

Pushing the Envelope -

Introducing Working Waterfront Legislation and Expanding the Working Waterfront Inventory



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The views expressed herein are those of the authors and do not necessarily reflect the views of the U.S. Department of Commerce, NOAA, or any of its subagencies.

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Executive Summary

Coordinated planning efforts between federal, state and local levels of government, as well as private sector stakeholders are beneficial to coastal management. Beginning in 2011, Virginia coastal planning district commissions coordinated to focus on the preservation of working waterfronts and associated industries within coastal Virginia. In 2016, coastal Virginia planning district commissions (i.e. Northern Neck, Middle Peninsula, Accomack-Northampton, and Hampton Roads Planning District Commissions) created and adopted a Virginia Working Waterfront Master Plan that outlines recommendations for all levels of governments and the private sector to improve working waterfronts in the Commonwealth of Virginia.

During this project MPPDC staff continued to coordinate with the Working Waterfront Steering Committee to (1) explore the creation of either a state sponsored uninsured “motorist” program for workboats or a self-funded insurance program for workboats, (2) to discuss, review and refine legislative solutions that benefit working waterfronts and associated dredging concerns, and (3) to expand the working waterfront inventory to include sites in the Richmond Regional, George Washington, Northern Virginia, and Crater PDC regions.

Through research of the Commonwealth’s Uninsured Motorist Program (§38.2-2206) and the Uninsured Motorist Fund (§46.2-710) and through interviews with local marinas and insurance companies, MPPDC staff found that watermen are eligible to purchase boat insurance by meeting insurance company requirements. However it was also found that some watermen do not follow through with the process (i.e. marine survey and fixing deficiencies) and in some cases are not willing to pay for or cannot afford the insurance premium. Consequently MPPDC staff concluded that there was not a need for an uninsured workboat program since insurance is readily available for commercial workboats.

This project also focused on developing legislative solutions to improve working waterfronts. During Working Waterfront Steering Committee meetings, multiple legislative ideas were shared and discussed. These legislative solutions were also shared with the Director of Policy and Legislation for Kirk Cox, Majority Leader of the Virginia House of Delegates determine out the most appropriate ideas to bundle into a legislative package for rural coastal Virginia for the 2018 General Assembly Session.

Introduction

Between 2011 and 2015 the Middle Peninsula, Northern Neck, Accomack-Northampton, and Hampton Roads Planning District Commissions (PDCs) worked to address the Virginia Coastal Zone Management Program's Coastal Needs Assessment and Strategy focused on the Cumulative and Secondary impacts of growth and development with regards to working waterfronts. Last year coastal PDCs and the Working Waterfront Steering Committee worked to develop and adopt a Virginia Working Waterfront Master Plan. In part the plan outlined recommendations to preserve and re-develop working waterfronts in Virginia for all levels of government. During this project year, MPPDC staff continued to coordinate with the Working Waterfront Steering Committee to begin implementing the recommendations and action items in the plan. More specifically, MPPDC staff focused on three deliverables, including:

1. Exploring the creation of either a state sponsored **uninsured 'motorist' program for workboats or a self-funded insurance program for workboats;**
2. **Seeking legislation development.** MPPDC staff hosted meetings of the Working Waterfront Steering Committee to discuss, review, and refine legislative solutions that benefit working waterfront, including tools for protection of working waterfronts and dredging.
3. **Expanding the knowledge of the working waterfront inventory** in the Virginia coastal zone. MPPDC staff contracted with Hampton Roads Planning District Commission (HRPDC) to conduct a coarse analysis of working waterfront sites in coastal planning districts including Richmond Regional, George Washington, Northern Virginia, and Crater PDCs.

Product#1: State Legislation: Feasibility Study Focused on an Uninsured Workboat Program

MPPDC staff conducted a feasibility study to explore the creation of a state sponsored workboat insurance program. MPPDC staff researched the Commonwealth's Uninsured Motorist Program (§38.2-2206) and the Uninsured Motorist Fund (§46.2-710). This provided a foundation of knowledge that assisted in discussions with Diana Utz at George Washington Regional Planning District Commission who created a self insured pool for vanpool providers. The self insured vanpool is a group of vanpool owners who contribute annual membership fees to a pool managed by the Virginia Division of Risk Management. These membership fees, or contributions, are used to self-insure their commuter vanpools. Through the pool, vanpool owners share common risks via a combination of self-funding and insurance. Ms. Utz explained that to develop a program for uninsured workboats, MPPDC staff must understand the need for this program. She also mentioned that once the need is identified then a

proper resolution could be developed – an uninsured workboat program or a region-wide insurance policy.

To understand the need for an uninsured workboat program, MPPDC staff developed a list of questions to ask local marina owners and insurance companies about insurance requirements and the process to acquire insurance. Questions included:

QUESTIONS FOR INSURANCE COMPANIES

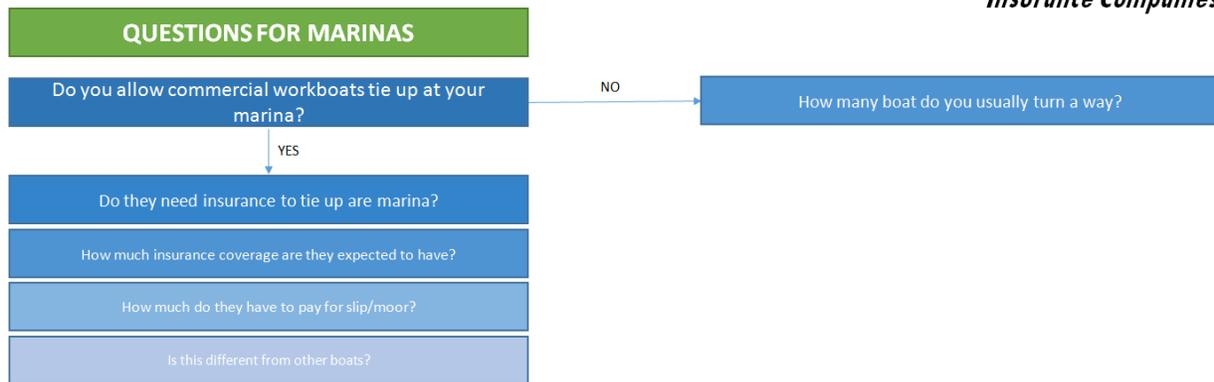
Do you insure commercial workboats (i.e. wooden boat)?

What do you take into account when quoting a commercial workboat (i.e. wooden boat)?

Can workboats get a competitive rate? Are there multiple companies that offer policies for commercial workboats (i.e.. wooden boat)?

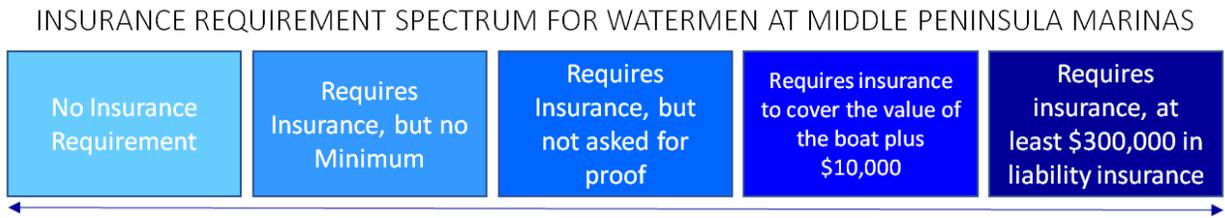
COMMERICAL WORKBOATS, AVAILABLE INSURANCE, & MARINAS

What Do Marina's Allow And What Is Offered By Local Insurance Companies?



MPPDC staff contacted Middle Peninsula marina owners and insurance companies. Some marinas do not allow commercial workboats to dock at their marina facilities, while other marinas required differing insurance minimums. Some marinas required proof of insurance while others do not. Figure 1 below shows a spectrum of insurance requirements at marinas for watermen in the Middle Peninsula. In many cases there are local marinas that try to work with the commercial watermen to dock at their marina facilities; however it's important to keep in mind that this leaves marina owners at risk since many commercial workboats are uninsured or underinsured.

Figure 1: Spectrum of insurance requirements of Middle Peninsula marina owners for watermen.



In addition to interviewing local marina operators, MPPDC staff engaged local insurance companies to understand if insurance is available for commercial workboats, the factors that contribute to commercial workboats getting insurance, and the process for obtaining workboat insurance. Below is a list of specific questions and answers from a Gloucester County insurance company that provides insight into the insurance available to commercial workboats.

Question: Are there factors that may make a commercial workboat ineligible for insurance? If they have missing information on their application, do they become ineligible for insurance?

Answer: The overall condition of the vessel is important. If the vessel is not properly maintained, especially wooden boats, they are not eligible. Most insurance carriers want to see a recent marine survey by a qualified certified individual if the application is for new business. Then they want to have the vessel owner confirm that all of the recommendations on the survey have been satisfied. Once this has been confirmed the insurance carrier will not require another survey for 5 years. However, if the survey recommendations are not resolved, the application will not move forward and the result will be a declination to offer a quote. The carrier will want the hull identification number (HIN #) and specific information on the power unit(s), including serial numbers. They want to make sure of what they are insuring. If the applicant has had prior boat insurance the carrier would want to know if there had been any claims/losses and if so what happened. This would give an indication if the applicant operates the vessel in a safe manner. Some carriers pull the driving record of the individuals listed on the application as operators of the vessel. Poor driving records can become an issue. Also, they will want to have a list of navigation aids on the vessel (i.e. global positioning system (GPS), radar, very high frequency (VHF) radio, depth finder, etc.).

Question: Of the watermen that call the insurance company, do they all receive policies? Do you ever need to deny watermen from getting a policy and if so what would contribute to this?

Answer: Not all applicants receive a quote or a policy. Those that do not receive a quote either did not provide the necessary information or the information provided led to a declination to quote. Some receive a quote but do not want to pay the premium.

Question: When a commercial workboat has a note/loan on their boat what type of insurance does the bank require? Does this include liability insurance?

Answer: The banks require that the boat owner carry insurance on the vessel so in the event of a loss they will get their money and apply it to the loan. The banks require that they be listed on the boat owner's policy as a loss payee. Liability coverage can be included on the same policy but the bank's interest is to make sure there is coverage on the vessel.

Question: For boats more than 5 years old a survey is required, how much does this generally cost?

Answer: This would vary depending on who does the survey and the size of the vessel. Most marine surveyors base their fee on the length of the vessel times their rate. According to a local marine surveyor, a marine survey will charge approximately \$15/ft and charge watermen \$10/ft; however the cost will fluctuate based on the complexity of the hull and associated systems (i.e. engine, fuel, electrical and steering, etc.).

