

**REPORT OF THE
VIRGINIA MARINE RESOURCES COMMISSION ON**

**AN ANALYSIS OF ORGANIC
STATUTES AND REGULATIONS
WHICH INHIBIT SHELLFISH
AQUACULTURE OPERATIONS**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 15

**COMMONWEALTH OF VIRGINIA
RICHMOND
1996**



COMMONWEALTH of VIRGINIA

George Allen
Governor

Becky Norton Dunlop
Secretary of Natural Resources

Marine Resources Commission

*P. O. Box 756
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Newport News, Virginia 23607-0756*

William A. Pruitt
Commissioner

December 11, 1995

To:

The Honorable George Allen
Governor of Virginia
and
The General Assembly of Virginia

The 1995 General Assembly, by House Joint Resolution No. 449, requested the Virginia Marine Resources Commission to conduct an analysis of its organic statutes and regulations to identify those which might inhibit the development and operation of shellfish aquaculture operations.

Enclosed for your review and consideration is the report that was prepared in response to this resolution.

Respectively submitted,

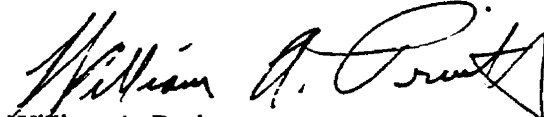

William A. Pruitt

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PREFACE

House Joint Resolution 449 (1995) [Appendix 1] requested that the Virginia Marine Resources Commission study its organic statutes and regulations to identify those which might inhibit the development and operation of shellfish aquaculture facilities.

More specifically, the resolution requested the Commission to (i) identify ways to streamline and simplify existing requirements and (ii) remove any unnecessary requirements which might be inhibiting shellfish aquaculture in the Commonwealth.

The Commission was directed to utilize an advisory committee made up of individuals engaged in, or familiar with, shellfish aquaculture operations in Virginia. The Commissioner of Marine Resources made the appointments to this committee based on the input received from staff, the Virginia Shellfish Growers Association, the Governor's Advisory Board on Aquaculture, and expressions of interest by industry members.

The full advisory committee met on four separate occasions. With the exception of one meeting which was hosted by Cherrystone Aquafarms, all committee meetings were held at the Commission's headquarters at 2600 Washington Avenue in Newport News.

The final committee report was presented to the full Marine Resources Commission for consideration and adoption at their regularly scheduled public hearing on November 28, 1995.

HJR 449 (1995) INDUSTRY ADVISORY COMMITTEE MEMBERS

Industry Representatives

Mr. Paul Applin
Ms. Yvonne Bagwell, Bagwell Enterprises
Mr. Odis B. Cockrell, Cockrell's Oyster Co.
Mr. Edward E. Kellam
Mr. R. G. Parks, Kegotank Bay Clam Co.
Mr. Michael Pearson, Cherrystone Aquafarms
Mr. Preston Petre, Intertidal Marine
Mr. Wade Walker, J. C. Walker Brothers Seafood

Virginia Institute of Marine Science

Dr. Mark Luckenbach
Dr. Bill DuPaul

Virginia Marine Resources Commission

Mr. Robert Grabb
Dr. James Wesson
LCol. Steve Bowman
Mr. Robert Neikirk
Mr. Roy Insley
Mr. Gerald Showalter

I. INTRODUCTION

House Joint Resolution 449 (1995) was an outgrowth of the work undertaken by the Virginia Delegation to the Chesapeake Bay Commission under House Joint Resolution 95 (1994) [Appendix 2]. HJR 95 (1994) actually continued a study begun under House Joint Resolution 535 (1993) [Appendix 3] which examined the condition of the shellfish industry in Virginia.

