



*The Virginia Institute of Marine Science  
and the Commonwealth of Virginia*

*Partners in  
Natural Resource  
Management*

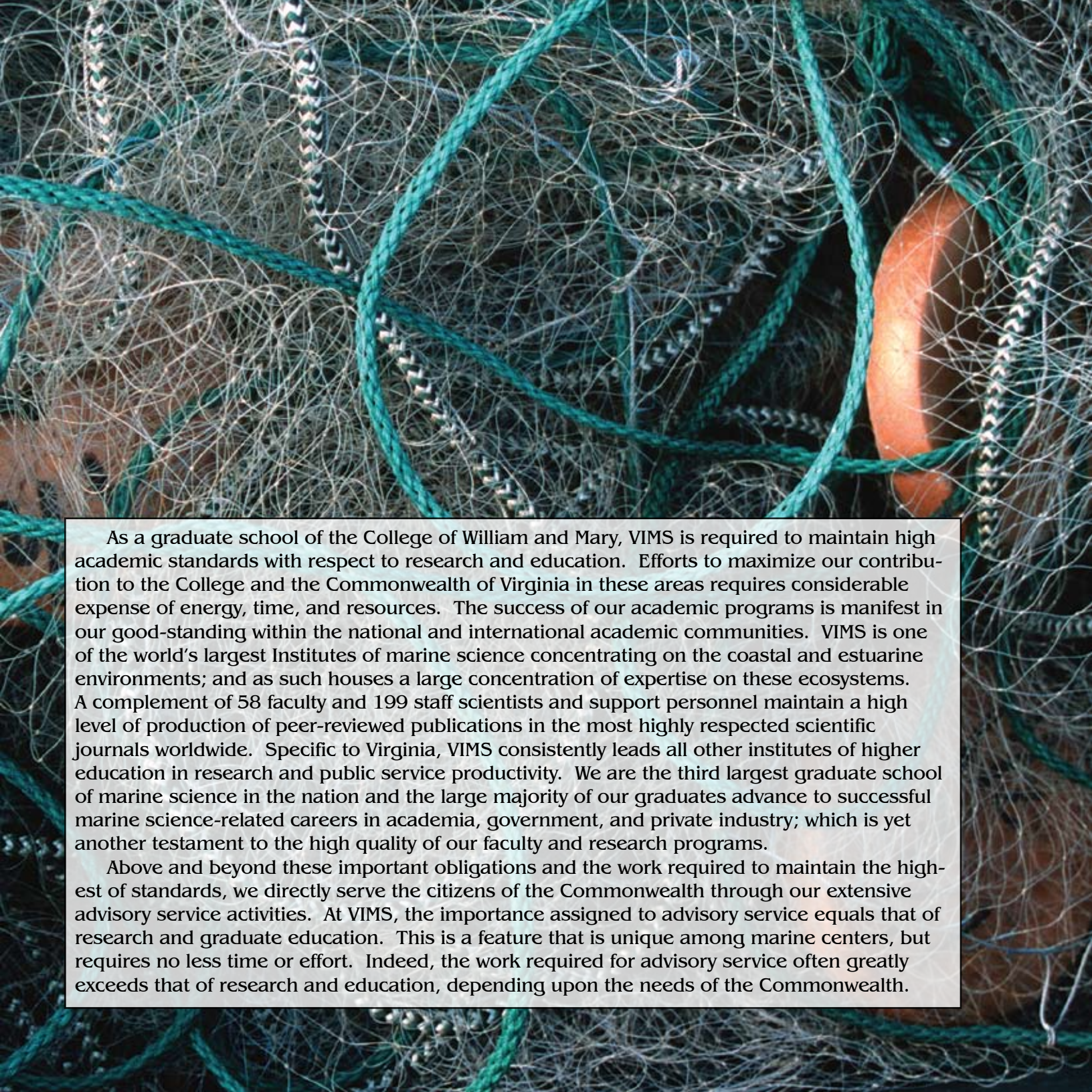
*Virginia Institute of Marine Science  
Office of Research & Advisory Service*



The Virginia Institute of Marine Science (VIMS)/School of Marine Science of the College of William and Mary has operated under a tripartite mission of research, education, and advisory service for well over half a century. Our research and broad expertise in marine and estuarine systems forms the foundation of our education and advisory functions.

Our graduate education program trains a cadre of future scientists through state-of-the-art research. Our role as technical advisor to the Commonwealth of Virginia has served not only the citizens of Virginia, but also has stimulated our focus on multi-disciplinary research that is directly applicable to current and emerging management and policy issues important to the Virginia economy, and the health and sustainability of her natural resources.