For years, MPPDC staff have heard anecdotally that, "watermen cannot get boat insurance," however this is not the case. Insurance for commercial workboats is readily available dependent on two main factors: (1) whether or not the waterman goes through the process to obtain insurance and (2) cost of the insurance premium. Based on this finding MPPDC staff determined that there was no need for an uninsured workboat program since insurance is available for commercial workboats. Figure 2 depicts boat insurance options/requirements for Virginia watermen and outcomes of discussions with local professionals.

Figure 2: Boat insurance options/requirements in Virginia.

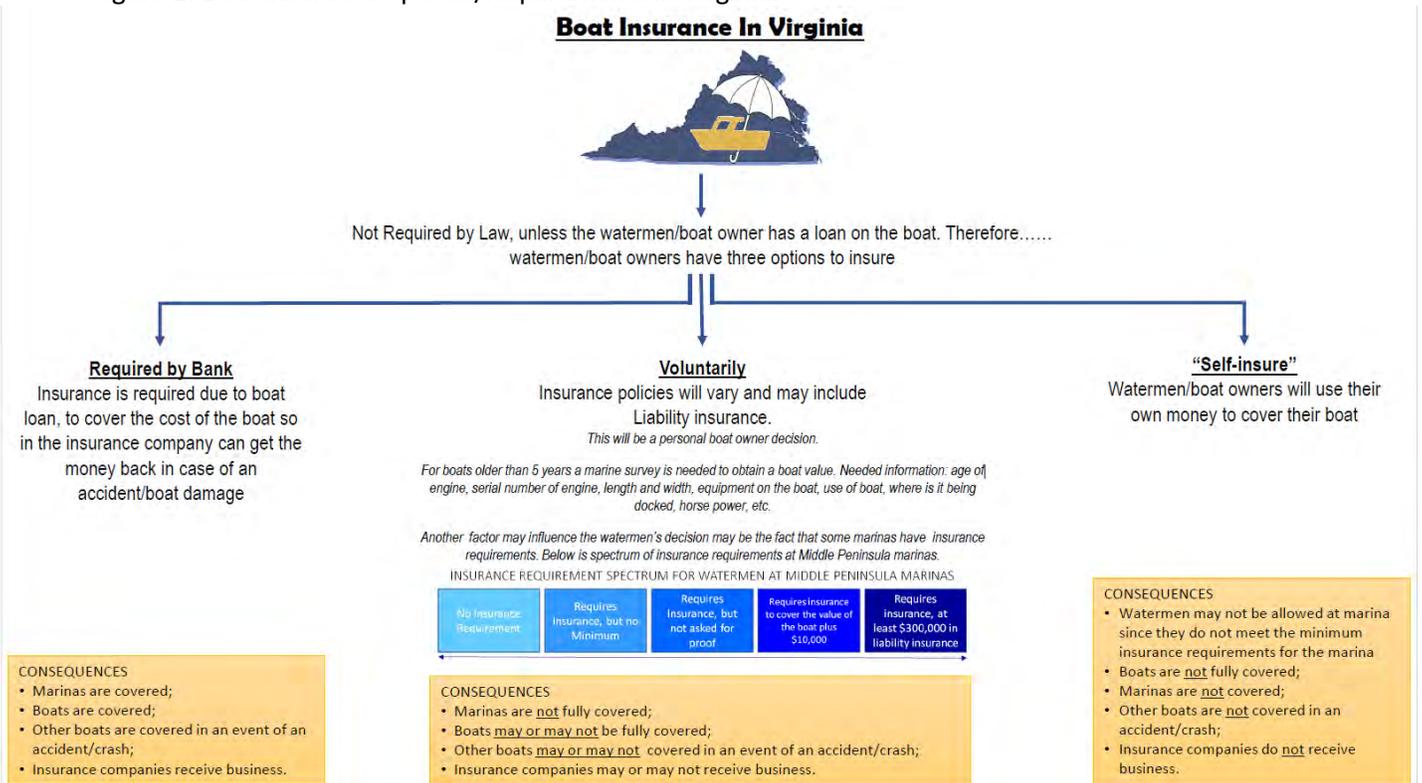


Figure 3 provides an example of cost estimates associated with obtaining boat insurance for commercial workboats.

Figure 3

Example: Boat Insurance & Marine Survey Expenses for Watermen

There are multiple factors that are needed for commercial workboats. For boats older than 5 years a marine survey is needed to gain the value of the boat. Other information needed: age of engine, serial number of engine, length and width, equipment on the boat, what the boat will be used for, where is it being docked, horse power, etc.

The price of marine survey's can vary for workboats depending on the length of the boat and the complexity of the hull and associated systems (i.e. engine, fuel, electrical and steering, etc.).

Charge: ~\$15 per foot
Charge for Watermen: \$10 per foot
*fee can vary between businesses and boats

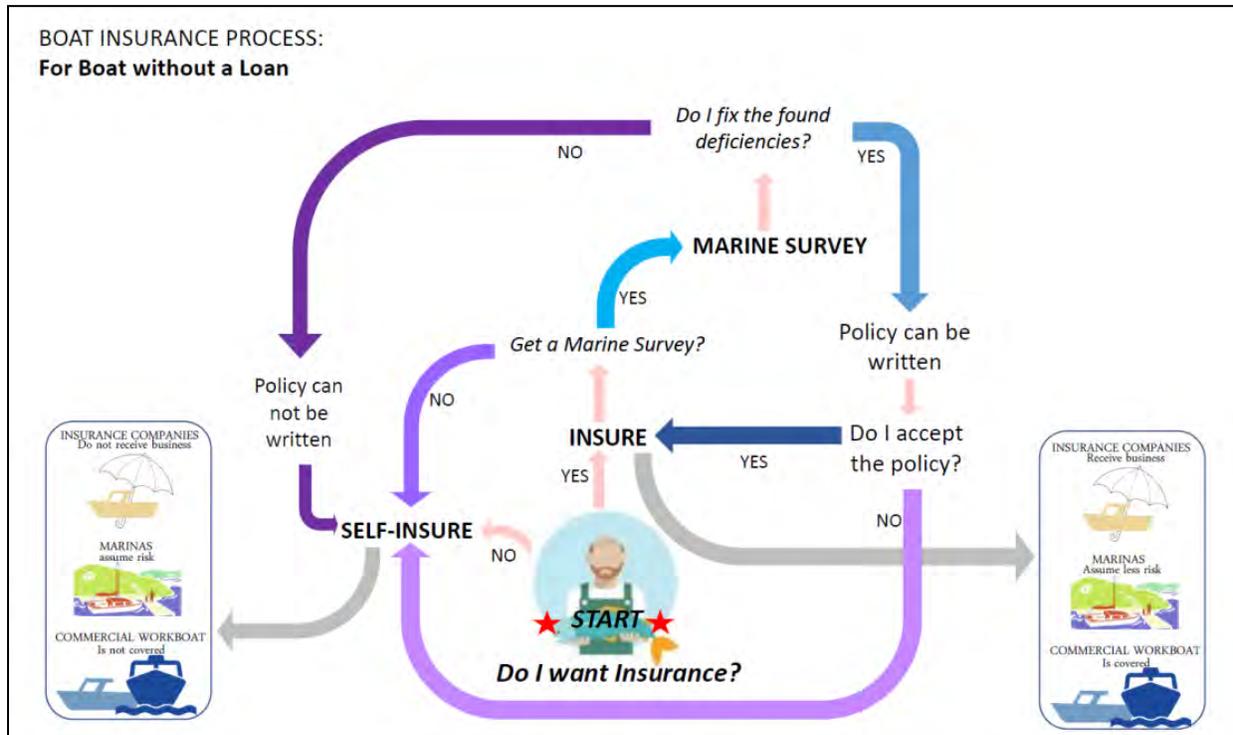
Example: Insurance Need + Marine Survey= Full Compliance

For \$80,000 Insurance Coverage....

Policy holder may pay \$2000-\$3000 per year in premiums
For liability insurance this is an additional \$1000 per year
For a marine survey on a 46ft workboat is approximately \$460

Therefore approximate annual costs for insurance & marine survey = \$3,460 to \$4,460

The Figure 4 is a sample decision tree that watermen may go through when considering to obtain insurance for their commercial workboat. This tree also includes the steps it takes to receive boat insurance.



Product #2: Draft Working Waterfront Protection Legislation

MPPDC staff worked with the Working Waterfronts Steering Committee to review, discuss, and refine legislative tools to improve working waterfronts in coastal Virginia. MPPDC staff researched the marine fuel tax (§58.1-2289) for improvements to commercial wharfs; reviewed funding distribution of Commercial licenses regulations under §3.2-2705 and §28.2-208; and other tools to protect working waterfronts. To summarize the research regarding the Virginia marine fuel tax: Since at least 1994, the unrefunded motor fuels taxes have been transferred to the General Fund in the "name" of funding Chesapeake Bay clean up. Prior to 1994, however, Code of Virginia § 58.1-2289 provided a one and one-half cents per gallon refund on fuel used by commercial fishing, oystering, clamming, and crabbing boats (For more research specifics please visit Appendix A - Meeting 1 - Attachment A). These monies were paid to the Virginia Department of Transportation (VDOT) to be used for the construction, repair, improvement, and maintenance of the public docks of the Commonwealth used by said commercial

watercraft. “Any expenditure for the acquisition, construction, improvement and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine Resources Commission.” Based on this information, MPPDC staff added the following recommendation to the legislative solutions list: ***Redirect the siphoned off marine fuel tax back to the original purpose for which it was created (§ 58.1-2289. Disposition of tax revenue generally). Reestablish a dedicated source of revenue to repair the public infrastructure used by Commercial Watermen across the Commonwealth. Direct that Public Access Authorities receive funds to support publicly owned infrastructure owned by the Access Authorities and or their local governments.***

SIDEBAR: VMRC PLAN - MPPDC staff corresponded with VMRC about the “plan” mentioned in § 58.1-2289 and VMRC responded with a copy of the 1985 plan titled, “VMRC Report on Public Landings.” Within the plan, Highway Department public landings in Virginia were reviewed, including the landings current status, maintenance needs, and other site conditions. The plan also includes priorities for use of State Department of Highway and Transportation funds to improve public docks.