House Joint Resolution 95 (1994) contained a series of findings, goals, objectives and actions for the protection, enhancement and revitalization of the shellfish industry in Virginia. Finding #4 was an acknowledgement of the fact that aquaculture was and would continue to be an important part of any comprehensive strategy to revitalize Virginia's shellfish industry. Goal #3 contained as one of its subcomponents, the "...lowering (of) legal, regulatory and financial barriers to aquaculture," with the stated objectives of simplifying permitting and removing regulatory barriers for marine aquaculture facilities. There were three actions recommended to accomplish the two objectives listed. They were:

Objective 3.1 Simplify permitting for aquaculture facilities

Action 3(a) VMRC granted clear authority, if necessary, to permit use of water column.
Recommendation: VMRC examines necessity of Code revisions during 1995.

Action 3(b) VMRC adopts regulations for fishery permits for aquaculture operations meeting certain size and other criteria.
Recommendation: VMRC adopts necessary regulations in 1995.

Objective 3.2 Determine specific regulatory barriers to marine aquaculture

Action 3(f) VMRC directed by joint resolution to conduct regulatory and statutory analysis of applicable regulation and statutes and reports to 1996 of the General Assembly.
Recommendation: Introduce resolution in 1995 session

Once the industry advisory committee members were appointed, an initial formative meeting was held on August 30, 1995. The full committee met on three other occasions. These meetings occurred on September 19, October 5 and October 26, 1995.

At the very first meeting, the advisory committee agreed to confine their review to those code sections and regulations which acted as impediments to *molluscan shellfish* aquaculture. The committee felt this restrictive approach was in keeping with the actual wording and express intent of the resolution. As a result, impacts to crustacean or finfish aquaculture enterprises were not considered.

The committee also felt that it was very important to define what was meant by the term "aquaculture" at the outset. They agreed that a clear and concise definition was an essential precursor to any decision to either exempt aquaculture or otherwise provide regulatory relief for the industry. The committee also agreed that the traditional methods of shellfish culture practiced in Virginia, i.e. the planting of shell and seed, were not considered molluscan shellfish aquaculture.

Although there was a great deal of discussion regarding the necessity for organisms to be hatchery reared, the general consensus was that any definition should include the following features:

- molluscan shellfish species
- hatchery based
- raised and reared in controlled or selected environments
- conducted within Virginia's tidal waters and territorial sea

After further discussion at the October 26th meeting, the committee agreed to borrow and modify the definition for aquaculture that is presently contained in Chapter 9.1 of Title 3.1 (the Aquaculture Development Act)[Appendix 4]. Based on the foregoing, the committee agreed to adopt the following definition:

Shellfish Aquaculture - the propagation, rearing, enhancement and harvest of hatchery produced molluscan organisms in controlled or selected environments, which are conducted in the tidal waters of the Commonwealth.

The committee also agreed that while the underlying purpose behind the resolution was to identify, and ultimately remove, any unnecessary impediments to aquaculture, it was not designed to create a competitive advantage for one segment of the industry over another.

The committee also requested that staff undertake the preparation of a pamphlet or guideline document that would be available to the public and would summarize and explain the laws and regulations as they apply to aquaculture. In addition, several committee members also expressed a hope that the State might more aggressively identify and pursue additional funding mechanisms and opportunities in the future to further encourage development of the aquaculture industry.

II. COMMITTEE FINDINGS

The advisory committee systematically examined the various Code sections and existing regulations that applied to, or were perceived to have an impact on aquaculture operations in Virginia. The committee separated the comments into five broad categories based on a generalized segmentation of an aquaculture enterprise. These areas were regulatory/permitting, propagation/rearing, harvesting/handling, marketing/reporting, and health/safety. The findings are grouped accordingly. Due to the subjective nature of the breakdown adopted, some overlap between categories is apparent.

A. REGULATORY/PERMITTING

The committee further subdivided their comments in this category based on whether the impediments were related to either licensing or leasing issues.