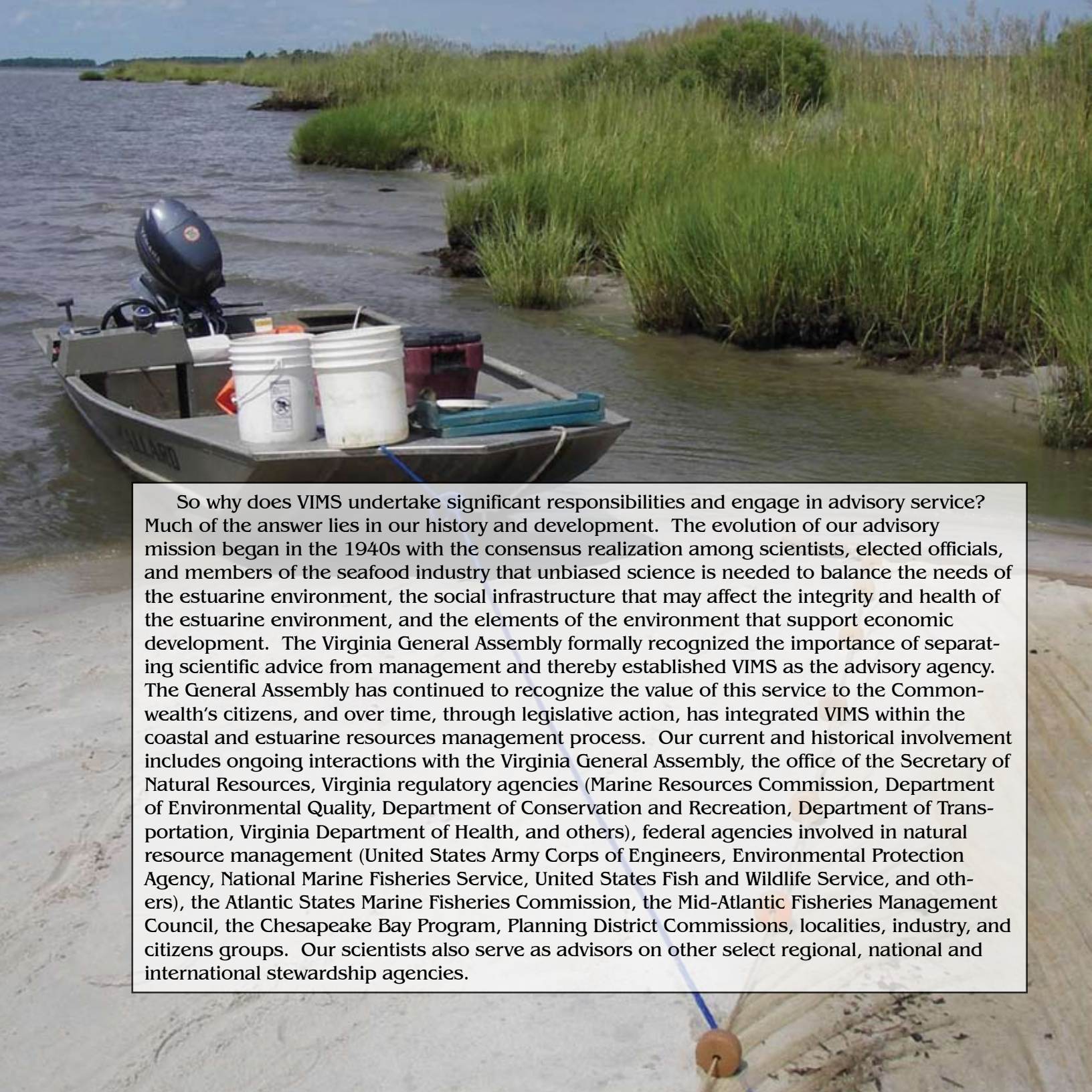


A close-up photograph of a fishing net. The net is made of a fine, light-colored mesh and is attached to a thick, braided green rope. A wooden float, which is a curved, reddish-brown piece of wood, is visible on the right side of the net. The background is dark and out of focus, suggesting an underwater or near-water environment.

As a graduate school of the College of William and Mary, VIMS is required to maintain high academic standards with respect to research and education. Efforts to maximize our contribution to the College and the Commonwealth of Virginia in these areas requires considerable expense of energy, time, and resources. The success of our academic programs is manifest in our good-standing within the national and international academic communities. VIMS is one of the world's largest Institutes of marine science concentrating on the coastal and estuarine environments; and as such houses a large concentration of expertise on these ecosystems. A complement of 58 faculty and 199 staff scientists and support personnel maintain a high level of production of peer-reviewed publications in the most highly respected scientific journals worldwide. Specific to Virginia, VIMS consistently leads all other institutes of higher education in research and public service productivity. We are the third largest graduate school of marine science in the nation and the large majority of our graduates advance to successful marine science-related careers in academia, government, and private industry; which is yet another testament to the high quality of our faculty and research programs.

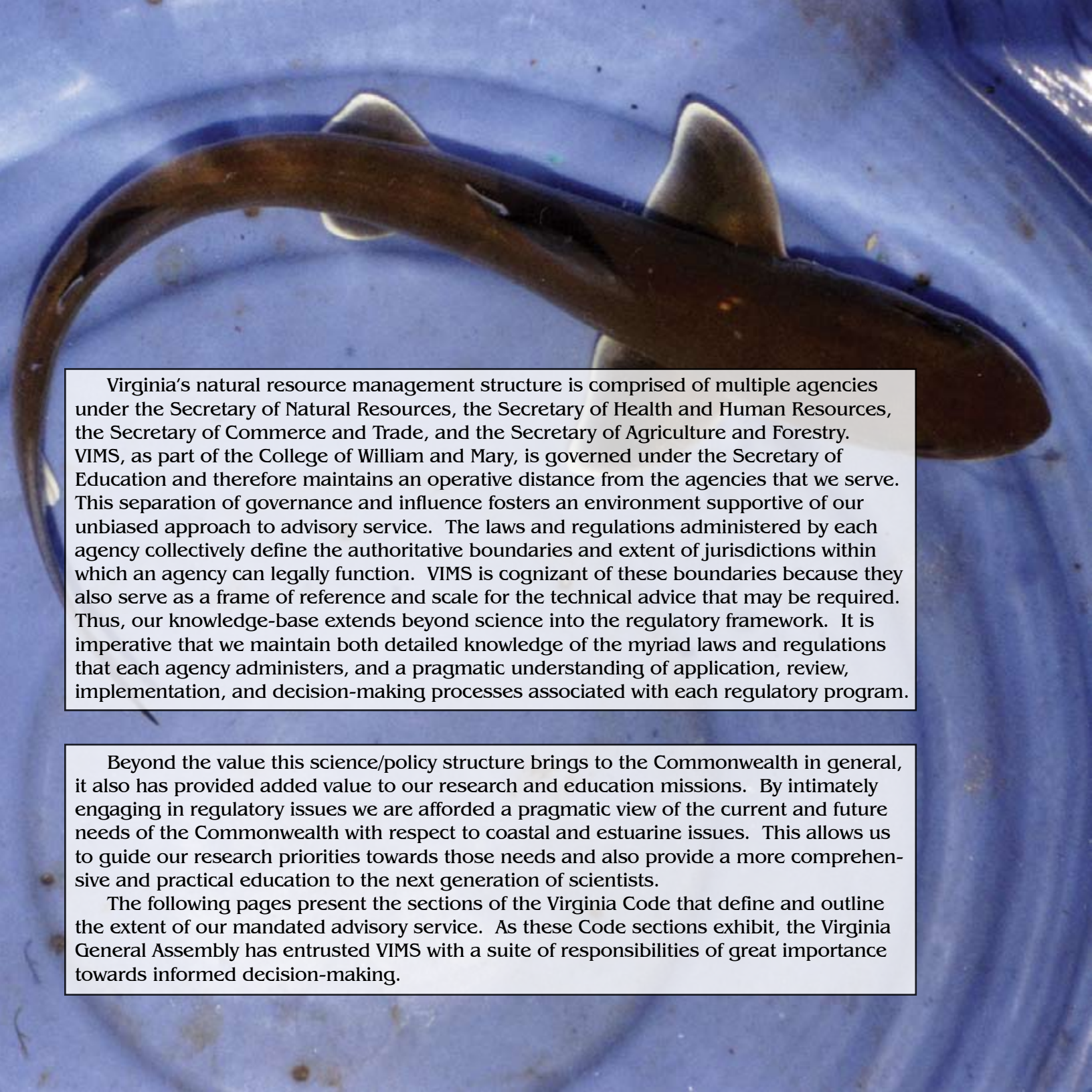
Above and beyond these important obligations and the work required to maintain the highest of standards, we directly serve the citizens of the Commonwealth through our extensive advisory service activities. At VIMS, the importance assigned to advisory service equals that of research and graduate education. This is a feature that is unique among marine centers, but requires no less time or effort. Indeed, the work required for advisory service often greatly exceeds that of research and education, depending upon the needs of the Commonwealth.