At the second meeting of the Working Waterfront Steering Committee, MPPDC staff presented a list of bills that passed during the 2017 General Assembly Session related directly or indirectly to working waterfronts (Appendix A – Meeting 2 - Attachment 2). At the third meeting of the Working Waterfront Steering Committee discussion ensued regarding legislation ideas for the 2018 General Assembly Session to further improve and protect working waterfront and alternatives to funding for dredging projects. The legislative ideas presented at the meeting, included:

1. **Authorize Virginia Resource Authority (VRA) to specifically loan money to local governments for dredging if the locality agrees to create a dredging taxing district to repay the debt service. For instance, a municipality could purchase a dredge to dredge creeks and channels on the Middle Peninsula, Northern Neck, & Eastern Shore. This could be funded by local tax districts. Member localities would annually fund the dredge operations and set a rotational schedule for dredging and disposal.**
2. **Smart Scale Commonwealth Transportation Board - Amend the statewide prioritization process for project selection to make dredging an eligible expenditure for rural coastal areas. From an economic development perspective, a commercial boat sitting idle is no different than a**

commercial truck sitting idle due to a transportation infrastructure problem. There is a need to make the maritime transportation system work better.

3. **§ 28.2-302.3. Virginia Saltwater Recreational Fishing Development Fund-** Amend to allow for dredging if localities cost share with the Fund. If boats cannot get out of tributaries they cannot fish or fishing activity can only occur in areas with deep water access.
4. **Virginia Port Authority "Aid to Local Ports Program"** – Amend to allow local governments to use port authority funds for local dredging projects if the creeks have commercial seafood activity. Further, allow publicly owned waterfront land to be used as match if the land is dedicated to support water based commerce, including commercial seafood, recreational boating or eco water-based businesses. Leverage public assets for greater utility when cash match isn't readily available.
5. **Local governments implement a Tax Incremental Financing (TIF) District** specific to generating revenue for dredging projects. Modify TIF for rural waterfront blight (property values decrease, loss of tax base) and leverage increased waterfront real-estate tax revenue as matching funds against state dredging dollars.
6. **Legislate a "Waterway Management Fund"** for the exclusive support of the Commonwealth of Virginia's waterway management operations, to keep channels open and safe for the navigation of Virginia's waterways which support our economy and tourism, as well as commercial and recreational fishing vital to the sustainability of Working Waterfronts. (See Appendix B – Meeting 3 – Attachment 3).
7. **Direct Department of Housing and Community Development (DHCD) to develop program guidelines** that will allow the use of Community Development Block Grant (CDBG) funds for rural coastal dredging projects when a locality can document that low income watermen and/or subsistence farmers utilize the river, creek, or cove for commercial fishing. Funding dredging operations should be viewed similarly to funding water and sewer infrastructure for economic development purposes.

Also at the third meeting of the Working Waterfront Steering Committee, the Committee discussed the creation of a Virginia Working Waterfront Steering Committee to continue coordination amongst state and local government representatives, and industry representatives to focus on supporting and improving working waterfronts in coastal Virginia on a continuous basis. Therefore as Delegate Hodges's Rural Coastal Virginia Community Enhancement Authority establishes itself, this Authority may the house of the Committee as working waterfronts is a topic of concern for rural localities.

In order to gain support for legislative solutions MPPDC staff and Delegate Hodges met with Alex Thorup, Director of Policy and Legislation for Kirk Cox, Majority Leader of the Virginia House of Delegates in late August 2017 to review various proposed legislative approaches to address working waterfront concerns. Currently Mr. Thorup is reviewing the legislative approaches with Mr. Cox as to what would be most appropriate to bundle into a legislative package for rural coastal Virginia for the 2018 General Assembly Session.

Product #3: Working Waterfront Inventory Synthesis and Expansion

MPPDC staff worked with Accomack- Northampton, Hampton Roads, and Northern Neck Planning Districts to expand working waterfront inventories to include public landings which watermen currently access. In part, MPPDC staff first reached out to Middle Peninsula locality staff to gather county/town policies associated with watermen's use of county/town owned landings /docks/ piers. The following are a list of Middle Peninsula localities and their current policy:

- A. Essex County: Currently does not own public access infrastructure.

- B. Gloucester County: The ordinance section below has not been used officially, but was adopted by the Gloucester County Board of Supervisors in 1989.

Sec. 21-8. – Wharves.

- (a) Public wharves in Gloucester County are for the use of the general public and shall be open to all vessels both recreational and commercial.
- (b) The board of supervisors may, from time to time, designate certain portions of any wharf or pier owned or controlled by the County of Gloucester for commercial use only, for recreational use only, for recreational use only, for loading or unloading, for overnight mooring, or for any other purpose deemed appropriate by the board.

- (c) Any cargo, vessel, or equipment, or whatsoever kind, placed upon or moored to the wharf or pier shall remain there solely at the risk of the owner and the wharf shall be available for the use of the general public on equal terms with the owner of such property while such property remains on the wharf.
- C. King William County: Does not own public access infrastructure. The comprehensive plan is silent on commercial activity at public access sites in King William County including those owned by Virginia Department of Game and Inland Fisheries (DGIF).
- D. King & Queen County: Only has one fishing pier which is not for commercial use.
- E. Mathews County: The County owns one site, called Towne Point Landing that is managed by DGIF. DGIF manages the site utilizing their policy that when recreational licenses fund public sites then commercial use is restricted; however according to the County Planning Director, commercial activity currently takes place at the landing. At other sites throughout the County, including Old Mill Landing, Edwards Creek, Davis Creek, and Grimpson there are signs that state no docking at night, but the county does not know how DGIF enforces this policy.
- F. Middlesex County: The County does not have a policy related to County Owned public access infrastructure and watermen. In 2016, Middlesex County and MPPDC staff held community meetings to review public access sites and needs. A consistent message from meeting participants was that the County lacks policies with regarding to access sites/docks.
- G. Town of Urbanna: The Town owns the Town Marina and 2 undeveloped road endings. The Town works with commercial watermen during the off season to dock at the marina; however when the summer season rolls around the Town asks watermen to leave in order to accommodate sailboats and transient boaters.
- H. Town of Tappahannock: Does not own public access infrastructure.

- I. Town of West Point: The Town owns Beach Park on 1st Street which is not conducive for use by commercial watermen; however there is not a specific policy addressing watermen's use of this Town owned site.

In addition to understating the local policies for county/town owned public access locations, MPPDC staff reached out to state agencies with public access locations in the Middle Peninsula region to inquire about their policies associated with commercial watermen's use of state owned piers. According to DGIF, recreational license fees (i.e. boaters and anglers) go toward the construction and maintenance of DGIF access locations, so commercial activity is prohibited. DGIF has signs at all ramps stating, "No Trespassing Except to Fish or Launch Boat, Swimming, Camping or Public Display of Alcohol is Prohibited Violators Subject to Arrest." DGIF also has a rule that states there shall be no commercial activities on department owned land. The agency recognizes that many DGIF sites are key historical spots for commercial watermen and if watermen are just launching and retrieving from a trailer and they are not actively participating in a commercial activity or interfering with a recreational boaters in any way it is considered an ancillary use. As an ancillary use, if commercial watermen act as if they are recreational boaters, including having a registration, having paid for motorboat fuel, buying fishing supplies, life vest, and other products that are taxed and help pay for the facilities, they are permitted at the site. If leaving traps, trailers, nets etc. become a problem and ultimately jeopardizes funding, DGIF begin to enforce the trespassing and no commercial activity rule. DGIF-owned lands shall be open to the public for wildlife observation and for hunting, fishing, trapping, and boating (as prescribed by 4VAC15-320-100) under the regulations of the board. Other activities deemed appropriate by the director or his designee may be allowed by posted rules, by written authorization from the director or his designee, or by special permit.

When considering VDOT public access locations, MPPDC staff found that according to §24VAC30-150-20. (B.) *No work of any nature shall be performed on any real property under the ownership, control, or jurisdiction of the board, including but not limited to, the right of way of any highway in the system of state highways until written permission is first obtained from the commissioner. Written permission, under this section, is granted by way of permit except that the letting of a contract by and between the department and any other party grants to that party automatically the permission spoken of in this section for the area under contract, unless otherwise stated in the contract. The Land Use Permit Manual shall set forth specific requirements for such permits. Also* §24VAC30-150-20. (N.) *All areas maintained by the department for parking, picnics, or recreational*

purposes shall be considered as part of the system of state highways for the purpose of these General Rules and Regulations of the board. The rules or regulations governing each area will be duly posted in that area. No person, firm, or corporation shall violate any of these rules or regulations, or both, nor shall they deface, injure, knock down, destroy, or remove any such signs regularly posted. MPPDC staff contacted VDOT on multiple occasions but received no response.

To further expand the working waterfront inventory list, MPPDC staff contracted with Hampton Roads Planning District Commission (HRPDC) to conduct a coarse analysis of working waterfronts sites in the remaining coastal planning districts (i.e. Richmond Regional, George Washington, Northern Virginia, and Crater PDCs). With access to datasets such as Bureau of Labor Statistics Quarterly Census of Employment and Wages, North American Industry Classification System (NAICS) and Standard Industrial Classification, HRPDC created shapefiles and maps of working waterfronts in the four PDCs listed above. This provides a complete inventory of the working waterfront sites in coastal Virginia that will be utilized by GEMS. Appendix B provides a detailed description of the work completed by HRPDC as well as maps.

Conclusion:

Through continued efforts to improve working waterfronts in coastal Virginia, this project created an opportunity to discuss legislative solutions to improve and support working waterfronts. MPPDC staff also explored the creation of either a state sponsored uninsured “motorist” program for workboats or a self-funded insurance program for workboats; however based on the research MPPDC staff concluded that there was not a need for an uninsured workboat program since insurance is readily available for commercial workboats. These solutions and research help to move Virginia working waterfronts in a direction that coincides with the Virginia Working Waterfront Master Plan adopted by coastal PDCs in 2016.

**Appendix A:
WORKING WATERFRONT STEERING COMMITTEE MEETING PACKETS**

Meeting 1: Email Meeting Packet – February 21, 2017

Dear Working Waterfront Steering Committee,

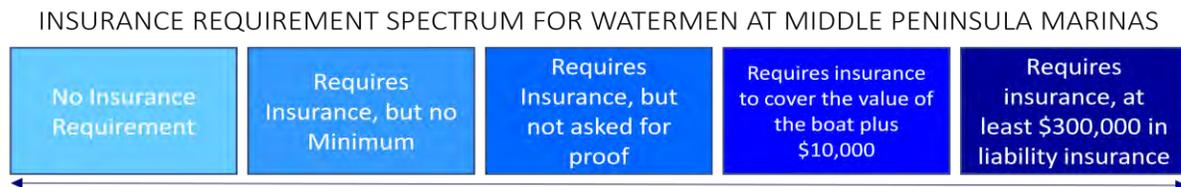
Instead of calling a face-to-face meeting while the General Assembly is still in session, I thought we could have an email meeting so I can share the progress that has been made since October on the Working Waterfront Project. Once the GA session is over, we will schedule a meeting face-to-face to discuss the outcomes of the GA and how we would like to proceed with working waterfront legislation in 2018.