(1) LICENSING

- ◆ The advisory committee felt that §§28.2-201 and 28.2-203 of the Code of Virginia should not apply to aquaculture enterprises since fishery management plans are primarily concerned with the management of the natural or "wildstock" fisheries.
- ◆ There was general agreement that molluscan shellfish aquaculture enterprises should be registered, but not licensed in the manner found in §§ 28.2-225 and 28.2-228 of the Code of Virginia. The apparent contradiction stems from the nature of the current licensing arrangement, not licensing, or regulation per se.
- ◆ The advisory committee felt aquaculturists should not be considered commercial fishermen and should be exempt from the registration requirements contained in §28.2-241.
- ◆ The Code of Virginia and the majority of the existing regulations promulgated by the Commission, were obviously designed to regulate the harvest of the natural or wildstock fishery. As a result, the advisory committee felt consideration should be given to developing separate regulatory programs to govern aquaculture and the wildstock fishery, even when the same species is involved.

(2) LEASING

- ◆ There appeared to be a general consensus among advisory committee members that there was a shortage of suitable high quality grounds available for lease. The problem stems in large part from the fact that the more desirable grounds are already under lease, coupled with the perception that these leased grounds are not being used to their fullest potential.

To address this problem, the committee felt that the following areas needed further examination.

- The size of individual leases (i.e. acreage) could be decreased from the present 250 acres set out in §§28.2-609 and 610.
- The cost of the lease (i.e. annual rental) could be increased from the present \$1.50 per acre specified in §28.2-612.
- The duration of the lease could be decreased from that currently specified (presently 10 years) in §28.2-613.
- The proof of use requirement for leases set out in §28.2-613 should be reexamined and tightened. In particular, there was general agreement that the Commission needed to adopt more stringent guidelines for what constitutes "*significant production and reasonable plantings.*"

- ◆ The Commonwealth has historically leased the submerged lands for the planting and propagation of shellfish. With increasing interest in off-bottom shellfish culture methods and the potential for other culture organisms which may require utilization of the full water column, the committee felt 3-dimensional (water column) leasing arrangements need to be explored, along with their relationship with the more traditional on-bottom lease.
- ◆ The advisory committee felt the Commission should also examine the feasibility of developing a lease classification system wherein the ground is characterized by and rented according to the intended use (i.e. traditional use vs. intensive aquaculture use). In return, the committee felt that any leasing arrangement should convey an exclusive right and authorization to use the entire water column for a finite period of years with an option to renew. The terms and conditions (i.e. length of lease, rates and proof-of-use requirements) should be developed by regulation.
- ◆ The advisory committee also discussed the feasibility of developing a general permit under §28.2-1204 of the Code of Virginia, for aquaculture structures placed on the bottom (i.e. racks, trays, etc.) which would specify maximum dimensions and the permissible heights these structures could rise above the bottom.
- ◆ The committee felt that §28.2-618 of the Code of Virginia should be amended to acknowledge that shellfish culture methods (i.e. aquaculture) are a legitimate right (like fishing) to which a general oyster planting ground assignment is subject.
- ◆ The Committee felt that §28.2-631 of the Code of Virginia should be amended to permit leasing "...for planting, growing, storing, and harvesting, clams and other native or approved molluscan shellfish."

B. PROPAGATION/REARING

- ◆ The committee acknowledged that molluscan shellfish aquaculture facilities are particularly vulnerable to environmental factors and sensitive to restrictive use chemicals during this stage of the process. By and large, however, the impediments and potential impacts to aquaculture identified during this stage are not within the jurisdiction of the Commission or the scope of HJR 449.

C. HARVESTING/HANDLING

The advisory committee discussed a variety of code sections and regulations concerning the harvesting or handling of product that act as impediments to aquaculture. These impediments cover a variety of issues, primarily day, time, season, size and gear restrictions.

- ◆ The committee felt that aquaculture enterprises should be exempted from licensing requirements (§28.2-502 and 503 of the Code of Virginia) when they were harvesting their own cultured product. Any such licensing exemption, however, should only apply if the aquaculture enterprise is engaged in harvesting their own cultured product. It would

not apply to participation in the wildstock fishery, including the harvest of wildstock as bycatch .

