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Virginia Marine Resources Commission

COMMISSION ACTIONS May 24, 2016

**** APPROVAL OF AGENDA. UNANIMOUSLY APPROVED AS PRESENTED. [\[audio\]](#)**

1. MINUTES of previous meeting. APPROVED 8-0. COMMISSION BULL ABSTAINED. [\[audio\]](#)

2. [PERMITS \(Projects over \\$500,000.00 with no objections and with staff recommendation for approval\)](#). UNANIMOUSLY APPROVED ITEM 2A PER STAFF RECOMMENDATION. [\[audio\]](#)

3. CONSENT AGENDA ITEMS. NONE [\[audio\]](#)

4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL. NONE [\[audio\]](#)

5. ROANOKE CEMENT COMPANY LLC, #16-0237 Requests authorization to install one (1) 17-foot by 28-foot breasting dolphin with fender systems, one (1) 9-foot by 9-foot mooring dolphin, an 85-foot by 100-foot unloading platform with fender system, a 4-foot by 70-foot gangway; and repair or replace up to 367 14-inch diameter timber piles that support an existing concrete wharf along the Southern Branch of the Elizabeth River at their facility at 1331 Priority Lane in the City of Chesapeake. This project requires a wetlands and subaqueous permit. **UNANIMOUSLY APPROVED CONDITIONED UPON THE USE OF BUBBLE CURTAINS AROUND ALL PILE DRIVING AND THE INITIAL DRIVING OF PILINGS BY VIBRATORY HAMMER FOLLOWED BY THE UTILIZATION OF WOODEN PILE CAPS AND "RAMP-UP" PROCEDURES FOR SUBSEQUENT PILE DRIVING BY HAMMER METHOD. THE APPROVAL ALSO INCLUDED A ROYALTY OF \$2.00 PER SQUARE FOOT FOR THE ENCROACHMENT OF THE MOORING DOLPHIN ON 81 SQUARE FEET OF STATE-OWNED SUBMERGED LAND THAT IS ADJACENT TO THE KERNEOS ALUMINATE PROPERTY AND THEREFORE DOES NOT QUALIFY FOR THE ROYALTY EXEMPTION PROVIDED IN §28.2-1206B(II).** [\[audio\]](#)

6. BLACKBEARD POND PARTNERSHIP, LLC #16-0254 Requests authorization to dredge 1,220 cubic yards of new material associated with the maintenance dredging of the entrance channel of their existing marina situated along the Potomac River at 190 Plantation Drive in Westmoreland County. The project is protested by an oyster ground leaseholder and nearby residents. **APPROVED 8-0 CONDITIONED UPON THE ADHERENCE TO STANDARD DREDGING AND MAINTENANCE DREDGING CONDITIONS, THE UTILIZATION OF A TURBIDITY CURTAIN DURING DREDGING AND A REQUIREMENT TO CONDUCT DREDGING OPERATIONS ONLY DURING**

FLOOD TIDES. THE APPROVAL ALSO INCLUDES A ROYALTY OF \$549.00 FOR THE DREDGING OF 1220 CUBIC YARDS OF STATE-OWNED SUBAQUEOUS BOTTOM MATERIAL AT A RATE OF \$0.45 PER CUBIC YARD. ASSOCIATE COMMISSIONER FRANCE RECUSED HIMSELF FROM THE HEARING. [\[audio\]](#)

7. GARY S. KILMON, #2014-224 Requests authorization to lease approximately ten (10) acres of planting grounds within the South Yecomico River in Northumberland County. The application is protested by the Twin Rivers Waterman's Association. **VOTED 7-0 WITH ASSOCIATE COMMISSIONERS FRANCE AND ERSKINE ABSTAINING TO DENY THE APPLICATION. [\[audio\]](#)**

8. REQUEST FOR PUBLIC HEARING Proposal to establish a regulation to create a safety/restricted zone for the purpose of enhancing security and safety within an area encompassing the James River Reserve Fleet (JRRF) within the James River near Mulberry Island. Request for a public hearing at the June 28, 2016, Commission meeting. **UNANIMOUSLY APPROVED THE REQUEST TO PROCEED WITH SCHEDULING THIS MATTER FOR A PUBLIC HEARING AT THE JUNE 28, 2016 COMMISSION MEETING. [\[audio\]](#)**