PROJECT UPDATES:

Below are the products from the current Working Waterfronts Projects and the summary of what has occurred to-date.

1. Product #1: Study focused on an uninsured workboat program

Contacted local marinas throughout the Middle Peninsula to understand if they allow watermen to use their facilities and if so, what insurance requirements do they require. From the 16 Middle Peninsula marina’s contacted 11 allowed watermen to use their facilities. Below is the spectrum of their insurance requirements:



With an understanding of some insurance requirements at Middle Peninsula marinas, MPPDC staff called a few local insurance companies to understand what factors are figured into getting boat insurance. Factors include, age of boat, use, equipment on the boat, serial number on the engine, length and width, etc. Other questions explored and answered from the insurance company:

MPPDC Staff Question: Are there factors that would make a workboat ineligible for insurance? If they have missing information on their application, do they become ineligible for insurance?

Insurance Company: *The overall condition of the vessel is important. If the vessel is not properly maintained, especially wooden boats, they are not eligible. Most insurance carriers want to see a recent marine survey by a qualified, certified individual if the application is for new business. Then they want to have the vessel owner confirm that all of the recommendations on the survey have been satisfied. Once this has been confirmed the insurance carrier will not require another survey for 5 years. However, if the survey recommendations are not resolved the application will not move forward and the result will be a declination to offer a quote. The carrier will want the HIN # and specific information on the power unit(s), including serial numbers. They want to make sure of what they are insuring. If the applicant has had prior boat insurance the carrier would want to know if there had been any claims/losses and the particulars of any claims. This would give an indication if the applicant operates the vessel in a safe manner. Some carriers pull the driving record of the individuals listed on the application as operators of the vessel. Poor driving records can become an issue. Also, they will want to have a list of navigation aids on the vessel (i.e. GPS, radar, VHF radio, depth finder, etc.).*

MPPDC staff Question: Of the watermen that call you do they all receive policies? Do you ever need to deny watermen from getting a policy and if so what would contribute to this?

Insurance Company: *Not all applicants receive a quote or a policy. Those that do not receive a quote either did not provide the necessary information or the information provided led to a declination to quote. Some receive a quote but do not want to pay the premium.*

MPPDC Staff Question: When a commercial workboat has a note on their boat what type of insurance does the bank require? Does this include liability insurance?

Insurance Company: *The banks require that the boat owner carry insurance on the vessel so in the event of a loss they can cover the loan. The banks require that they be listed on the boat owner's policy as a loss payee. Liability coverage can be included on the same policy but the bank's interest is to make sure there is coverage on the vessel.*

MPPDC Staff Question: For boats more than 5 years old a survey is required, how much does this generally cost?

Insurance Company: *This would vary depending on who does the survey and the size of the vessel. Most marine surveyors base their fee on the length of the vessel times their rate. Sorry I cannot be more specific.*

Next steps to complete this product include the development of a diagram that summarizes and connects the information gathered to-date.

2. Product #2: Draft Working Waterfront Protection Legislation

Researched the marine fuel tax (§28.2-208) and the Marine Fishing Improvement Fund (§3.2-2705) to begin to understand the how fees and taxes are distributed for improvements of commercial wharfs.

A. Attachment A includes my research of marine fuel tax. However to summarize:

Since at least 1994, unrefunded motor fuels taxes have been transferred to the General Fund in the "name" of funding Chesapeake Bay clean up.

Prior to 1994, however, Code of Virginia § 58.1-2289 provided a one and one-half cents per gallon refund on fuel used by commercial fishing, oystering, clamming, and crabbing boats. These monies were paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of the Commonwealth used by said commercial watercraft. "Any expenditure for the acquisition, construction, improvement and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine Resources Commission."

MPPDC staff asked VMRC about the "plan" mentioned in § 58.1-2289 and VMRC responded that there is a copy of the plan, from the late 80's. Tony Watkinson (VMRC) will send a copy of the plan to the MPPDC. Once this is received I will forward this along to the Working Waterfront Steering Committee.

B. Virginia Marine Products Fund (§3.2-2705)

All moneys collected and allocated from marine fisheries license fees are paid into the state treasury and credited to the Virginia Marine Products Fund. Interest earned on moneys in the Fund will remain in the Fund and be credited to it. Any moneys remaining in the Fund, at the end of each fiscal year will remain in the Fund. Expenditures and disbursements from the Fund shall be made by the Marine Products Board on warrants issued by the Comptroller upon written request signed by the duly authorized officer of the Marine Products Board.

Powers and duties of the Marine Products Board include:

- a. plan and conduct marketing, educational, and promotional campaigns and programs for Virginia marine products; (ii) carry on research and testing programs; and (iii) conduct activities relating to the catching, processing, conservation, and marketing of Virginia marine products.
- b. investigate, study, and formulate recommendations regarding regulation, conservation, and management of marine resources of the Commonwealth.
- c. make contracts and expend money from the Virginia Marine Products Fund necessary to carry out the purposes of this chapter. The contracts, debts, and liabilities of the Marine Products Board shall not be an obligation of the Commonwealth, but shall be met utilizing the sums paid into the Virginia Marine Products Fund.
- d. cooperate with other state, regional, and national seafood organizations in research, advertising, publicity, education, and other means of promoting the sale and use of seafood, and may expend moneys of the Virginia Marine Products Fund for such purposes.

C. Legislation still active in the 2017 GA relating to Working Waterfronts:

- SB1203 Working Waterfront Development Areas
- SB1205 Commercial fishing vessels; classifies vessels as separate class of property

After the General Assembly session ends we will discuss the GA outcomes and create a direction for working waterfront legislation for 2018.

3. Product #3: Working Waterfront Inventory Synthesis and Expansion

According to the project scope of work, *MPPDC staff will work with the Accomack-Northampton, Hampton Roads, and Northern Neck Planning Districts to expand working waterfront inventories to include public landings which watermen currently access.* Didn't we already gather this information in previous efforts?

I have consulted with Virginia Department of Game and Inland Fisheries (DGIF) to understand their position(S) on waterman uses of DGIF sites. According to DGIF, since all funding for public boat ramps comes from recreational fishing and boat licenses, commercial activity at these sites is prohibited.

MPPDC contracted with Hampton Roads PDC to conduct a coarse analysis on working waterfront sites in the remaining coastal planning districts.

**Attachment A:
UNDERSTANDING FUEL TAX IN VIRGINIA**

In 2010, Anne Omen at Legislative House Appropriations sent an email to Delegate Harvey Morgan discussing the Marine Fuel Tax (58.1-2289):

I spoke with the folks at DPB and did some historic research, and this transfer of the unrefunded motor fuels has been transferred to the GF in the "name" of funding Chesapeake Bay clean up since at least 1994. It is essentially a general fund supplant, similar to saying that ABC profits go to substance abuse treatment - in essence the availability of those monies allow for the reduction of other GFs that would be needed to fund the same activities.

In terms of the marine fuel, this would be especially hard to "un-do" given that since fuel taxation has been moved to the terminal rack, it is difficult to estimate how much is going for such purposes. And because a set amount is transferred each year (that may or may not correlate to the unrefunded marine fuels taxed) no estimates have been done for years.

I know this doesn't help in terms of funding the projects your PDC is looking at, but hope it provides the historic perspective – essentially there is has been no funding for this since efforts were begun in earnest to clean up the Chesapeake Bay and additional funds were required for that purpose.

Let me know if you have any further questions.

Anne

Prior to 1994....

The Code of Virginia provided a revenue stream from marine fuel tax to improve public docks and piers. (The text highlighted in yellow provides a quick look at the most relevant sections of regulations)

§ 58.1-2289. (For contingent expiration, see note) Disposition of tax revenue generally.

D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the purposes provided generally in subsection C of § [29.1-701](#), including acquisition, construction, improvement and maintenance of public boating access areas on the public waters of this Commonwealth and for other activities and purposes of direct benefit and interest to the boating public and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of this Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction, improvement and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine Resources Commission.

From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for the propelling of watercraft, after deduction for lawful refunds, there shall be paid into the state treasury for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental improvements including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § [33.2-1510](#), a sum as established by the General Assembly.

Administrative Code:**FUEL TAX REFUND****§ 58.1-2259 Fuel uses eligible for refund of taxes paid for motor fuels**

A. A refund of the tax paid for the purchase of fuel in quantities of five gallons or more at any time shall be granted in accordance with the provisions of § [58.1-2261](#) to any person who establishes to the satisfaction of the Commissioner that such person has paid the tax levied pursuant to this chapter upon any fuel:

1. Sold and delivered to a governmental entity for its exclusive use;
2. Used by a governmental entity, provided persons operating under contract with a governmental entity shall not be eligible for such refund;
3. Sold and delivered to an organization described in subdivision 2 of § [58.1-2226](#) or subdivision 2 of § [58.1-2250](#) for its exclusive use in the operation of an aircraft;
4. Used by an organization described in subdivision 2 of § [58.1-2226](#) or subdivision 2 of § [58.1-2250](#) for its exclusive use in the operation of an aircraft, provided persons operating under contract with such an organization shall not be eligible for such refund;
5. Purchased by a licensed exporter and subsequently transported and delivered by such licensed exporter to another state for sales or use outside the boundaries of the Commonwealth if the tax applicable in the destination state has been paid, provided a refund shall not be granted pursuant to this section on any fuel which is transported and delivered outside of the Commonwealth in the fuel supply tank of a highway vehicle or an aircraft;
6. Used by any person performing transportation under contract or lease with any transportation district for use in a highway vehicle controlled by a transportation district created under the Transportation District Act of 1964 (§ [33.2-1900](#) et seq.) and used in providing transit service by the transportation district by contract or lease, provided the refund shall be paid to the person performing such transportation;
7. Used by any private, nonprofit agency on aging, designated by the Department for Aging and Rehabilitative Services, providing transportation services to citizens in highway vehicles owned, operated or under contract with such agency;
8. Used in operating or propelling highway vehicles owned by a nonprofit organization that provides specialized transportation to various locations for elderly or disabled individuals to secure essential services and to participate in community life according to the individual's interest and abilities;
9. Used in operating or propelling buses owned and operated by a county or the school board thereof while being used to transport children to and from public school or from school to and from educational or athletic activities;
10. Used by buses owned or solely used by a private, nonprofit, nonreligious school while being used to transport children to and from such school or from such school to and from educational or athletic activities;