So why does VIMS undertake significant responsibilities and engage in advisory service? Much of the answer lies in our history and development. The evolution of our advisory mission began in the 1940s with the consensus realization among scientists, elected officials, and members of the seafood industry that unbiased science is needed to balance the needs of the estuarine environment, the social infrastructure that may affect the integrity and health of the estuarine environment, and the elements of the environment that support economic development. The Virginia General Assembly formally recognized the importance of separating scientific advice from management and thereby established VIMS as the advisory agency. The General Assembly has continued to recognize the value of this service to the Commonwealth's citizens, and over time, through legislative action, has integrated VIMS within the coastal and estuarine resources management process. Our current and historical involvement includes ongoing interactions with the Virginia General Assembly, the office of the Secretary of Natural Resources, Virginia regulatory agencies (Marine Resources Commission, Department of Environmental Quality, Department of Conservation and Recreation, Department of Transportation, Virginia Department of Health, and others), federal agencies involved in natural resource management (United States Army Corps of Engineers, Environmental Protection Agency, National Marine Fisheries Service, United States Fish and Wildlife Service, and others), the Atlantic States Marine Fisheries Commission, the Mid-Atlantic Fisheries Management Council, the Chesapeake Bay Program, Planning District Commissions, localities, industry, and citizens groups. Our scientists also serve as advisors on other select regional, national and international stewardship agencies.

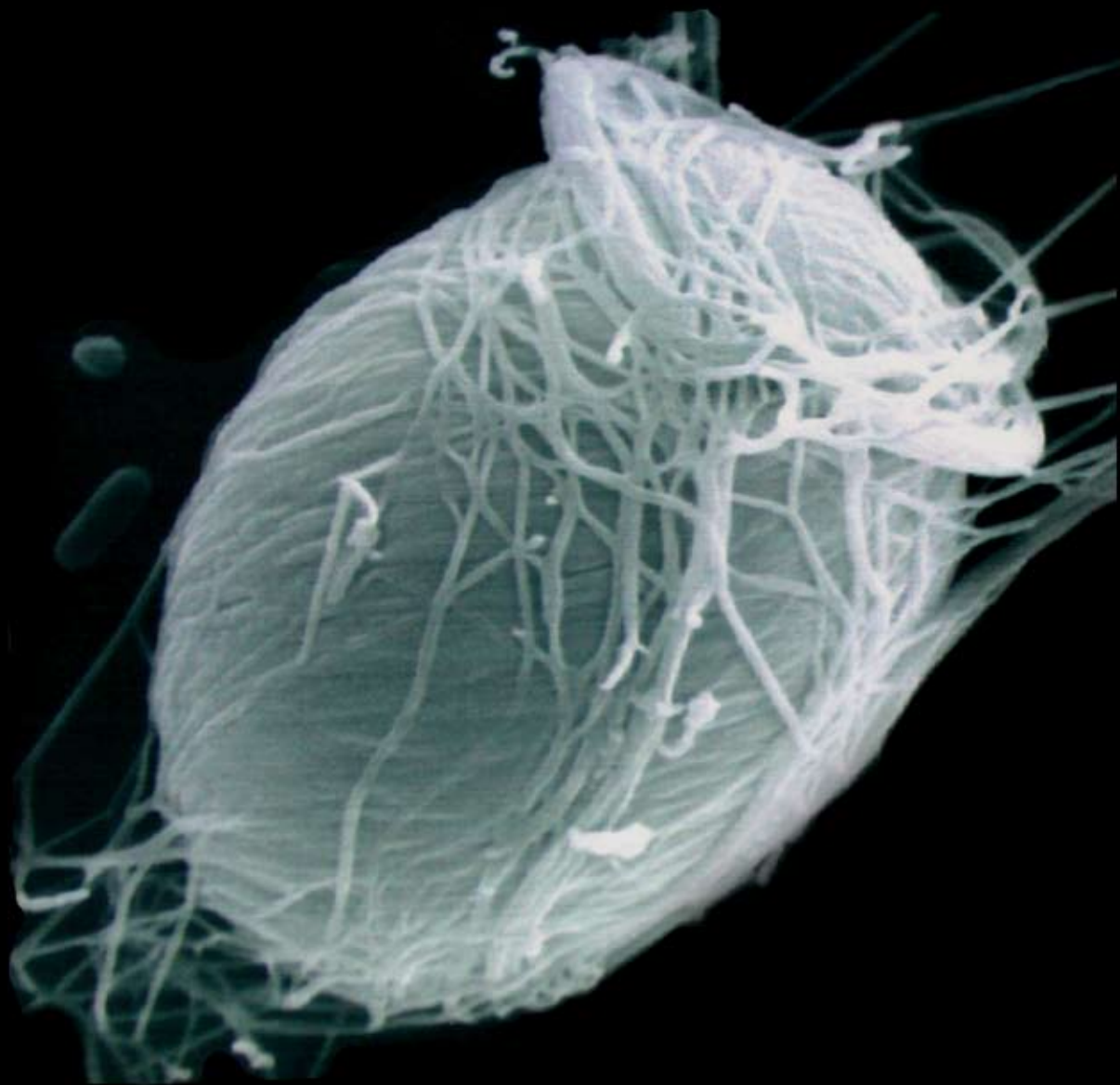


A photograph of a shark swimming in clear blue water, viewed from an overhead perspective. The shark's body is dark, and its dorsal fin is visible. The water is a vibrant blue, and the shark's movement creates a slight wake.

