

"PERTAINING TO POUND NET SITING PUBLIC INTEREST REVIEW"**REGULATION 4 VAC 20-25-10 ET SEQ.****PREAMBLE**

This regulation establishes the procedures associated with a public interest review of the licensing of pound nets at new locations. This regulation is promulgated pursuant to the authority contained in §28.2-201 of the Code of Virginia. The effective date of this regulation is December 1, 2004.

4 VAC 20-25-10. PURPOSE.

The purpose of this chapter is to set forth the procedures, for public notice and review of applications, to establish a pound net at a new location.

4 VAC 20-25-20. CONTENT AND PUBLICATION OF PUBLIC NOTICE.

- A. The owner of any pound net, making application to the Commission to license that pound net at a new location, shall advertise, in the form of a public notice, the proposed new location of the pound net and the applicant's name and address. The proposed location of the pound net shall be described in terms of its latitude and longitude and its position relative to the shoreline and landward properties, with reference to the nearest onshore locality.
- B. The public notice shall be approved by the Commissioner or his designee and shall be advertised in a newspaper of general circulation, in the area where the pound net is proposed. The applicant shall assume the cost of publication of the public Notice.
- C. It shall be the responsibility of the owner of any pound net, making application to the Commission to license that pound net at a new location, to provide the Commission with names and addresses of all land owners and residents within 500 feet of the most shoreward end of the proposed, new pound net location. Upon receipt of this information, the Commission shall place a copy of the public notice on the agency's website and shall inform, in writing, all land owners and residents, within 500 feet of the proposed, new pound net location, of the public notice.

4 VAC 20-25-30. PUBLIC COMMENT AND COMMISSION REVIEW.

- A. A public comment period shall extend for 30 days, from the date of advertisement of the public notice. During the comment period any interested citizen may offer written comment to the Commission.

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- B. The receipt, by the Commissioner, of any protest during the public comment period shall cause the application for a new pound net location to be placed on the next available agenda of the Commission, for public hearing and review by the Commission.
- C. In considering the licensing of a pound net at a new location, the Commission shall be guided in its deliberation by the provisions of Article XI, Section I of the Constitution of Virginia and the public trust doctrine, as defined by the common law of the Commonwealth adopted pursuant to § 1-10. The Commission shall also consider the effects of placement of the pound net at the new location on the following:
1. Other reasonable and permissible uses of the state waters;
 2. Marine and fishery resources of the Commonwealth;
 3. Tidal wetlands;
 4. Adjacent or nearby properties;
 5. Water Quality; and
 6. Submerged aquatic vegetation
- D. Following the public hearing, the Commission may issue the pound net license for the new location, deny the license, or issue a license for a modified location.

4 VAC 20-25-40. PENALTY.


As set forth in §28.2-903 of the Code of Virginia, any person violating any provisions 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 guilty of 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 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 November 23, 2004.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: 
William A. Pruitt
Commissioner

Subscribed and sworn to before me this 29th day of November, 2004.

My Commission expires December 31, 2004.


NOTARY PUBLIC