11. Used by any county or city school board or any private, nonprofit, nonreligious school contracting with a private carrier to transport children to and from public schools or any private, nonprofit, nonreligious school, provided the tax shall be refunded to the private carrier performing such transportation;
12. Used in operating or propelling the equipment of volunteer firefighting companies and of volunteer emergency medical services agencies within the Commonwealth used actually and necessarily for firefighting and emergency medical services purposes;
13. Used in operating or propelling motor equipment belonging to counties, cities and towns, if actually used in public activities;
14. Used for a purpose other than in operating or propelling highway vehicles, watercraft or aircraft;
15. Used off-highway in self-propelled equipment manufactured for a specific off-road purpose, which is used on a job site and the movement of which on any highway is incidental to the purpose for which it was designed and manufactured;
16. Proven to be lost by accident, including the accidental mixing of (i) dyed diesel fuel with tax-paid motor fuel, (ii) gasoline with diesel fuel, or (iii) undyed diesel fuel with dyed kerosene, but excluding fuel lost through personal negligence or theft;
17. Used in operating or propelling vehicles used solely for racing other vehicles on a racetrack;
18. Used in operating or propelling unlicensed highway vehicles and other unlicensed equipment used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner or lessee of such vehicles and not operated on or over any highway for any purpose other than to move it in the manner and for the purpose mentioned. The amount of refund shall be equal to the amount of the taxes paid less one-half cent per gallon on such fuel so used which shall be paid by the Commissioner into the state treasury to the credit of the Virginia Agricultural Foundation Fund;
19. Used in operating or propelling commercial watercraft. The amount of refund shall be equal to the amount of the taxes paid less one and one-half cents per gallon on such fuel so used which shall be paid by the Commissioner into the state treasury to be credited as provided in subsection D of § 58.1-2289. If any applicant so requests, the Commissioner shall pay into the state treasury, to the credit of the Game Protection Fund, the entire tax paid by such applicant for the purposes specified in subsection D of § 58.1-2289. If any applicant who is an operator of commercial watercraft so requests, the Commissioner shall pay into the state treasury, to the credit of the Marine Fishing Improvement Fund, the entire tax paid by such applicant for the purposes specified in § 28.2-208;
20. Used in operating stationary engines, or pumping or mixing equipment on a highway vehicle if the fuel used to operate such equipment is stored in an auxiliary tank separate from the fuel tank used to propel the highway vehicle, and the highway vehicle is mechanically incapable of self-propulsion while fuel is being used from the auxiliary tank;
21. Used in operating or propelling recreational and pleasure watercraft; or
22. Used in operating or propelling highway vehicles owned by any entity that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code, as amended or renumbered, and organized with a principal purpose of providing hunger relief services or food to the needy, if such vehicle is used solely for the purpose of providing hunger relief services or food to the needy.

Fuels (gasoline, diesel fuel, blended fuel, alternative fuel and aviation fuel) that are purchased in Virginia and used for specific purposes, may be eligible for a refund of all or part of the Virginia motor fuels tax

that was paid. Refund applications must be received by DMV within twelve months of the date that the fuel was purchased. For the applicable fuels tax rates, refer to Fuels Tax Rates.

Fuels receipts and other documents are required for first time refund applicants, except those applicants submitting diesel vehicle refund claims. All applicants are required to maintain records to support their refund claim for a period of four years. DMV may request the fuel receipts and other documents to support your refund claim at any time. (VA Code § 58.1-2261 D). Failure to provide such supporting documents upon request may result in the denial or reversal of your refund claim(s). Photocopies, scanned copies or other electronic images of the invoices/receipts are acceptable, as long as they can be provided to DMV when requested and are legible.

IMPORTANT: Persons refunded the fuels tax under § 58.1-2259 shall be subject to the retail sales and use tax in Chapter 6 (§ 58.1-600 et seq) of the Code of VA unless such taxes are specially exempt under § 58.1-609.1.



FUELS TAX REFUND APPLICATION
FUEL USED IN BOATS OR WATERCRAFT

TS 217 (07/25/2014)

Save Paper, Go Green!

This form is not required if you apply online at www.dmvNow.com.

Purpose: Use this form to apply for a fuels tax refund on fuel used in boats or watercraft.
Instructions: Follow the instructions on the reverse side of this form. Mail the completed application to DMV, Tax Services Refund Section, P.O. Box 27422, Richmond, VA 23269-7422. Incomplete applications may not be processed.

APPLICANT/BOAT/WATERCRAFT INFORMATION			
APPLICANT FULL LEGAL NAME (print) (last) (first) (mi) (suffix)			SOCIAL SECURITY NUMBER/FEIN
ADDRESS		CITY	STATE ZIP CODE
TELEPHONE NUMBER () () () () () ()	FAX NUMBER () () () () () ()	EMAIL ADDRESS	
BULK FUEL STORAGE 1. Do you have a bulk fuel storage tank(s)? <input type="checkbox"/> YES <input type="checkbox"/> NO		2. Do you use the fuel in this storage tank(s) for uses other than in boats or watercraft? <input type="checkbox"/> YES <input type="checkbox"/> NO	
BOAT REGISTRATION/CERTIFICATION NUMBER(S)		BOAT OWNER NAME (if different from applicant name)	
BOAT REGISTRATION Is this boat validly registered with the Virginia Game and Inland Fisheries? <input type="checkbox"/> YES <input type="checkbox"/> NO If no, attach a copy of the boat registration or Coast Guard certificate.			

FUEL USE/REFUND CLAIMS
 Effective July 1, 2013, fuel tax rates may change every six months. Gallons used must be entered in the correct Claim Period so that your refund is calculated at the proper rate.

Recreational and Pleasure Boats

Claim Period - January 1 - June 30	Diesel Gallons Used	Gasoline Gallons Used	Other Gallons Used (indicate fuel type)
BEGIN DATE (mm/dd/yyyy)			
END DATE (mm/dd/yyyy)			
Claim Period - July 1 - December 31	Diesel Gallons Used	Gasoline Gallons Used	Other Gallons Used (indicate fuel type)
BEGIN DATE (mm/dd/yyyy)			
END DATE (mm/dd/yyyy)			

Commercial Fishing (check all that apply): Clamming Crabbing Fishing Oystering

Claim Period - January 1 - June 30	Diesel Gallons Used	Gasoline Gallons Used	Other Gallons Used (indicate fuel type)
BEGIN DATE (mm/dd/yyyy)			
END DATE (mm/dd/yyyy)			
Claim Period - July 1 - December 31	Diesel Gallons Used	Gasoline Gallons Used	Other Gallons Used (indicate fuel type)
BEGIN DATE (mm/dd/yyyy)			
END DATE (mm/dd/yyyy)			

Commercial Watercraft (check all that apply): Charter Construction Ferry Water Taxi
 Other (describe): _____

Claim Period - January 1 - June 30	Diesel Gallons Used	Gasoline Gallons Used	Other Gallons Used (indicate fuel type)
BEGIN DATE (mm/dd/yyyy)			
END DATE (mm/dd/yyyy)			
Claim Period - July 1 - December 31	Diesel Gallons Used	Gasoline Gallons Used	Other Gallons Used (indicate fuel type)
BEGIN DATE (mm/dd/yyyy)			
END DATE (mm/dd/yyyy)			

CERTIFICATION
 I certify and affirm that all information presented in this form is true and correct, that any documents I have presented to DMV are genuine, and that the information included in all supporting documentation is true and accurate. I make this certification and affirmation under penalty of perjury and I understand that knowingly making a false statement or representation on this form is a criminal violation.

NAME (print)	TITLE
AUTHORIZED SIGNATURE	DATE (mm/dd/yyyy)

DMV USE ONLY

REFUND CODE/GALLONS REFUNDED	REFUND CODE/GALLONS REFUNDED	REFUND CODE/GALLONS REFUNDED	REFUND CODE/GALLONS REFUNDED
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INSTRUCTIONS
GENERAL INFORMATION To submit this application online use DMV's website, www.dmvNOW.com. - click "Online Services" - scroll to "Payments and Refunds" - scroll to "Fuels Tax Refund" and, - click "Logon" to access your account and submit your refund application or, - click "Register for MyFuels Tax Refund Account" to establish "Customer Registration" (a new account) and submit your refund application. To complete and mail this application, continue to follow the instructions below.
APPLICANT/BOAT/WATERCRAFT INFORMATION SECTION Complete applicant information and answer the bulk fuel storage questions. If you answered YES to bulk fuel storage question 2 you must submit a fuel disbursement list. This list must show the date, number of gallons and the vehicle/equipment in which the fuel was used. Enter boat/watercraft information and answer the boat/watercraft registration question. If the boat/watercraft is not registered with the Virginia Game and Inland Fisheries, attach a copy of the boat registration or Coast Guard Certification.
FUEL USE AND REFUND CLAIMS NOTE: Effective July 1, 2013, tax rates for fuel will change every six months (time period). Fuel gallons must be entered into the correct time period to receive the applicable tax rate refund for that time period. Check the box(es) that best describes your boat/watercraft use. For each claim period enter the begin and end date and number of gallons used during the appropriate claim period in the columns under Fuel Type Used (diesel, gasoline or other).
CERTIFICATION Read and complete the Certification section. Refunds will not be processed without a signed certification.
FINALIZE Mail completed application and supporting documents to DMV, Tax Services Refund Section, P. O. Box 27422, Richmond, Virginia 23269-7422. The postmark date on your mailed application is recorded as the date DMV received your application. NOTE: First-time refund applicants must include all invoices/tickets/receipts that support their refund claim.

INVOICE/TICKET/RECEIPT REQUIREMENTS
Receipts, tickets, or invoices used to support your refund claim must be dated within the 12 month period preceding the date DMV receives your application. Invoices/tickets/receipts must meet the following requirements: <ul style="list-style-type: none">• must be for fuel purchased in Virginia in amounts of 5 gallons or more and which support the amounts entered on your application• indicate the exact date of purchase (month/day/year)• include the number of gallons and type of fuel purchased• show the amount paid for the fuel• include the seller's name and location address• must be readable - illegible, altered or duplicate invoices/tickets/receipts will not be accepted• must be submitted in date order• credit card receipts must indicate that the transaction was for a fuel purchase and also meet the above requirements

RECORD KEEPING
Invoices/tickets/receipts and fuel disbursement lists (if applicable) that support your application must be retained for 4 years from the date DMV receives the refund application (Virginia Code § 58.1-2261). You may be requested to provide such documentation to DMV at any time during this 4 year period either before or after the refund is paid. Failure to provide the requested documentation will result in the denial or reversal of your refund.