9. PUBLIC COMMENTS NONE [\[audio\]](#)

10. OFFENDERS: THE COMMISSION HEARD 2 CASES OF OFFENDERS WITH NATURAL RESOURCE VIOLATIONS. [\[audio\]](#)

11. PUBLIC HEARING To make permanent emergency amendments to Chapter 4 VAC 20-620-10 et seq., "Pertaining to Summer Flounder," to increase the number of days that summer flounder harvested commercially from offshore may be landed in Virginia during the second landing period that began April 8. **THE COMMISSION UNANIMOUSLY APPROVES THE STAFF RECOMMENDATION TO ADOPT AMENDMENTS TO CHAPTER 4 VAC 20-620-10 ET SEQ."PERTAINING TO SUMMER FLOUNDER," TO MODIFY THE LANDING PERIOD TO INCREASE THE NUMBER OF DAYS THAT SUMMER FLOUNDER HARVESTED COMMERCIALY FROM OFFSHORE MAY BE LANDED IN VIRGINIA DURING THE SECOND LANDING PERIOD THAT BEGAN APRIL 8. [\[audio\]](#)**

12. PUBLIC HEARING Proposal to establish Chapter 4 VAC 20-1310-10 et seq., "Pertaining to Jonah Crab" to comply with the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Jonah Crab by June 1, 2016. The proposed regulation establishes minimum size limits, gear restrictions, and possession limits for the harvest of Jonah crab. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ESTABLISH CHAPTER 4 VAC 20-1310-10 ET SEQ. TO PROHIBIT THE RETENTION OF EGG-BEARING FEMALES, ESTABLISH A COMMERCIAL MINIMUM SIZE, TO ESTABLISH A LIMITED ENTRY DIRECTED AND A JONAH CRAB CLAW FISHERY, AND TO ESTABLISH A COMMERCIAL BYCATCH PERMIT AND COMMERCIAL AND RECREATIONAL TRIP LIMITS. THIS CHAPTER ALSO ESTABLISHES MANDATORY BUYER REPORTING. [\[audio\]](#)**

13. PUBLIC HEARING Proposal to amend Chapter 4 VAC 20-510-10 et seq., "Pertaining to Amberjack and Cobia" to consider adoption of a higher size limit, a

vessel limit and closed season for the recreational cobia fishery in 2016. **THE COMMISSION DID NOT APPROVE STAFF RECOMMENDATION ON THIS ISSUE. THE COMMISSION VOTED TO ADOPT NEW REGULATIONS, WHICH PASSED 5:4. THE COMMISSION VOTED TO EXTEND THE RECREATIONAL COBIA FISHING SEASON TO AUGUST 30, 2016, WITH A ONE FISH PER PERSON LIMIT AND A TWO FISH DAILY VESSEL LIMIT, FOR ALL RECREATIONAL FISHING VESSELS INCLUDING FOR-HIRE (CHARTER AND HEAD BOATS). THE MINIMUM SIZE IS 40" TOTAL LENGTH WITH AN ALLOWANCE FOR ONE OF THE TWO FISH TO EXCEED 50" TOTAL LENGTH. THERE WILL ALSO BE A PROHIBITION ON GAFFING. THE COMMISSION VOTED FOR A MANDATORY REPORTING SYSTEM FOR RECREATIONAL AND CHARTER BOAT COBIA CATCH (HARVESTED AND RELEASED FISH); AFTER DISCUSSION OF THE COMMISSION MOTION IN REGARDS TO REPORTING IT WAS AGREED THAT REPORTING IN 2016 WOULD BE A PILOT, VOLUNTARY PROCESS.** [[audio 1](#) | [audio 2](#) | [audio 3](#)]