Virginia's natural resource management structure is comprised of multiple agencies under the Secretary of Natural Resources, the Secretary of Health and Human Resources, the Secretary of Commerce and Trade, and the Secretary of Agriculture and Forestry. VIMS, as part of the College of William and Mary, is governed under the Secretary of Education and therefore maintains an operative distance from the agencies that we serve. This separation of governance and influence fosters an environment supportive of our unbiased approach to advisory service. The laws and regulations administered by each agency collectively define the authoritative boundaries and extent of jurisdictions within which an agency can legally function. VIMS is cognizant of these boundaries because they also serve as a frame of reference and scale for the technical advice that may be required. Thus, our knowledge-base extends beyond science into the regulatory framework. It is imperative that we maintain both detailed knowledge of the myriad laws and regulations that each agency administers, and a pragmatic understanding of application, review, implementation, and decision-making processes associated with each regulatory program.

Beyond the value this science/policy structure brings to the Commonwealth in general, it also has provided added value to our research and education missions. By intimately engaging in regulatory issues we are afforded a pragmatic view of the current and future needs of the Commonwealth with respect to coastal and estuarine issues. This allows us to guide our research priorities towards those needs and also provide a more comprehensive and practical education to the next generation of scientists.

The following pages present the sections of the Virginia Code that define and outline the extent of our mandated advisory service. As these Code sections exhibit, the Virginia General Assembly has entrusted VIMS with a suite of responsibilities of great importance towards informed decision-making.



# *VIMS' Duties as Outlined in the Code of Virginia 2006*

## **VIMS' General Advisory Mandate**

### **§ 28.2-1100. Virginia Institute of Marine Science continued; duties.**

The *Virginia Institute of Marine Science* shall hereafter be referred to as the Institute. The Institute shall:

1. Conduct studies and investigations of the seafood and commercial fishing and sport fishing industries;
2. Consider ways to conserve, develop and replenish fisheries resources and advise the Marine Resources Commission and other agencies and private groups on these matters;
3. Conduct studies of problems pertaining to the other segments of the maritime economy;
4. Conduct studies of marine pollution in cooperation with the State Water Control Board and the Department of Health and make the data and their recommendations available to the appropriate agencies;
5. Conduct hydrographic and biological studies of the Chesapeake Bay, its tributaries, and all the tidal waters of the Commonwealth and the contiguous waters of the Atlantic Ocean;

6. Engage in research in the marine sciences;
7. Conduct such special studies and investigations concerning these subjects as requested by the Governor; and
8. Engage in research and provide training, technical assistance and advice to the Board on Conservation and Development of Public Beaches on erosion along tidal shorelines, the Soil and Water Conservation Board on matters relating to tidal shoreline erosion, and to other agencies upon request.

These studies shall include consideration of the seafood and other marine resources, such as the waters, bottoms, shore lines, tidal wetlands, and beaches, and all matters related to marine waters and the means by which marine resources might be conserved, developed and replenished.

(Code 1950, §§ 28-248, 28-250, 28-250.1; 1962, c. 406, § 28.1-195; 1979, c. 294; 1980, c. 369; 1992, c. 836.)







## **Establishing VIMS as an Advisory Resource to the Department of Conservation and Recreation**

### **§ 10.1-703. Cooperation and coordination with *Virginia Institute of Marine Science*.**

The Department shall cooperate and coordinate with the *Virginia Institute of Marine Science* of the College of William and Mary for research, training and technical advice on erosion related problems.

(1980, c. 368, § 21-11.20; 1988, c. 891.)



## **Establishing VIMS as an Advisory Resource to the Potomac River Fisheries Commission**

### **§ 28.2-1001. Potomac River Compact.**

§ 7. Cooperation of state agencies. The Commission may call upon the resources and assistance of the *Virginia Institute of Marine Science*, the University of Maryland System, and all other agencies, institutions and departments of Maryland and Virginia which shall cooperate fully with the Commission upon such request.

### **§ 28.2-1004. Authority to authorize and regulate experimental oyster hatchery program.**

The Potomac River Fisheries Commission shall have the power to make, adopt and permit such rules and

regulations and to take such action as may be necessary or advisable for authorizing and regulating a pilot program for experimental oyster hatchery seed planting, growing, and harvesting with private planters and public and private scientific agencies engaged in similar work in its jurisdiction, and may set aside available barren natural oyster rocks for this purpose and to allow dredging of same for inspection, sampling and harvesting under the supervision and control of the Potomac River Fisheries Commission and in cooperation with the Maryland or Virginia public scientific agencies, Chesapeake Biological Laboratory and *Virginia Institute of Marine Science*.

(1974, c. 89, § 28.1-228; 1992, c. 836.)



## **Establishing VIMS' Role in Blue Crab Management**

### **§ 28.2-203.1. Blue crab fishery management plan.**

A. The Commission shall prepare, in consultation with the *Virginia Institute of Marine Science*, other educational institutions and representatives of industry and interested parties, and then implement a blue crab fishery management plan.

The plan shall build upon previously developed plans, including consideration of plans adopted by the multi-state Chesapeake Bay Program, and shall be consistent with the standards for fishery conservation and management set out in § 28.2-203.

(1995, c. 356.)

## **Establishing VIMS' Role in Management of the Fisheries Resource Grant Fund**

### **§ 28.2-246. Fishery Resource Grant Advisory Board established; membership; duties.**

A. The Fishery Resource Grant Advisory Board shall be composed of seven members to be selected in the following manner: four members shall be appointed by the Graduate Marine Science Consortium from nominations made by commercial watermen's associations, one member

shall be appointed by the Graduate Marine Science Consortium from nominations made by the aquaculture association, one member shall be appointed by the Commissioner of the Marine Resources Commission, and one member shall be appointed by the Director of the *Virginia Institute of Marine Science*.

(1999, c. 719.)

## **Establishing VIMS' Role in Oyster Fishery Management**

### **§ 28.2-627. Relief from rent.**

The Commissioner may forgive ground rent for oyster leases in any area declared a disaster area for oyster culture. A disaster area may be declared when any natural or manmade condition arises which precludes satisfactory culture of oysters in that area. Such declaration for an area shall be made by the Commissioner upon the advice of the Director of the *Virginia Institute*

*of Marine Science* on or before July 1 of each year, and ground rent due and payable in September following such declaration may be forgiven for the ensuing tax year. Such relief may continue until the Commissioner with the approval of the *Virginia Institute of Marine Science* declares the area again productive.

(Code 1950, § 28-128; 1962, c. 406, § 28.1-114; 1992, c. 836.)