DMV CONTACT INFORMATION
DMV DIRECT: (804) 497-7100 TTY (Deaf or hearing impaired only): 1-800-272-8268 Hours: Monday through Friday, 8:00 am to 5:00 pm, Saturday 8:00 am to 12:00 pm SECURE EMAIL: www.dmvNOW.com, Home page click "contact Us", scroll down to "Email", click "Secure Online Form"

§ 58.1-2261 Refund procedure; investigations

A. Any person entitled to a refund pursuant to § 58.1-2259 shall file with the Commissioner an application on a form prepared and furnished by the Commissioner. Such application shall contain the information and certifications required by the Commissioner. The applicant shall set forth the basis for the claimed refund, the total amount of such fuel purchased and used by such applicant, and how such fuel was used. The applicant shall retain the paid ticket, invoice, or other document from the seller documenting the purchase of the fuel on which a refund is claimed for a period of time to be determined by the Commissioner. The Commissioner, upon the presentation of such application shall refund to the claimant the proper amount of the tax paid as provided in this chapter, subject to the

provisions of subsection D. A ticket issued to the holder of a credit card as evidence of the delivery to such holder of tax-paid fuel shall, for the purpose of this section, be a paid ticket or invoice. Tickets or invoices marked “duplicate” shall not be acceptable.

B. The application for a refund shall be filed within one year from the date of the sale as shown on the paid ticket or invoice. For those that pay the motor fuels tax in accordance with § [58.1-2200](#), if the refund amount certified by the Commissioner is different from the amount requested by the applicant, the Commissioner shall provide an explanation to the applicant of why the refund amount differs from the amount requested.

RECOMMENDATIONS To MOVE FORWARD:

- Redirect the siphoned off marine fuel tax back to the original purpose for which it was created (§ 58.1-2289. Disposition of tax revenue generally). Reestablish a dedicated source of revenue to repair the public infrastructure used by Commercial Watermen across the Commonwealth. Direct that Public Access Authorities receive funds to support publicly owned infrastructure owned by the Access Authorities and or their local governments.

Meeting 2: Meeting Packet – April 12, 2017

Working Waterfront Steering Committee

April 12, 2017

At the College of William and Mary

10 A.M.

AGENDA

1. Welcome
2. Project Updates
 - a. Boat Insurance
 - b. Commercial Access to Public Infrastructure
 - c. Public Access Inventory Expansion– Ben McFarlane, Hampton Road PDC
3. Legislation Discussion
 - a. 2017 GA Session Review
 - b. Proposing new legislation
4. Go VA Working Waterfront Project Ideas to Advocate
5. Other Topics?
6. Next steps and meeting

Working Waterfront Steering Committee

April 12, 2017

At the College of William and Mary

10 A.M.

Meeting Minutes

1. Welcome

The Middle Peninsula Planning District Commission staff hosted a meeting of the Working Waterfront Steering Committee on the campus of College of William and Mary on April 12, 2017 at 10am. Those in attendance included Beth Polak, Virginia Coastal Zone Management Program; Anne Smith, Virginia Clean Marina Program; Don McCann, Marine Advisory Services; John Bateman, Northern Neck Planning District Commission; and Middle Peninsula Planning District Commission (MPPDC) Staff, Lewis Lawrence, and Jackie Rickards. Others in attendance include Elizabeth Andrews, Director of Virginia Coastal Policy Center and Virginia Coastal Policy Center students including Mike Zielinski, Victor Unnone, and Peter Quinn Jacobs. Finally, Shannon Alexander, Hampton Roads Planning District Commission and Ben McFarlane, Hampton Roads Planning District Commission called into the conference line.

2. Project Updates

a. Boat Insurance

Ms. Rickards explained that since the start of this project there have been anecdotal stories about how watermen and workboats cannot get insurance. However based on research of boat insurance Ms. Rickards found that boat insurance is available, but ultimately depends on whether or not the watermen wants to go through the process in order to get the policy. The process may include getting a marine survey and fixing deficiencies to bring the boat into compliance with Federal Regulations, State Regulations, American Boat and Yacht Council, and National Fire Protection. If deficiencies are addressed then the watermen/boat owner will then be eligible to have an insurance policy written.

Ms. Rickards reviewed research with the Committee regarding boat insurance that was gathered since the start of the project. Ms. Rickards used 4 diagrams in Attachment A to help explain. The first diagram depicts the insurance options that watermen have to insure their workboat including (a) Bank requiring insurance on boat due to a boat loan, (a) Voluntarily insure and (c) Self-insure. The second and third diagram breaks down the insurance options a. and b. listed above. Specifically

the third diagram helps to clarify voluntarily insuring a workboat which may be influenced by factors and questions. The final diagram provided an example of boat insurance for \$80,000 coverage.

Meeting participants discussed the interest in exploring how Virginia may be able to develop a program to supplement marinas to designate spaces at their marina for working watermen. A survey could be developed to request feedback from the following questions:

- Do you allow watermen at your marina?
- What would you need in order for watermen to dock/moor at your facilities?
- Does your facility have space to store watermen gear?

Meeting participants also discussed looking into Maryland's Working Waterfront Program to understand how they are managing working waterfronts within their State, including regulations, policies, actions, and funding sources.

b. Commercial Access to Public Infrastructure

As part of the current Virginia Coastal Zone Management Program project through the MPPDC, a deliverable entails expanding working waterfront inventories to include public landings which watermen currently access. Ms. Rickards shared that all Middle Peninsula localities were contacted and asked if they have policies that speak to watermen's use of public landing/access locations. For all localities, with the exception of Gloucester County, they do not have associated policies. In Gloucester County they have an ordinance that allows commercial use of sections of public landing:

Sec. 21-8. – Wharves.

(a.) Public wharves in Gloucester County are for the use of the general public and shall be open to all vessels both recreational and commercial.

(b.) The board of supervisors may, from time to time, designate certain proportions of any wharf as pier owned or controlled by the County of Gloucester for commercial use only, for recreational use only, for recreational use only, for loading or unloading, for overnight mooring, or for any other purpose deemed appropriate by the board.

(c.) Any cargo, vessel, or equipment, or whatsoever kind, placed upon or moored to the wharf or pier shall remain there solely at the risk of the owner, and the wharf shall be available for the use of the general public on equal terms with the owner of such property while such property remains on the wharf.

Even though the locality has this ordinance on file there may be Virginia Department of Health Sanitation regulations that need to be met in order the commercial activity to take place.

Ms. Rickards also shared that she reached out to Virginia Department of Game and Inland Fisheries (DGIF) and the Virginia Department of Transportation (VDOT) to understand their policies regarding watermen's use of their public landings/docks. According to DGIF Boating access sites are built and maintained with funds from the recreational boaters and anglers that are earmarked specifically for that purpose. DGIF has a sign at all of its ramps stating, "No Trespassing Except to Fish or Launch Boat, Swimming, Camping or Public Display of Alcohol is Prohibited Violators Subject to Arrest." DGIF also have a rule that states there shall be no commercial activities on department owned land. However DGIF recognizes that many of our sites are key historical spots for commercial watermen and if watermen are just launching and retrieving from a trailer and they are not actively participating in a commercial activity or interfering with a recreational boaters in any way it is considered an ancillary use and they are acting just as if they were a recreational boater (ie. have registration, paid for motorboat fuel, bought fishing supplies, life vest and other products that are taxed and help pay for the facilities). If it becomes a problem with leaving traps, trailers, nets etc. then it could jeopardize DGIF funding and would, therefore, have to take it seriously and enforce the trespassing and no commercial activities. According to VDOT regulations (24VAC30-150-20 B.), *No work of any nature shall be performed on any real property under the ownership, control or jurisdiction of the board, including but not limited to, the right of way to any highway in the system of state highways until written permission is first obtained from the commissioners. Written permission, under this section, is granted by way of permit except that the letting of contract by and between the department and any other party grants to the party automatically this permission spoken of in this section for the area under contract, unless otherwise stated in the contract. The Land Use Permit Manual shall set forth specific requirements for such permits.*

c. Public Access Inventory Expansion– Ben McFarlane, Hampton Road PDC

Mr. Ben McFarlane provided the Committee with update about the public access inventory that he is conducting for the Richmond Regional, George Washington, Northern Virginia and Crater Planning District Commissions.

3. Legislation Discussion

a. 2017 GA Session Review

Ms. Rickards are reviewed a list of legislation that was introduced and passed during the 2017 General Assembly session. The list of legislation can be found in Attachment 2.

b. Proposing new legislation

Ms. Rickards explained that this project includes goals to develop new legislation for working waterfronts. Therefore, if committee members want to develop new legislation than it can be worked on through this project.

4. GO VA Working Waterfront Project Ideas to Advocate

Ms. Rickards explained that the GO Virginia is an initiative to create higher paying jobs in Virginia through business-led regional collaboration. With GO Virginia regional councils starting to meet and discuss projects to be funded, Ms. Rickards asked the group if this Working Waterfront Committee should submit a project idea associated with working waterfronts. Ms. Rickards also shared that there is a GO Virginia Initiation meeting scheduled on April 20, 2017.

5. Other Topics?

None.

6. Next steps and meeting

The next meeting will be determined at a later date.

Boat Insurance In Virginia



Not Required by Law, unless the watermen/boat owner has a loan on the boat. Therefore..... watermen/boat owners have three options to insure

Required by Bank

Insurance is required due to boat loan, to cover the cost of the boat so in the insurance company can get the money back in case of an accident/boat damage

Voluntarily

Insurance policies will vary and may include Liability insurance.

This will be a personal boat owner decision.

For boats older than 5 years a marine survey is needed to obtain a boat value. Needed information: age of engine, serial number of engine, length and width, equipment on the boat, use of boat, where is it being docked, horse power, etc.

Another factor may influence the watermen's decision may be the fact that some marinas have insurance requirements. Below is spectrum of insurance requirements at Middle Peninsula marinas.

INSURANCE REQUIREMENT SPECTRUM FOR WATERMEN AT MIDDLE PENINSULA MARINAS



CONSEQUENCES

- Marinas are covered;
- Boats are covered;
- Other boats are covered in an event of an accident/crash;
- Insurance companies receive business.

