.2-607 of the Code of Virginia.

Historical Notes

Derived from VR450-01-0038 §1; eff. July 1, 1986.

Amended, Virginia Register Volume 11, Issue 25, eff. August 3, 1995.

Effect of Amendment

The August 3, 1995 amendment renamed and renumbered this regulation, made minor grammatical changes to clarify the text, and repealed former 4 VAC 20-290-10 with respect to statutory and regulatory authority and effective date.

**§ 4VAC20-290-20 General.**

Leased oyster planting ground shall be marked by the lessee if the oyster planting ground is being worked. No harvesting or planting of leased oyster planting ground shall occur unless the lessee first has properly designated and marked the lease in accordance with the provisions of this chapter.

Statutory Authority §§28.2-201 and 28.2-607 of the Code of Virginia.

Historical Notes

Derived from VR450-01-0038 §2; eff. July 1, 1986.

Amended, Virginia Register Volume 11, Issue 25, eff. August 3, 1995.

Effect of Amendment

The August 3, 1995 amendment renamed and renumbered this section, formerly 4 VAC 20-290-30, and made minor changes to clarify the text.

**§ 4VAC20-290-30 Method and manner of marking.**

A. Marking requirements. When leased oyster planting ground is marked, it shall be marked with stakes or buoys so as to delineate accurately the boundary lines of the lease and prevent any unnecessary restriction to navigation.

1. Corner markers. The corner of leased oyster planting ground shall be marked and multiple markers may be used in these corners.

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2. Boundary line markers. Under normal circumstances markers shall be placed at intervals no smaller than 150 feet.

## B. Description of markers.

1. Stakes shall be no <sup>wider</sup> longer than two inches in diameter at the mean low water line and shall extend at least four feet above the mean high water line. The stake shall be of such materials not so rigid as to harm a boat if accidentally struck. Bamboo, white oak, cedar, or gum saplings are commonly used, but not required. If polyvinyl chloride (PVC) pipe is used, and driven into the bottom, the diameter of the PVC pipe shall be two inches or less. Metal pipe markers are prohibited.

2. Buoys shall be constructed of wood, PVC, or other suitable material, shall be no larger than six inches in diameter, and shall be anchored with sufficient weight to prevent their moving during adverse weather conditions. Buoys shall be constructed and anchored so as to extend at least four feet above the water line at all times.

Statutory Authority §§28.2-201 and 28.2-607 of the Code of Virginia.

## Historical Notes

Derived from VR450-01-0038 §3; eff. July 1, 1986.

Amended, Virginia Register Volume 11, Issue 25, eff. August 3, 1995.

## Effect of Amendment

The August 3, 1995 amendment renumbered this section, formerly 4 VAC 20-290-40, and added in subdivision A.1 "and multiple markers may be used in these corners"; added in subdivision A.2 "under normal circumstances"; and deleted unnecessary terms in subdivision B.1 and B.2.

## § 4VAC20-290-40 Maintenance.

When oyster planting ground is marked, suitable stakes or markers shall be kept by the lessee in their proper places at all times so as to conform accurately to the survey. Should such stakes or markers be removed, knocked down, or be carried away, the lessee shall replace them in their proper location.

Statutory Authority §§28.2-201 and 28.2-607 of the Code of Virginia.

## Historical Notes

Derived from VR450-01-0038 §4; eff. July 1, 1986.

Amended, Virginia Register Volume 11, Issue 25, eff. August 3, 1995.

## Effect of Amendment

The August 3, 1995 amendment renumbered this section, formerly 4 VAC 20-290-50.

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§ 4VAC20-290-50 Exception.

The Marine Resources Commission may require its chief engineer to describe a plan for the proper marking of any designated oyster planting ground when it finds exceptional circumstances exist. In such a case the chief engineer shall direct the leaseholder where to place the appropriate markers.

Statutory Authority §§28.2-201 and 28.2-607 of the Code of Virginia.

Historical Notes

Derived from VR450-01-0038 §5; eff. July 1, 1986.

Amended, Virginia Register Volume 11, Issue 25, eff. August 3, 1995.

Effect of Amendment

The August 3, 1995 amendment renumbered this section, formerly 4 VAC 20-290-60.

§ 4VAC20-290-60 Penalty

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.

Statutory Authority §§28.2-201 and 28.2-607 of the Code of Virginia.

Historical Notes

Derived from VR450-01-0038 §6; eff. August 3, 1995.