## Establishing VIMS' Role in Invasive Species Management

### § 10.1-2602. Establishing the Virginia Invasive Species Council (Effective until July 1, 2006)

The Virginia Invasive Species Council is established as a policy council in the executive branch of government. The Council shall provide state leadership regarding invasive species and shall prepare an invasive species management plan.

A. The Council shall consist of nine members that includes the Secretary of Natural Resources and the Directors or Commissioners, or their designees, of the following agencies:

the Department of Agriculture and Consumer Services, the Department of Conservation and Recreation, the *Virginia Institute of Marine Science*, the Marine Resources Commission, the Department of Forestry, the Department of Game and Inland Fisheries, the Department of Health, and the Department of Transportation. The Secretary of Natural Resources shall serve as chairman of the Council. The members of the Council shall serve terms coincident with their terms of offices.

(2003, c. 433.)

## Establishing VIMS' Role in Surface Water Management

### § 62.1-44.15:5.01 and § 28.2-1205.1. Coordinated review of water resources projects.

B. The Commissioner and the Director of the Department of Environmental Quality, in consultation with the *Virginia Institute of Marine Science*, the Department of Game and Inland Fisheries, the Department of Historic Resources, the Depart-

ment of Health, the Department of Conservation and Recreation, the Virginia Department of Agriculture and Consumer Services, and any other appropriate or interested state agency, shall coordinate the joint review process to ensure the orderly evaluation of projects requiring both permits.

(2005, c. 49)



## Establishing VIMS' Role in State-owned Bottomlands Management

### § 28.2-1205. Permits for the use of state owned bottomlands.

B. The Commission shall consult with other state agencies, including the *Virginia Institute of Marine Science*, the State Water Control Board, the Virginia Department of Transportation, and the State Corporation Commission, whenever the Commission's decision on a permit application relates to or affects the particular concerns or activities of those agencies.

(Code 1950, § 62-2.1; 1960, c. 600; 1962, c. 637; 1966, c. 641; 1968, c. 659, § 62.1-3; 1970, c. 621; 1972, c. 866; 1973, cc. 23, 361; 1974, cc. 92, 385; 1975, c. 431; 1976, c. 579; 1980, c. 253; 1982, c. 102; 1988, c. 868; 1992, c. 836; 1996, c. 228; 1999, c. 741; 2000, c. 167; 2001, c. 72.)

### § 28.2-1207. Authority to approve permits for encroachment on subaqueous beds; notice.

B. If the permit application is for a shore erosion control project recommended by the soil and water conservation district in which the project is to be located and the criteria listed in subsection A of this section are satisfied, the Commission may, after giving notice of the application to the *Virginia Institute of Marine*

*Science*, approve the application without giving notice to or awaiting the approval of any other state agency.

(1972, c. 398, § 62.1-3.01; 1973, c. 350, § 62.1-3.02; 1980, c. 312; 1984, c. 246; 1992, c. 836; 1997, c. 845.)

### § 28.2-556. Erosion control devices within the Baylor survey.

The public oyster beds, rocks, and shoals shall not include any area needed for an erosion control structure if the Commission, after considering the comments of the *Virginia Institute of Marine Science* and the Department of Conservation and Recreation, and any other relevant evidence, finds that: (i) shoreline erosion has occurred at the site and is expected to continue; (ii) such erosion is increasing the sediment load to public waters, causing degradation of water quality; (iii) the proposed project is a technically and environmentally acceptable way to control erosion at the site unless such Baylor ground is productive under § 28.2-630 of the Code of Virginia in which case the environmentally preferable erosion control shall be utilized; and (iv) the Commonwealth's interest in protecting water quality by controlling erosion at the site outweighs the value of the portion of the natural oyster beds, rocks, and shoals affected by





the erosion control structure. Whenever the area of the natural oyster beds, rocks, and shoals is so changed, the Commission shall make the changes on its Baylor survey charts.

(1988, c. 308, § 28.1-101.4; 1989, c. 656; 1992, c. 836; 2001, c. 46.)

**§ 28.2-638. Authority of Governor to authorize dredging of channel in navigable waters.**

When the approval, consent, or authorization of the Commonwealth is necessary or expedient for any person to dredge a channel of any navigable stream, the bed of which is owned by the Commonwealth, for the purpose of deepening, widening, or relocating such channel and making related improvements, the Governor may, on behalf of the Commonwealth, grant such approval upon such terms and conditions as he deems appropriate after the receipt of advisory reports from the *Virginia Institute of Marine Science*, the State Water Control Board, the Commission, the Board of Game and Inland Fisheries, the Director of the Department of Conservation and Recreation, the Director of the Department of Historic Resources, the State Port Authority, and the Commonwealth Transportation Board.

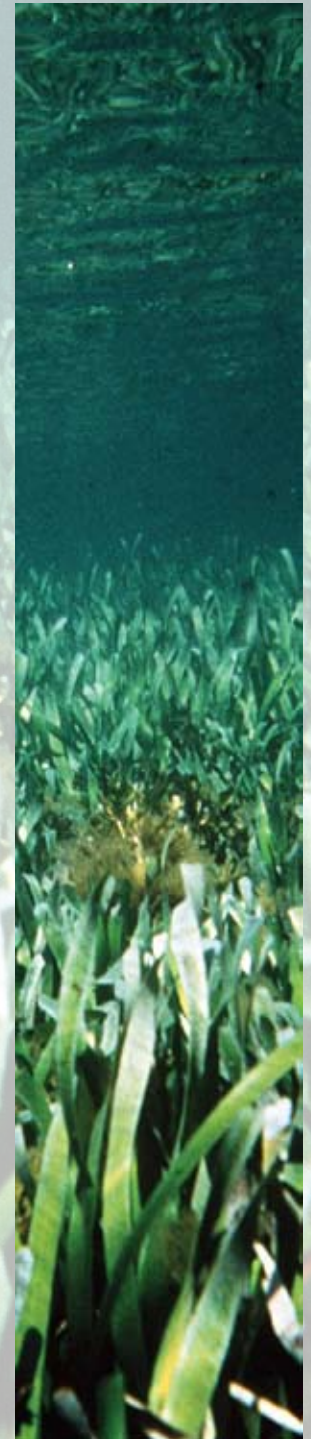
(Code 1950, § 28-201.3; 1958, c. 302; 1962, c. 406, § 28.1-147; 1964, c. 350; 1989, c. 656; 1992, c. 836.)

