

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 10.1-704 and 28.2-100 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 28.2-104.2, relating to beneficial use of dredged material.

[H 52]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-704 and 28.2-100 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 28.2-104.2 as follows:

§ 10.1-704. Use of dredged material for beach nourishment and beneficial use of dredged material; priority.

The beaches of the Commonwealth *and the sites of projects that are consistent with the beneficial use of dredged material, as defined in § 28.2-100*, shall be given priority consideration as sites for the disposal of that portion of dredged material determined to be suitable for ~~beach nourishment~~ *such use*. The Secretary of Natural and Historic Resources shall have the responsibility of determining whether the dredged material is suitable for beach nourishment *or whether the dredged material is suitable for projects that are consistent with the beneficial use of dredged material*.

§ 28.2-100. Definitions.

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

"Beneficial use of dredged material" means any of the following uses of dredged material from the Chesapeake Bay and its tributary waters placed into waters or onto bottomlands of the Chesapeake Bay or its tidal tributaries: (i) the restoration of underwater grasses; (ii) the restoration of islands; (iii) the stabilization of eroding shorelines; (iv) the creation, restoration, or enhancement of wetlands; or (v) the creation, restoration, or enhancement of fish or shellfish habitats.

"Commission" means the Marine Resources Commission.

"Commissioner" means the Commissioner of Marine Resources.

"Dredged material" means earth, sand, silt, sediment, shell, rock, soil, waste matter, or other material excavated or dredged from the Chesapeake Bay and its tributary waters.

"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.

§ 28.2-104.2. Beneficial use of dredged material.

A. Beginning December 1, 2027, it is the policy of the Commonwealth to promote the beneficial use of dredged material whenever feasible, provided that the use of dredged material is otherwise consistent with the provisions of federal and state law or any rule or regulation adopted thereunder.

B. The Commission shall require the beneficial use of dredged material for all permits involving dredged material unless such approaches are not suitable based on criteria developed by the Commission.

C. The Commission shall establish a work group to assist in the development of any regulations or guidance to implement the provisions of this section.

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