**"PERTAINING TO MARKING OF LEASED OYSTER PLANTING GROUND"****REGULATION 450-01-0038****PREAMBLE**

This regulation establishes the required manner and method for marking leased oyster planting ground. §28.2-607 of the Code of Virginia requires that a lessee of oyster planting ground mark such ground in accordance with regulations established by the Marine Resources Commission. While all leased oyster planting grounds are not required to be marked at all times, it is the intent of this regulation to ensure that when the ground is marked, the boundary lines are properly and accurately delineated and safe navigation is maintained.

This regulation is promulgated pursuant to authority contained in §§28.2-201 and 28.2-607 of the Code of Virginia. This regulation amends and re-adopts previous Regulation 450-01-0038, which was adopted on June 24, 1986 and was effective July 1, 1986. The effective date of this regulation is August 1, 1995.

**§1. PURPOSE:**

The purpose of this regulation is to describe the proper manner and method of marking leased oyster planting ground during such times when the ground is required to be marked or for such other instances when a lessee may desire to mark the ground.

**§2. GENERAL:**

Leased oyster planting ground shall be marked by the lessee if the oyster planting ground is being worked. No harvesting or planting of leased oyster planting ground shall occur unless the lessee first has properly designated and marked the lease in accordance with the provisions of this regulation.

**§3. METHOD AND MANNER OF MARKING:****A. Marking Requirements:**

When leased oyster planting ground is marked, it shall be marked with stakes or buoys so as to delineate accurately the boundary lines of the lease and prevent any unnecessary restriction to navigation.

1. **Corner Markers:** The corners of leased oyster planting ground shall be marked and multiple markers may be used in these corners.

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2. Boundary Line Markers: Under normal circumstances, markers shall be placed at intervals no smaller than 150 feet.

**B. Description of Markers:**

1. Stakes: Stakes shall be no larger than two inches (2") in diameter at the mean low water line and shall extend at least four feet (4') above the mean high water line. The stake shall be of such material not so rigid as to harm a boat if accidentally struck. Bamboo, white oak, cedar, or gum saplings are commonly used, but not required. If polyvinyl chloride (PVC) pipe is used, and driven into the bottom, the diameter of the PVC pipe shall be two inches (2") or less. Metal pipe markers are prohibited.
2. Buoys: Buoys shall be constructed of wood, PVC, or other suitable material, shall be no larger than six inches (6") in diameter, and shall be anchored with sufficient weight to prevent their moving during adverse weather conditions. Buoys shall be constructed and anchored so as to extend at least four feet (4') above the water line at all times.

**§4. MAINTENANCE:**

When oyster planting ground is marked, suitable stakes or markers shall be kept by the lessee in their proper places at all times so as to conform accurately to the survey. Should such stakes or markers be removed, knocked down, or be carried away, the lessee shall replace them in their proper location.

**§5. EXCEPTION:**

The Marine Resources Commission may require its Chief Engineer to describe a plan for the proper marking of any designated oyster planting ground when it finds exceptional circumstances exist. In such a case the Chief Engineer shall direct the leaseholder where to place the appropriate markers.

**§6. PENALTY:**

As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of

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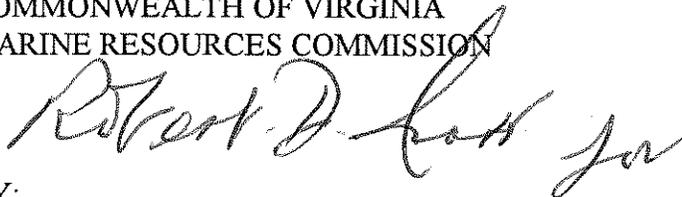
REGULATION 450-01-0038

any provision of this regulation committed by the same person within twelve months of a prior violation is a Class 1 misdemeanor.

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This is to certify that the foregoing is a true and accurate copy of the regulation passed by the Marine Resources Commission, pursuant to authority vested in the Commission by §§28.2-201 and 28.2-607 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Newport New, Virginia on July 25, 1995.

COMMONWEALTH OF VIRGINIA  
MARINE RESOURCES COMMISSION



BY: \_\_\_\_\_  
WILLIAM A. PRUITT  
COMMISSIONER

Subscribed and sworn to before me this 28<sup>th</sup> day July, 1995

My Commission expires December 31, 1996.

  
NOTARY PUBLIC