**§ 28.2-1204.1. Submerged aquatic vegetation.**

The Commission shall, in consultation with the *Virginia Institute of Marine Science*, develop guidelines containing criteria for use in:

1. Defining existing beds of submerged aquatic vegetation; and
2. Delineating areas where there is potential for submerged aquatic vegetation restoration.

(1999, c. 547.)







## Establishing VIMS' Role in Tidal Wetlands Management

### § 28.2-1301. Powers and duties of the Commission.

C. In order to perform its duties under this section and to assist counties, cities, and towns in regulating wetlands, the Commission shall promulgate and periodically update guidelines which scientifically evaluate vegetated and nonvegetated wetlands by type and describe the consequences of use of these wetlands types. The *Virginia Institute of Marine Science* shall provide advice and assistance to the Commission in developing these guidelines by evaluating wetlands by

type and continuously maintaining and updating an inventory of vegetated wetlands.

(1972, c. 711, §§ 62.1-13.1, 62.1-13.4, 62.1-13.17; 1982, c. 300; 1990, c. 811; 1992, c. 836; 1995, c. 850.)

### § 28.2-1302. Adoption of wetlands zoning ordinance; terms of ordinance.

§ 6. Not later than sixty days after receipt of a complete application, the wetlands board shall hold a public hearing on the application. The applicant, local governing body, Commissioner, owner of record of any land adjacent to the wetlands in question, known claimants of water rights in or adjacent to the wetlands in question, the *Virginia Institute of Marine Science*, the Department of Game and Inland Fisheries, the Water Control Board, the Department of Transportation, and any governmental agency expressing an interest in the application shall be notified of the hearing.

(1972, c. 711, §§ 62.1-13.1, 62.1-13.5; 1973, cc. 382, 388; 1975, c. 268; 1979, c. 418; 1982, c. 300; 1985, c. 541; 1988, c. 587; 1989, c. 360; 1992, c. 836; 1994, c. 274.)





## Establishing VIMS' Role in the Management of Coastal Primary Sand Dunes

### § 28.2-1401. Powers and duties of Commission.

A. The Commission may receive gifts, grants, bequests, and devises of coastal primary sand dunes, beaches, and money which shall be held for the uses prescribed by the donor, grantor, or testator and in accordance with the provisions of this chapter.

B. The Commission shall preserve and protect coastal primary sand dunes and beaches and prevent their despoliation and destruction. Whenever practical, the Commission shall accommodate necessary economic development in a manner consistent with the protection of these features. The Commission shall manage any coastal primary sand dunes and beaches it receives as provided in Article 2 (§ 28.2-1503 et seq.) of Chapter 15 of this title.

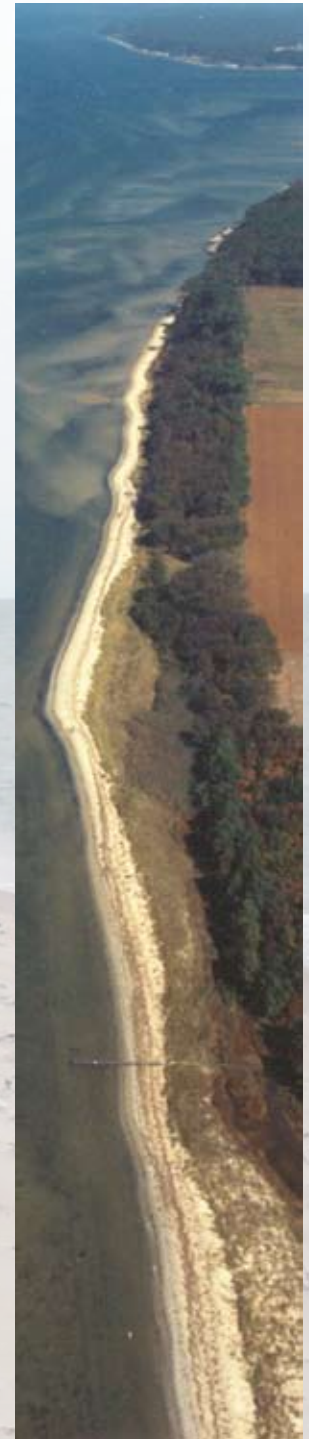
C. In order to perform its duties under this section and to assist counties, cities and towns in regulating coastal primary sand dunes and beaches, the Commission shall, with the advice and assistance of the *Virginia Institute of Marine Science*, promulgate guidelines which describe the consequences of use of these dunes and beaches.

(1972, c. 711, § 62.1-13.17; 1980, c. 660, §§ 62.1-13.21, 62.1-13.24; 1984, c. 556; 1989, c. 342; 1992, c. 836; 1994, c. 112; 1995, c. 850.)

### § 28.2-1403. Certain counties, cities and towns authorized to adopt coastal primary sand dune ordinance.

§ 6. Not later than sixty days after receipt of a complete application, the wetlands board shall hold a public hearing on the application. The applicant, local governing body, Commissioner, owner of record of any land adjacent to the coastal primary sand dunes in question, the *Virginia Institute of Marine Science*, the Department of Game and Inland Fisheries, the State Water Control Board, the Department of Transportation, and any governmental agency expressing an interest in the application shall be notified of the hearing.

(1980, c. 660, §§ 62.1-13.21, 62.1-13.25; 1984, c. 556; 1989, c. 342; 1992, c. 836; 1994, c. 112; 1998, c. 160.)









## Establishing VIMS' Role in the Management of Nontidal Wetlands

### § 62.1-44.15. Powers and duties.

(16) To establish and implement policies and programs to protect and enhance the Commonwealth's wetland resources. Regulatory programs shall be designed to achieve no net loss of existing wetland acreage and functions. Voluntary and incentive based programs shall be developed to achieve a net resource gain in acreage and functions of wetlands. The Board shall seek and obtain advice and

guidance from the *Virginia Institute of Marine Science* in implementing these policies and programs.

(Code 1950, § 62.1-27; 1968, c. 659; 1970, c. 638; 1972, c. 741; 1975, c. 335; 1976, c. 621; 1977, c. 32; 1978, c. 827; 1984, c. 11; 1985, cc. 249, 397; 1988, cc. 167, 328; 1989, c. 389; 1990, c. 717; 1991, cc. 239, 718; 1993, c. 456; 1994, c. 698; 1998, cc. 805, 863; 2000, cc. 972, 1032, 1054.)