- ◆ The committee felt that permissible gear and gear restrictions should be specified by regulation, not code. In addition, gear limitations, or permission, should not tend to grant preferential treatment or a competitive edge to one segment of the industry over another. Along these lines, the advisory committee felt that §28.2-520 of the Code of Virginia should either be repealed, or the legislature should provide a clear definition of what constitutes a "hydraulic dredge."
- ◆ The committee felt that §28.2-526 of the Code of Virginia should be amended to allow cultured oysters to be sold in something other than bushels. A lot of cultured product is presently sold in bags or by the count.
- ◆ The committee felt that §28.2-530 of the Code of Virginia should be amended to exclude cultured oysters similar to that which was done when the 1994 General Assembly amended §28.2-531 of the Code.
- ◆ The committee felt that size restrictions should not apply to aquaculture clams. While there is not yet a regulation that sets a legal size of clams as permitted by §28.2-537 of the Code of Virginia, the committee felt that any future regulation should exempt aquaculture.

The Committee also briefly discussed several existing agency regulations, and concluded that aquaculture should be exempted from several that appeared to be geared toward the wildstock fishery.

Regulation VIII (450-01-0095) Pertaining to the taking or catching of oysters.

The committee felt that aquaculture should be exempt from restrictions on harvest related to day and time.

Regulation 450-01-0010 Pertaining to the harvest of clams.

The committee felt that aquaculture should be exempted from gear restrictions provided the gear used is environmentally acceptable. In addition, part V.5.1.C. should be amended to reflect the changes in §28.2-531 of the Code of Virginia.

D. MARKETING/REPORTING

- ◆ There was general agreement that aquaculturists should be required to report their harvest, with the understanding that the data would only be available in aggregate. In addition, the committee felt that some sort of mandatory reporting system (including private oyster planting grounds) was necessary and would assist the Commission in determining the significance of the "production and planting" that occurred on these private grounds for leasing purposes.

- ◆ §28.2-532 of the Code of Virginia stipulates that oysters and clams must be in the waters of the Commonwealth for at least six months before they can be marketed as Virginia oysters and clams. The committee felt this section should be modified to allow the marketing of cultured seed (which is frequently sold at an age less than six months) as a Virginia product. To address this, the committee felt that the Code could be amended by adding the words "for direct consumption."
- ◆ A variety of existing Code sections pertaining to oyster records and taxes only apply to wildstock oysters taken from either public or private grounds. While some sort of record keeping and accountability is essential, the committee felt that aquaculture products should be exempt from reporting requirements for taxation purposes.

The Committee also briefly discussed several existing agency regulations, and concluded that aquaculture should be exempted from several that appeared to be geared toward the wildstock fishery

Regulation XXVI Pertaining to the requirements of reporting oyster transactions and payment of taxes.

While the committee felt that aquaculture should be exempted from reporting for tax purposes, there was general agreement that reporting of production would be very helpful for the industry provided the data was only available in aggregate.

Regulation 450-01-0035 Pertaining to the culling of oyster.

The committee felt that cultured oysters should be exempt from this regulation.

Regulation 450-01-0095 Restrictions on oyster harvest in Virginia.

The committee felt that this regulation should not apply to aquaculture.

E. HEALTH AND SAFETY CONSIDERATIONS

Although not within the scope of HJR 449, the committee discussed several issues related to health and public safety which have a direct bearing on aquaculture. These discussions involved relaying and mechanical depuration, the handling of polluted seed, and the possible impacts associated with restrictive use chemicals in agriculture.

The committee also discussed a Health Dept. regulation which requires that the product be washed and counted at the harvest site. This is apparently impossible for aquaculture to comply with.