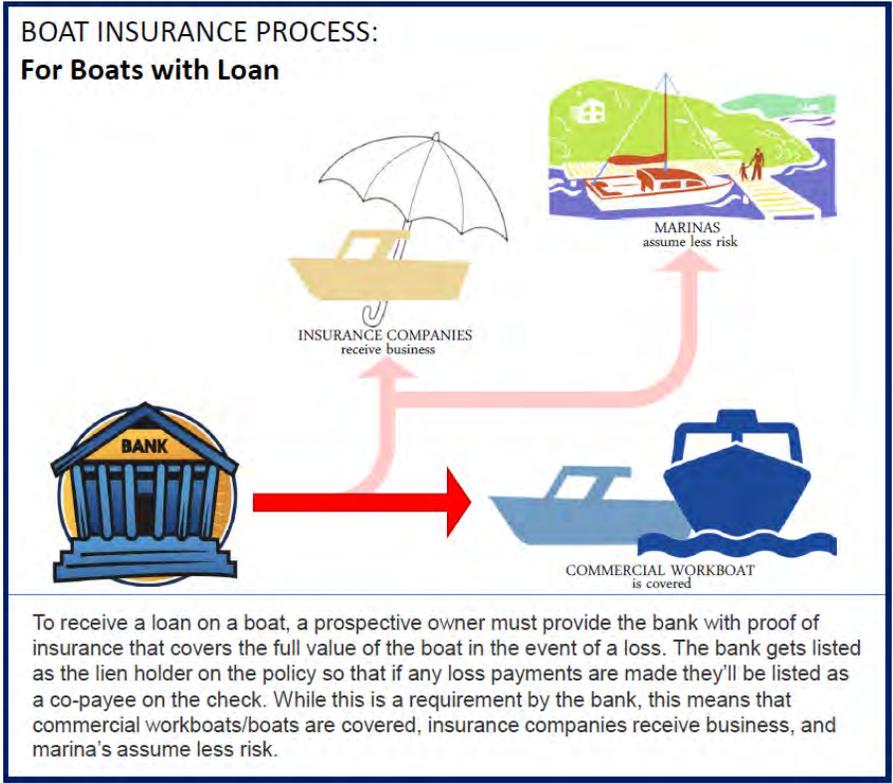
CONSEQUENCES

- Marinas are not fully covered;
- Boats may or may not be fully covered;
- Other boats may or may not be covered in an event of an accident/crash;
- Insurance companies may or may not receive business.

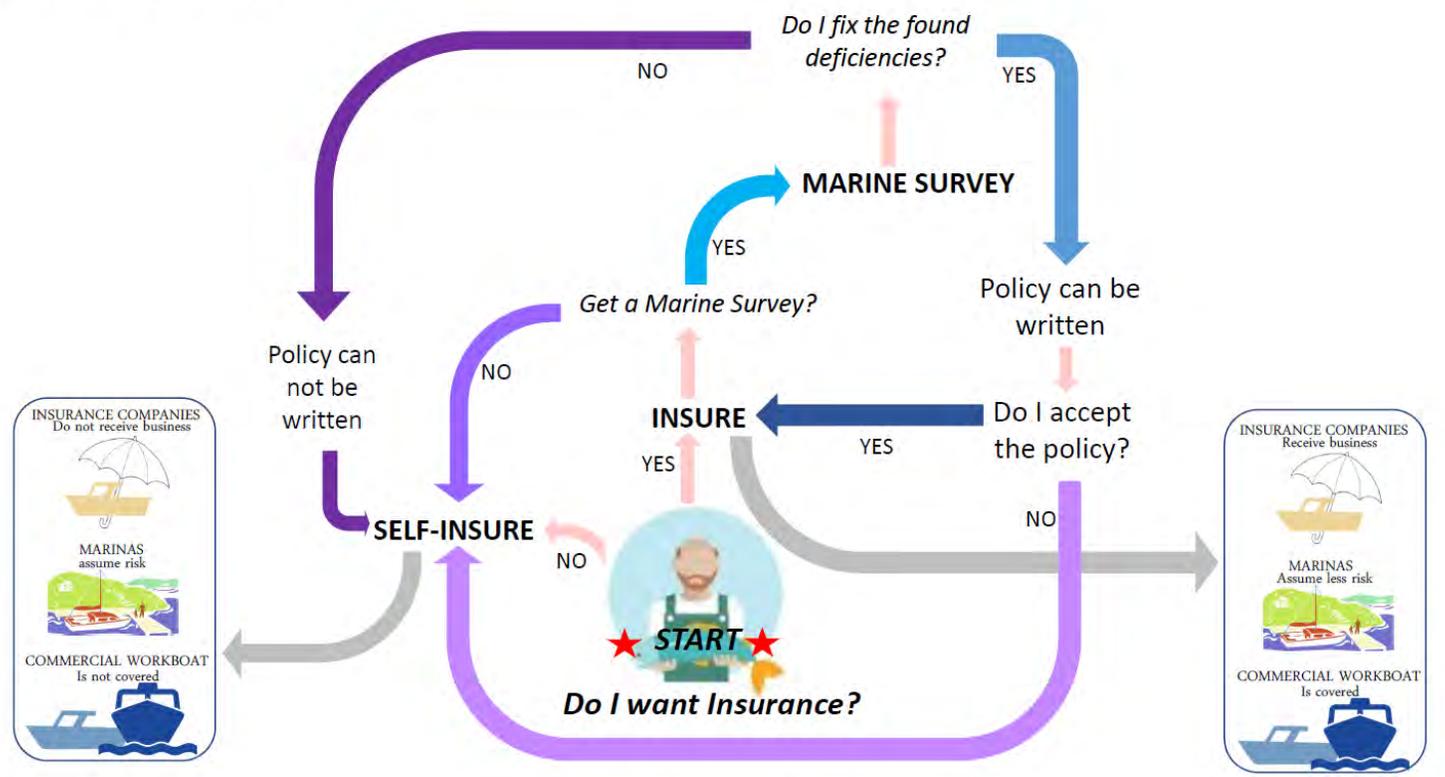
CONSEQUENCES

- Watermen may not be allowed at marina since they do not meet the minimum insurance requirements for the marina
- Boats are not fully covered;
- Marinas are not covered;
- Other boats are not covered in an accident/crash;
- Insurance companies do not receive business.

**BOAT INSURANCE PROCESS:
For Boats with Loan**



**BOAT INSURANCE PROCESS:
For Boat without a Loan**



Example:
Boat Insurance & Marine Survey Expenses for Watermen



There are multiple factors that are needed for commercial workboats. For boats older than 5 years a marine survey is needed to gain the value of the boat. Other information needed: age of engine, serial number of engine, length and width, equipment on the boat, what the boat will be used for, where is it being docked, horse power, etc.

The price of marine survey's can vary for workboats depending on the length of the boat and the complexity of the hull and associated systems (i.e. engine, fuel, electrical and steering, etc.).

Charge: ~\$15 per foot

Charge for Watermen: \$10 per foot

*fee can vary between businesses and boats

Example:

Insurance Need + Marine Survey= Full Compliance

For \$80,000 Insurance Coverage....

Policy holder may pay \$2000-\$3000 per year in premiums

For liability insurance this is an additional \$1000 per year

For a marine survey on a 46ft workboat is approximately \$460

Therefore approximate annual costs for insurance & marine survey = \$3,460 to \$4,460

Attachment 2:

2017 General Assembly Session:

Passed Bills Relating Directly and Indirectly to Working Waterfronts

- **HB 1517 SANDBRIDGE BEACH; GENERAL PERMIT FOR SAND SUBDIVISION.** General permit for sand management. Authorizes the Virginia Beach Wetlands Board to adopt a General Permit for Sand Management and Placement Profiles for properties in the Sandbridge Beach Subdivision of Virginia Beach. The bill requires the General Permit and Placement Profiles to include the permissible cost-effective sand management practices that property owners in the Sandbridge Beach Subdivision shall implement to protect and enhance the value of their property and to protect coastal primary sand dunes and public beaches. Any sand that is to be removed by the owner from his property must be judged to be "clean beach" sand prior to being transferred and placed in a spreading zone location. Amends [§ 28.2-1408.2](#), of the [Code of Virginia](#).
- **HB 1572 MARINE RESOURCES COMMISSION; REGISTRATION AS COMMERCIAL FISHERMAN; FAMILY MEMBER OR EMPLOYEE.** Directs the Marine Resources Commission to grant a preference for an exception to the two-year delay in the effective date of a registration as a commercial fisherman. The bill requires the preference to benefit a license applicant who is a member of the immediate family or a documented employee of commercial fisherman who is retiring. Amends [§ 28.2-241](#), of the [Code of Virginia](#).
- **HB 1573 FISHING PRIVILEGES; REVOCATION OF LICENSE BY MRC.** Marine Resources Commission; licenses; revocation. Provides that when the Marine Resources Commission (the Commission) revokes fishing privileges for a violation of the tidal fisheries law, it shall only revoke the particular type of license that is applicable to the fishery in which the violation occurred. Under current law, the Commission is authorized to revoke all of the fishing privileges a person has been granted, irrespective of the location and type of fish described in the license. The bill also reduces the maximum duration of the license revocation from five years to two years and requires the Commission to accept credit card payment of any civil penalty it assesses for fishing under a revoked license. Amends [§ 28.2-232](#), of the [Code of Virginia](#).
- **HB 1574 OYSTERS CULLING REGULATION; CARGO OF OYSTERS SHALL BE SCATTERED ON PUBLIC ROCKS.** Marine Resources Commission; oysters; culling. Removes the authority of a member of the Virginia Marine Police to require a person charged with violating an oyster culling regulation to scatter the entire cargo of oysters on the public rocks. Amends [§ 28.2-511](#), of the [Code of Virginia](#).
- **HB 1796 OYSTER GROUNDS; DREDGING PROJECTS IN LYNNHAVEN RIVER.** *(became law)* Oyster ground lease; certain dredging projects. Provides that oyster ground leaseholders in the Lynnhaven River are subject to the right of navigation, including the conduct of approved dredging projects designed to restore navigation channels. The bill provides that when a person conducting such dredging cannot avoid active oyster beds, he shall relocate the oyster material or, if required by

the applicable Marine Resources Commission permit, pay the leaseholder for any loss of oysters. Amends [§ 28.2-618](#), of the [Code of Virginia](#).