## Establishing VIMS' role in Tributyltin Management

### § 3.1-249.61. Educational programs.

Through cooperative programs the State Water Control Board, the Board of Game and Inland Fisheries, the Virginia Marine Resources Commission, the *Virginia Institute of Marine Science*, and the Department of Agriculture and Consumer Services shall begin immediately to develop and implement a program designed to inform interstate and intrastate paint manufacturers and distributors, vessel owners and commercial boat yards in the Commonwealth of properties of tributyltin in marine antifoulant paints and the law to restrict its use.

(1987, c. 15, § 3.1-249.24; 1989, c. 575.)







## Establishing VIMS' Role in Radiation Safety

### § 32.1-233. Radiation Advisory Board; composition; duties generally.

A. The Radiation Advisory Board shall consist of ten appointive members and the seven ex officio members specified below. The Governor shall appoint to the Advisory Board individuals from industry, labor and agriculture as well as individuals with scientific training in one or more of the following fields: radiology, medicine, radiation or health physics, or related sciences, with specialization in ionizing radiation. Not more than two individuals shall be specialists in any one of the above named fields. Members of the Advisory Board shall serve

at the pleasure of the Governor. The Commissioner shall be an ex officio member and chairman of the Advisory Board, and the Commissioner of Labor and Industry, the Commissioner of Agriculture and Consumer Services, the chairman of the State Water Control Board or his designee, the Governor's representative on the Southern Interstate Nuclear Board, the Executive Director of the Department of Waste Management and the Director of the *Virginia Institute of Marine Science* shall be ex officio members of the Advisory Board.

(Code 1950, § 32-414.5; 1964, c. 158; 1979, c. 711; 1980, c. 728; 1985, c. 448; 1987, c. 157.)

## Establishing VIMS' Role in the Estuarine Reserve System

### § 28.2-1103. Virginia Estuarine and Coastal Research Reserve System created; purpose; Virginia Institute of Marine Science to administer.

A. There is hereby created the Virginia Estuarine and Coastal Research Reserve System (the System) for the purpose of establishing a system of protected sites representative of the Commonwealth's estuarine and coastal lands in which research and long-term monitoring will be conducted in support of the Commonwealth's coastal resource management efforts.

B. The System shall be established and administered by the *Virginia Institute of Marine Science* of The College of William and Mary.

(1999, c. 553.)





## Establishing VIMS' Role in Historic Property Preservation

### § 10.1-2214. Underwater historic property; penalty.

B. Underwater historic property shall be preserved and protected and shall be the exclusive property of the Commonwealth. Preservation and protection of such property shall be the responsibility of all state agencies including but not limited to the Department, the *Virginia Institute of Marine Science*, and the Virginia Marine Resources Commission. Insofar as may be practicable, such property shall be preserved, protected and displayed for the public benefit within the county or city within which it is found, or within a museum operated by a state agency.

C. It shall be unlawful for any person, firm or corporation to conduct any type of recovery operations involving the removal, destruction or disturbance of any underwater historic property without first applying for and receiving a permit from the Virginia Marine Resources Commission to conduct such operations pursuant to § 28.2-1203. If the Virginia Marine Resources Commission, with the concurrence of the Department and in consultation with the *Virginia Institute of Marine Science* and other concerned state agencies, finds that granting the permit is in the best interest of the Commonwealth, it shall grant the applicant a permit.

(1984, c. 750, § 10-262; 1988, c. 891, § 10.1-817; 1989, c. 656.)

## Establishing VIMS' Role with the Virginia Land Conservation Foundation

### § 10.1-1021. Powers of the Foundation.

C. Develop a needs assessment for future expenditures from the Fund. In developing the needs assessment, the Board of Trustees shall consider among others the properties identified in the following: (i) Virginia Outdoors Plan, (ii) Virginia Natural Heritage Plan, (iii) *Virginia Institute of Marine Science* Inventory, (iv) Virginia Joint Venture Board of the North

American Waterfowl Management Plan, and (v) Virginia Board of Historic Resources Inventory. In addition, the Board shall consider any information submitted by the Department of Agriculture and Consumer Services on farmland preservation priorities and any information submitted by the Department of Forestry on forest land initiatives and inventories.

(1992, c. 426; 1999, cc. 900, 906; 2000, c. 1053.)







## Establishing VIMS' Role in Non-native Introductions

### § 28.2-825. Importing fish, shellfish or crustacea for introduction into waters of the Commonwealth; penalty.

A. It shall be unlawful for any person to import any fish, shellfish or crustacea into the Commonwealth with the intent of placing such fish, shellfish or crustacea into the waters of the Commonwealth unless one of the following conditions exists:

1. The fish, shellfish or crustacea are coming from within the continental United States from a state or waters which are on the Marine Resources Commission's list of approved states and waters, and are species which are on the Marine Resources Commission's list of approved species; or
2. The person has notified the Commissioner of Marine Resources of such intent and has received written permission from the Commissioner of Marine Resources.

The list of approved states and waters shall be published by the Commissioner of Marine Resources, and a state or water shall be placed on or removed from such list only with the concurrence of the Director of the *Virginia Institute of Marine Science*. The Commissioner of Marine Resources, with the concurrence of the Director of the *Virginia Institute*

*of Marine Science*, is authorized to change the list when he determines that it is necessary for the protection of the waters of the Commonwealth.

The list of approved species shall be published by the Commissioner of Marine Resources, and a species shall be placed on or removed from such list only with the concurrence of the Director of the *Virginia Institute of Marine Science*. The Commissioner of Marine Resources, with the concurrence of the Director of the *Virginia Institute of Marine Science*, is authorized to change the list when he determines that it is necessary for the protection of the waters of the Commonwealth.

B. The notification of intent to import shall be in writing and submitted to the Commissioner of Marine Resources at least thirty days prior to the date of importation. The notice shall state: (i) the specific fish, shellfish or crustacea to be imported, (ii) from what waters the fish, shellfish or crustacea are being taken, (iii) the period of time over which importation is to be accomplished, (iv) the quantities involved, and (v) into what waters the fish, shellfish or crustacea are to be placed.

A violation of this section is a Class 1 misdemeanor.

(1974, c. 327, § 28.1-183.2; 1992, c. 836.)



**§ 28.2-826. *Crassostrea ariakensis*.**

A. The Commissioner, after consultation with the Director of the *Virginia Institute of Marine Science* and the Fisheries Management Division of the Commission, and subject to the provisions of this section, may authorize, in writing, the placement of oysters of the species *Crassostrea ariakensis* on state-owned bottomlands as described in § 28.2-600 or 28.2-603.