The committee also discussed the impact of the regulation which sets out what constitutes an "acceptable" relay or depuration container. They felt that the regulation needed to be flexible to account for different species and culture/harvest methods. The committee discussed a study

currently underway to investigate the possibility of allowing different types of structures for relaying purposes. The committee felt this study would be valuable and may eliminate some concerns related to Regulation 450-01-0042 pertaining to the relaying of shellfish. If species specific studies are required, the committee felt that the Health Department should aggressively pursue the funding necessary to accomplish those studies in order to expand the acceptable list.

III. COMMITTEE RECOMMENDATIONS

The advisory committee recommends that the Commission and/or Legislature consider the following specific actions:

- (1) Recommend the Commission adopt a concise definition of marine aquaculture and examine the feasibility of promulgating a separate set of regulations pertaining to aquaculture. These regulations should address the possibility of establishing a separate registration/licensing and mandatory reporting system, as well as the development of aquaculture specific harvesting and marketing restrictions. Aquaculture should be exempted where it can be shown that existing codes and regulations apply solely to the wildstock fishery.
- (2) Recommend the Commission adopt more stringent guidelines concerning what constitutes "significant production and reasonable plantings" for oyster planting ground renewals.
- (3) Recommend the Commission evaluate the possibility of seeking legislative changes to the traditional oyster planting ground leasing program that would serve to free up unused grounds for increased aquaculture production.
- (4) Recommend the Commission explore the feasibility of implementing a 3-dimensional water column leasing program under Chapter 12 of Title 28.2, and the possibility of developing a general permit for aquaculture structures in tidal waters, which would adequately address potential conflicts between various user groups.
- (5) Recommend the Commission undertake the preparation of a public information packet geared toward aquaculture which would list all applicable code sections, regulations and permit/leasing requirements.
- (6) Recommend the Legislature repeal §28.2-520 of the Code of Virginia, entitled "Use of hydraulic dredges prohibited; penalty", with delayed effect to permit the Commission to set harvest gear restrictions by regulation. In the alternative, the legislature should provide sufficient clarification of what is meant by the term "hydraulic dredge."
- (7) Recommend the Legislature amend §28.2-526 of the Code of Virginia, entitled "Oyster measures; standards; penalty", to allow cultured oysters to be sold in a measure other than bushels.

(8) Recommend the Legislature amend §28.2-530 of the Code of Virginia, entitled "Taking oysters or loading on vessel on Sunday or at night; penalty", to exclude the taking of cultured oysters on Sunday as was done for cultured hard-clams in 1994.

(9) Recommend the Legislature amend §28.2-532 of the Code of Virginia, entitled "Protection of oysters and clams of Virginia; labeling; penalty", to stipulate that the section applies only to oysters and clams sold for direct consumption.

GENERAL ASSEMBLY OF VIRGINIA - 1995 SESSION

Appendix 1

HOUSE JOINT RESOLUTION NO. 449

Requesting the Virginia Marine Resources Commission to study its organic statutes and its regulations to identify those that may inhibit the development and operation of shellfish aquaculture facilities.

Agreed to by the House of Delegates, February 4, 1995

Agreed to by the Senate, February 21, 1995

WHEREAS, the culturing of shellfish is an increasingly important component of Virginia's seafood industry and increasingly contributes to the Commonwealth's economy; and

WHEREAS, some current statutory requirements and regulations regarding gear, times of operation, and other aspects of culturing and harvest may be applicable only to the harvest of wild shellfish but may be applied to shellfish aquaculture operations; and

WHEREAS, some current statutory and regulatory requirements for aquaculture operations may be a burden to existing or potential aquaculture operators; and

WHEREAS, shellfish aquaculture is a growing industry nationwide; and

WHEREAS, it is in the interest of the Commonwealth to foster the growth of this industry in Virginia waters and to facilitate the permitting and regulation of aquaculture operations so that Virginia aquaculture operations are not placed at a disadvantage; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia Marine Resources Commission be requested to conduct an analysis of statutes and regulations affecting aquaculture operations to (i) identify ways to streamline and simplify existing requirements and (ii) remove unnecessary requirements. The Commission shall appoint an advisory committee of individuals engaged in or familiar with shellfish aquaculture operations in Virginia to assist it with this study.