14. REQUEST FOR PUBLIC HEARING Proposal to amend Chapters 4 VAC 20-270-10 et seq., "Pertaining to Crabbing"; 4 VAC 20-1140-10 et seq., "Prohibition of Crab Dredging in Virginia Waters"; and, 4 VAC 20-670-10 et seq., "Pertaining to Recreational Gear Licenses." Proposal to rescind Chapter 4 VAC 20-30-10 et seq., "Pertaining to the Licensing of Crab Traps and Pounds" and incorporate those provisions into 4 VAC 20-460-10 et seq., "Pertaining to the Use of Crab Traps and Pounds." **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADVERTISE AMENDMENTS FOR A JUNE 2016 PUBLIC HEARING, CONSISTENT WITH SECTION 28.2-209 OF THE CODE OF VIRGINIA, TO THE FOLLOWING CHAPTERS: (1) PROPOSED AMENDMENT TO CHAPTER 4 VAC 20-270-10 ET SEQ. THAT COULD MODIFY THE DATES OF THE CRAB POT AND OTHER GEARS FISHING SEASONS; (2) PROPOSED AMENDMENT CHAPTER 4 VAC 20-270-10 ET SEQ. AND 4 VAC 20-460-10 ET SEQ., TO ALLOW CRAB POUND HARVESTERS 2 WEEKS, IN ADVANCE OF THE OPEN SEASON, TO ESTABLISH ALL AUXILIARY GEAR RELATED TO THE CRAB POUND, EXCEPT THE HEAD OR RETENTION BOX; (3) PROPOSED RESCISSION OF CHAPTER 4 VAC 20-30-10 ET SEQ., AND INCORPORATE THOSE PROVISIONS INTO 4 VAC 20-460-10 ET SEQ.; (4) PROPOSED AMENDMENT TO CHAPTER 4 VAC 20-1140-10 ET SEQ., "PROHIBITION OF CRAB DREDGING IN VIRGINIA WATERS"; TO PROPOSE A CLOSURE TO THE 2016/17 CRAB DREDGE FISHERY SEASON; AND, (5) PROPOSED AMENDMENT TO CHAPTER 4 VAC 20-10 ET SEQ. TO (A) MODIFY THE FISHERY SEASON DATES FOR LICENSED RECREATIONAL CRAB POT FISHERMEN AND ALLOW SUNDAY HARVESTING OF BLUE CRAB; AND (B) PROPOSED AMENDMENT TO ELIMINATE THE REFERENCE, IN THIS REGULATION, THAT A CLOSED SEASON IS DEFINED IN SECTION 28.2-709 OF THE CODE OF VIRGINIA.** [[audio](#)]

15. RECOMMENDATION From the Recreational and Commercial Fishing Advisory Boards on funding projects from the Virginia Saltwater Recreational Fishing Development Fund and Marine Fishing Improvement Fund. **THE COMMISSION APPROVED 8:0 (THE CHAIR ABSTAINED) TO APPROVE ALL REQUESTED RFAB PROJECTS INCLUDING THE FORT MONROE FINGER PIER RENOVATION.** [[audio](#)]

[PAGE 2 ITEMS](#) [[audio](#)]

A. COAST GUARD, #15-0075 Requests authorization to place approximately 25,000 cubic yards of sandy dredge material along 2,200 linear feet of the York River shoreline as beach nourishment and the overboard disposal of approximately 50,000 cubic yards of bottom material, from the Wormley Creek Federal Channel, at the Wolf Trap Alternate Disposal Site in the Chesapeake Bay. Recommend approval for a one-time placement of material at the Wolf Trap Alternate Disposal Site, but not as a long-term site to future material from the Wormley Creek Federal Channel. The material may only be placed at the Wolf Trap Alternate Disposal Site between April 1 and November 30, and a turbidity curtain shall be deployed during placement of the material along the York River shoreline. **UNANIMOUSLY APPROVED THE ONE-TIME PLACEMENT OF THE DREDGED MATERIAL AT THE WOLF TRAP ALTERNATE DISPOSAL SITE CONDITIONED UPON A TIME OF YEAR RESTRICTION LIMITING THE PLACEMENT OF THE MATERIAL TO A PERIOD BETWEEN APRIL 1 AND NOVEMBER 30 AND A REQUIREMENT TO DEPLOY A TURBIDITY CURTAIN DURING THE PLACEMENT OF DREDGED MATERIAL ALONG THE YORK RIVER PLACEMENT SITE.**