B. The Commissioner's authorization for placement of *C. ariakensis* on state-owned bottomlands pursuant to this section shall be conditioned

upon, and subject to, compliance with the following requirements:

1. All nonnative oysters placed on state-owned bottomlands pursuant to this section shall be placed within the bounds of sites established by survey and specifically designated and approved by the Commissioner for the placement of *C. ariakensis*. Before approving any site for the placement of *C. ariakensis*, the Commissioner shall determine that such use of the site shall not conflict with Virginia's native oyster restoration program. The Commissioner shall not approve any submerged aquatic vegetation site designated









pursuant to § 28.2-1204.1 for the placement of *C. ariakensis*. Sites designated and approved for the placement of *C. ariakensis* shall be marked as provided in § 28.2-517 or as otherwise specified by the Commissioner in granting the authorization.

2. *C. ariakensis* oysters placed on state-owned bottomlands pursuant to this section shall not be relayed or transferred to other state-owned bottomlands except in compliance with this section.

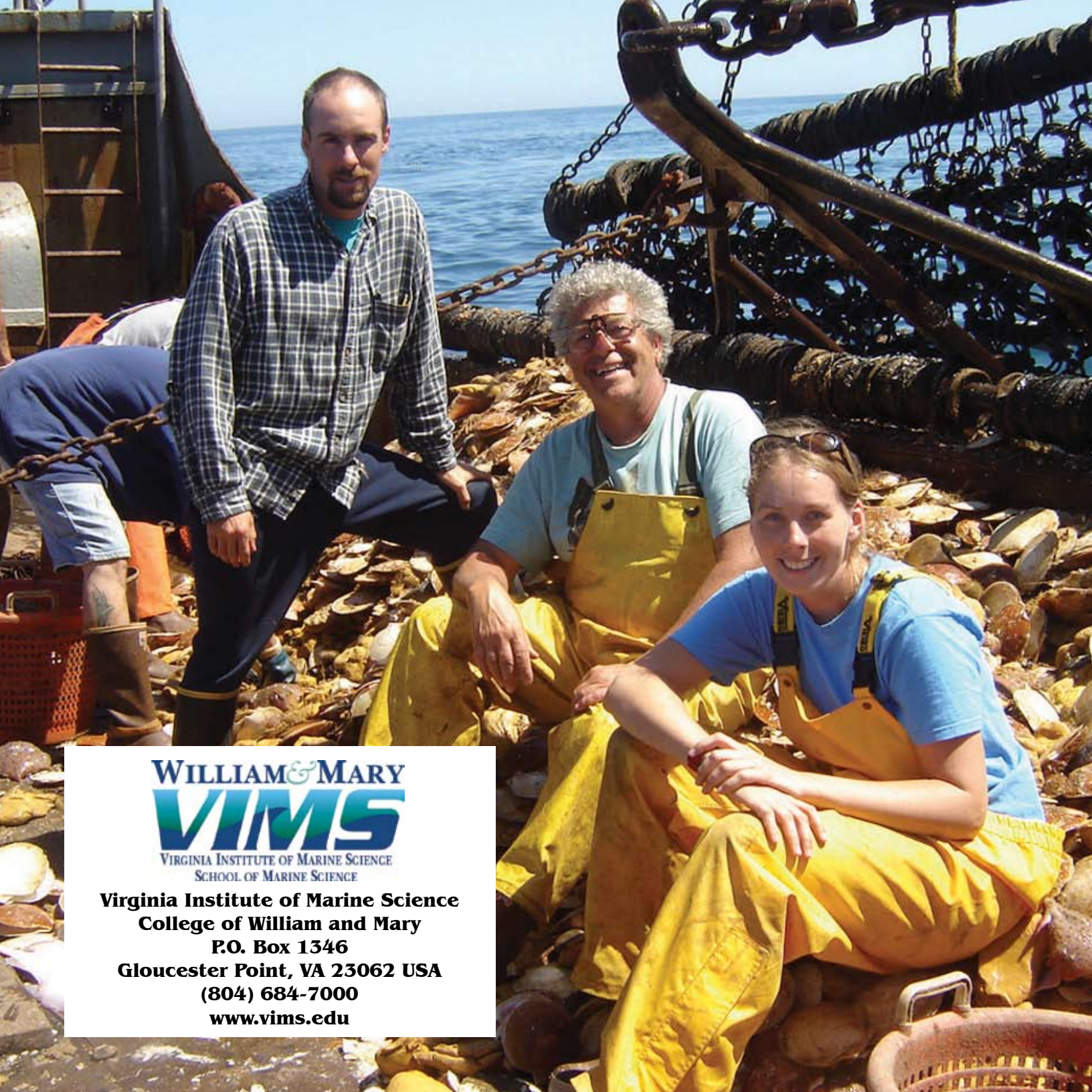
3. *C. ariakensis* oysters placed on state-owned bottomlands pursuant to this section shall originate at a hatchery located in the Chesapeake Bay region and be certified by the *Virginia Institute of Marine Science* to be currently in compliance with applicable protocols established by the International Council for the Exploration of the Sea. Documentation of compliance with this requirement shall be submitted to the Commissioner prior to the placement of such oysters on state-owned bottomlands pursuant to this section.

4. *C. ariakensis* oysters placed in state-owned bottomlands pursuant to this section prior to July 1, 2007, or the completion of the Environmental Impact Statement under preparation by the U.S. Army Corps of Engineers and sponsored by Maryland and Virginia concerning the introduction of nonnative oysters, whichever is sooner, shall be rendered incapable of reproduction by a method that has been determined by the *Virginia Institute of Marine Science* as reliably producing not more than one diploid oyster per 1,000 of triploid oysters produced, and shall be deployed in a manner determined by the *Virginia Institute of Marine Science* to protect against inadvertent fertilization. On and after July 1, 2007, or the completion of the Environmental Impact Statement under preparation by the U.S. Army Corps of Engineers and sponsored by Maryland and Virginia concerning the introduction of nonnative oysters, whichever is sooner, the Commissioner, with the concurrence of the Director of the *Virginia Institute of Marine Science*, may authorize the placement of diploid or fertile *C. ariakensis* oysters on state-owned bottomlands.

(2005, c. 551.)







**WILLIAM & MARY**  
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