Technical assistance shall be provided by the Virginia Institute of Marine Science, the Division of Legislative Services, and the Office of the Attorney General as requested by the Commission. All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1996 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

GENERAL ASSEMBLY OF VIRGINIA - 1994 SESSION

Appendix 2

HOUSE JOINT RESOLUTION NO. 95

Continuing the Chesapeake Bay Commission's study of the condition of the shellfish industry in the Commonwealth.

Agreed to by the House of Delegates, February 2, 1994

Agreed to by the Senate, March 8, 1994

WHEREAS, the 1993 Session of the General Assembly passed House Joint Resolution No. 535 requesting the Chesapeake Bay Commission to study the condition of the shellfish industry in Virginia; and

WHEREAS, the commission, assisted by a committee of individuals from private industry, state agencies and scientific institutions, has examined numerous issues related to the condition of the shellfish industry and its future prospects; and

WHEREAS, because of the quantity and complexity of the issues involved, the commission and the members of the HJR committee have agreed that another year of study is necessary to ensure that due consideration is given to these important issues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Chesapeake Bay Commission be requested to continue its study of the condition of the shellfish industry in the Commonwealth. The charge of the commission shall remain as set forth in House Joint Resolution No. 535 enacted by the 1993 Session of the General Assembly.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1995 Session of the General Assembly as provided in the procedures for the Division of Legislative automated Systems for the processing of legislative documents.

ACTS OF ASSEMBLY

HOUSE JOINT RESOLUTION NO. 535

Requesting the Chesapeake Bay Commission to study the condition of the shellfish industry in the Commonwealth.

Agreed to by the House of Delegates, February 7, 1993

Agreed to by the Senate, February 16, 1993

WHEREAS, the Commonwealth, with an estimated 240,000 acres of oyster growth, was the most important producer of the American oyster, *Crassostrea virginica*, in the nation through the first half of the twentieth century, with landings in the 1950s averaging 3.2 million bushels annually; and

WHEREAS, in the 1960s and 1970s, the average annual oyster landings declined to an average of 1.26 million bushels; and

WHEREAS, the decline in oyster landings continued to accelerate in the 1980s, with oyster landings falling from 1,177,313 bushels in the 1980-81 season to 111,992 bushels in the 1990-91 season; and

WHEREAS, oyster landings for the 1991-92 season fell to an all-time low of 82,367 bushels; and

WHEREAS, the decline in oyster landings has witnessed a corresponding decline in the number of watermen, as evidenced by the drop in the number of oyster licenses issued from a peak of 4,566 in 1960 to a low of 1090 in 1991; and

WHEREAS, the decline in oyster harvests since the 1950s has been attributed in part to extensive disease mortality from MSX (*Haplosporidium nelsoni*) and Dermo (*Perkinsus marinus*); and

WHEREAS, stresses from low oxygen and high levels of toxic chemicals in the Chesapeake Bay are believed to make oysters more vulnerable to disease; and

WHEREAS, many areas otherwise suitable for shellfish production are closed or lost due to contamination by pollutants and bacteria; and

WHEREAS, revenues from the sale of oyster meat harvested in the Commonwealth have declined from over \$10 million in 1986 to less than \$5 million in 1990; and

WHEREAS, a decline in the value of the shellfish industry reduces revenues earned by the Commonwealth through lease payments, taxes, license fees and other means; and

WHEREAS, a decline in the populations of oysters and clams threatens the quality of water in the Chesapeake Bay since mollusks filter pollution out of the water by straining it through their gills; and

WHEREAS, clam culturing has proven successful in the Commonwealth, accounting for nearly half of the market clams sold, and clam farmers are having difficulty finding uncontaminated grow-out areas; and

WHEREAS, remaining waters in the Commonwealth which can support shellfish are under pressure from other competing uses; and

WHEREAS, both a Blue Ribbon Panel on the Oyster Industry and the Shellfish Enhancement Task Force set up by the Commissioner of Marine Resources have recommended that programs be established to improve management of the oyster resources in the Commonwealth; and

WHEREAS, several of the options that have been suggested for revitalizing the shellfish industry in the Commonwealth include testing the suitability of the non-native species, *C. gigas*, introducing on-shore depuration of oysters taken from moderately polluted grounds, designating shellfish culture waters with measures to maintain water quality in those areas, and culturing shellfish off-bottom; and

WHEREAS, a failure of the Commonwealth to take remedial actions to preserve its oyster and clam industries could lead to the end of direct shellfish harvests from Virginia waters; now, therefore, be it

RESOLVED, by the House of Delegates, the Senate concurring, That the Chesapeake Bay Commission be requested to study the condition of the shellfish industry in the Commonwealth. The Commission shall examine the (i) reasons for the decline in oyster harvests, including degradation of water quality and habitat, overharvesting, mismanagement, and disease; (ii) status of efforts to negate the impact of the diseases MSX and Dermo on oyster populations, including the introduction of disease-resistant varieties of oysters; (iii) options for providing financial and other forms of assistance to the shellfish industry during periods of low harvests; and (iv) development of policies to alleviate the problems facing the shellfish industry by restoring shellfish populations to historic levels, including testing of non-native shellfish species, developing depuration facilities, designating shellfish culture waters, and facilitating off-bottom oyster culturing.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1994 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated System for the processing of legislative documents.

CHAPTER 9.1.

Aquaculture Development Act.

Sec.

3.1-73.6. Definitions.

3.1-73.7. Powers and duties.

Sec.

3.1-73.8. Aquaculture Advisory Board established.

§ 3.1-73.6. Definitions. - As used in this chapter, unless the context requires a different meaning:

"*Aquaculture*" means the propagation, rearing, enhancement, and harvest of aquatic organisms in controlled or selected environments, conducted in marine, estuarine, brackish, or fresh water.

"*Aquaculture facility*" means any land, structure, or other appurtenance that is used for aquaculture, including, but not limited to, any laboratory, hatchery, pond, raceway, pen, cage, incubator, or other equipment used in aquaculture.

"*Aquatic organism*" means any species or hybrid of aquatic animal or plant, including, but not limited to, "fish," "fishes," "shellfish," "marine fish," and "organisms" as those terms as defined by § 28.2-100.

"*Board*" means the Board of Agriculture and Consumer Services.

"*Commissioner*" means the Commissioner of Agriculture and Consumer Services.

"*Department*" means the Virginia Department of Agriculture and Consumer Services (1992, c. 643.)

§ 3.1-73.7. Powers and duties. - The Commissioner shall have the following powers and duties to:

1. Provide information and assistance in obtaining permits relating to aquacultural activities;
2. Promote aquaculture, including, but not limited to, encouraging investment in aquaculture facilities in order to expand production, processing capacity, and marketing; and
3. Work with appropriate state and federal agencies to review, develop, and implement policies and procedures to facilitate aquacultural development)1992, c. 643.)

§ 3.1-73.8. Aquaculture Advisory Board established. - A. The Governor shall appoint the Aquaculture Advisory Board, which shall be composed of seven members who are representative of the interests of the aquaculture industry. The Aquaculture Advisory Board shall advise the Commissioner on policy matters related to aquaculture.

B. The term of office of each member shall be for three years; however, initial appointments shall be three members for three years, two members for two years, and two members for one year. Appointments to fill vacancies shall be made to fill unexpired terms.

C. Members shall receive no compensation for their services but shall receive reimbursement for actual expenses. The Board shall meet at the call of the Commissioner. (1992, c. 643.)