- **[HB 2297 OYSTER PLANTING GROUNDS; MARINE RESOURCES COMMISSION TO POST.](#)** *(became law)* **Marine Resources Commission; oyster planting grounds; notice of application for lease.** Requires the Marine Resources Commission (the Commission) to post notice of an application to lease oyster planting grounds for 30 days on its website and to notify by mail the county or city in which the grounds are located, any current holders of adjoining leases, and riparian owners within 200 feet of the selected grounds. Current law requires posting of notice at the local courthouse for 60 days. The bill (i) reduces from four weeks to two weeks the period during which the Commission is required to publish weekly notice of the application in a newspaper and (ii) requires all forms of notice to invite written comments. The bill also provides that the applicant shall bear the cost of notice. Amends [§ 28.2-606](#), of the [Code of Virginia](#).
- **[SB 909 MENHADEN; TOTAL ALLOWABLE LANDINGS.](#)** *(became law)* **Menhaden; total allowable landings.** Raises the annual total of allowable landings for menhaden from 158,700.12 metric tons to 168,937.75 metric tons.
- **[SB 1143 OYSTER GROUNDS; DREDGING PROJECTS IN LYNNHAVEN RIVER.](#)** **Oyster or clam grounds; Lynnhaven River; navigable channels.** Provides that oyster or clam ground lease assignments in the Lynnhaven River and its tributaries are subject to the rights of riparian landowners to open and mark channels necessary for navigable access to their property. Amends [§ 28.2-618](#), [§ 28.2-630](#), of the [Code of Virginia](#).
- **[SB 1144 OYSTER PLANTING GROUNDS; MARINE RESOURCES COMMISSION TO POST.](#)** *(became law)* **Marine Resources Commission; oyster planting grounds; notice of application for lease.** Requires the Marine Resources Commission (the Commission) to post notice of an application to lease oyster planting grounds for 30 days on its website and to notify by mail the county or city in which the grounds are located, any current holders of adjoining leases, and riparian owners within 200 feet of the selected grounds. Current law requires posting of notice at the local courthouse for 60 days. The bill (i) reduces from four weeks to two weeks the period during which the Commission is required to publish weekly notice of the application in a newspaper and (ii) requires all forms of notice to invite written comments. The bill also provides that the applicant shall bear the cost of notice. Amends [§ 28.2-606](#), of the [Code of Virginia](#).
- **[SB 1205 COMMERCIAL FISHING VESSELS; CLASSIFIES VESSELS AS A SEPARATE CLASS OF PROPERTY.](#)** **Tangible personal property; commercial fishing vessels.** Classifies commercial fishing vessels as a separate class of property for the purpose of local personal property tax. Amends [§ 58.1-3506](#), of the [Code of Virginia](#).
- **[SB1224 LANDOWNER LIABILITY; RECREATIONAL ACCESS.](#)** **Landowner liability; recreational access.** Provides that a landowner who has entered into an agreement with a public entity or nonprofit concerning the use of his land for public recreation shall be immune from liability to a

member of the public arising out of the recreational use of the land. Amends [§ 29.1-509](#), of the [Code of Virginia](#).

- **[HB1774](#) STORMWATER AND EROSION CONTROL; LOCAL RURAL DEVELOPMENT GROWTH AREAS; BEST MANAGEMENT PRACTICES BANK.** Directs the State Water Control Board to adopt regulations establishing a rural development growth (RDG) area program for adoption by certain localities. The bill requires each RDG area to follow a public road and requires development in an RDG area to obey certain existing regulatory minimum standards. The bill also directs the Board to adopt regulations allowing the operation of regional stormwater best management practices banks (RSP banks) in Planning District 18. An RSP bank would treat runoff from roadside drainage ditches in order to provide off-site credits to RDG areas.
- **[SB 1203](#) WORKING WATERFRONT DEVELOPMENT AREA; ESTABLISHMENT:** Authorizes localities, by ordinance, to establish a working waterfront development area and grant certain incentives and regulatory flexibility to private entities for the development of working waterfronts in such area. Amends [§ 15.2-2201](#), [§ 15.2-2283](#), of the [Code of Virginia](#).
- **[HB 2055](#) RURAL COASTAL VIRGINIA COMMUNITY ENHANCEMENT AUTHORITY; CREATED, REPORT:** Rural Coastal Virginia Economic Development Authority. Establishes the Rural Coastal Virginia Economic Development Authority, consisting of the 12 counties within the Northern Neck, Middle Peninsula, and Accomack-Northampton planning districts. The Authority is created for the purpose of serving as a regional economic development body and represents a partnership of the Commonwealth, the planning districts, and the 12 counties of the coastal region. The Authority shall be governed by a 17-member board. The Authority may seek and approve loans and solicit donations, grants, and any other funding from the Commonwealth, the federal government, and regional, local government, and private entities, and distribute such money for projects to (i) assist the region in obtaining necessary job training or employment-related education, leadership and civic development, and business development, especially entrepreneurship for the coastal region; (ii) provide special assistance to distressed and underdeveloped counties within the coastal region; and (iii) fund demonstration projects, and conduct research, evaluations, and assessments of the coastal region's assets and needs.

Meeting 3: Meeting Packet – August 10, 2017

Working Waterfront Steering Committee

Thursday, August 10, 2017 at the
Hampton Roads Planning District Commission
10 A.M. - 12 P.M.

AGENDA

1. (10 AM) Welcome
2. (10:05-10:20 AM) Maryland Working Waterfront Program Review – Jackie Rickards
3. Legislation Discussion
 - a. (10:25 – 10:45 AM) "Legislative List" of Dredging Solutions – Lewis Lawrence
 - b. (10:45 – 11:05 AM) Waterway Maintenance – John Joeckel
 - c. (11:-05 – 11:50 AM) Group Discussion
4. (11:50 AM – 12PM) Working Waterfront Inventory Update – Ben McFarlane
5. Next steps and meeting

Working Waterfront Steering Committee

August 10, 2017

At Hampton Roads Planning District Commission
10 A.M.

Meeting Minutes

1. Welcome

The Middle Peninsula Planning District Commission (MPPDC) staff hosted a meeting of the Working Waterfront Steering Committee at the Hampton Roads Planning District Commission on August 10, 2017 at 10am. Those in attendance included Beth Polak, Virginia Coastal Zone Management Program; Anne Smith, Virginia Clean Marina Program; Don McCann, Marine Advisory Services; John Bateman, Northern Neck Planning District Commission (NNPDC); Ben McFarlene, Hampton Roads Planning District Commission (HRPDC); Shannon Alexander, Accomack-Northampton Planning District Commission (ANPDC); and MPPDC Staff, Lewis Lawrence and Jackie Rickards. Others in attendance include John Joeckel, Eastern Shore Regional Navigable Waterways Committee and Whitney Katchmark, HRPDC Principal Water Resources Engineer.

2. Maryland Working Waterfront Program Review

Jackie Rickards explained that based on the last meeting of the Working Waterfront Steering Committee Meeting there were multiple participants interested in learning more about the Maryland's Working Waterfront Program. The presentation reviewed Maryland legislation, tools available, as well as project projects associated with working waterfront protection and improvements. Attachment 1 is the presentation.

Lewis Lawrence asked if there were benefits of the maritime district and at the time of the meeting Ms. Rickards did not know.¹

Also, Beth Polak recommended that a Working Waterfront Commission be created in Virginia an organized effort consisting of state and local government representatives as well as industry representatives to preserve and improve working waterfronts in coastal Virginia. Lewis Lawrence mentioned that Delegate Hodges's Rural Coastal Virginia

¹ Following the meeting Ms Rickards contacted the City of Annapolis regarding the benefits of the maritime districts. According to Kevin Scott, City of Annapolis Planning Department, the zoning of the land is the largest benefit. These maritime districts foster maritime businesses only. These zones have use allocation, lot coverage, and waterfront access that are conducive to maritime businesses. The City of Annapolis does not offer additional incentives to be in a maritime district.

Community Enhancement Authority may be a vehicle to get this Commission up and running.

3. Legislation Discussion

a. “Legislative List” of Dredging Solutions

Lewie Lawrence reviewed a list of legislative ideas focused on new revenue streams for dredging. The list can be found in Attachment 2.

b. Waterway Maintenance

John Joeckel explained the possible creation of a “Waterway Management Fund” for the exclusive support of the Commonwealth of Virginia’s waterway management operations. According to Mr. Joekel, Accomack & Northampton Counties agree on this concept, and proposed this concept to Senator Lewis and Delegate Bloxom to develop legislative language. In consultation with other regions of the Commonwealth with similar waterway needs, legislative language should be developed and agreed to for the purpose of filing in the 2018 General Assembly. Attachment 3 provides a complete overview of what the “Waterway Management Fund” entails.

c. Group Discussion

Upon review of the legislative options the group was able to brainstorm additional legislative options including:

1. Ad Valorem Tax structure to address dredging
2. Use existing dredging taxing authority based on the percentage of people who vote to be taxed § 15.2-2403. Powers of service districts.
3. Up the bottom lease rental rates to help pay for dredging
4. Use SIC codes to identify business who profit from the Bay and Tributaries who need deep water. They pay a dredging fee.

Based on this discussion the Lewie will continue this conversation with Delegate Hodges as well as Joe Schumacher (District Director For US Rep. Wittman) to gain insight on the legislative ideas that are most likely achievable. Lewie will then report back to the Steering Committee.

4. Working Waterfront Inventory Update

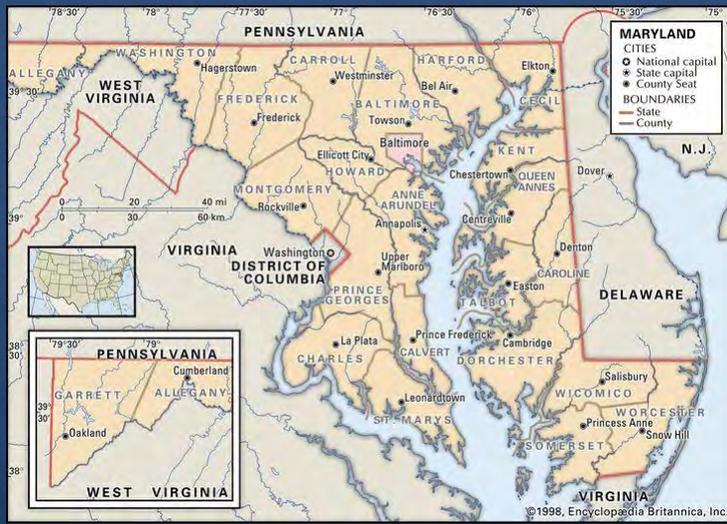
Ben McFarlene explained that he continues to work to develop an inventory for George Washington PDC, Richmond Regional PDC, Crater PDC, and Northern Virginia PDC working waterfronts. He went through all of the HRPDC databases and completed a visual search using Virginia Base Mapping Program (VBMP) aerial photography. Altogether about 115 sites - some definite, some potential - were identified. Some of

the sites are obvious, but others “look” like they may be sites on the imagery. Also there were a few duplications where a dataset has a marina near the main road, while the visual verification is focused on the water. The next steps include cleaning up the dataset and sending it out to the 4 PDCs for review.

5. Next steps and meeting

If the legislative discussion with Delegates progress and needs the input from the Working Waterfront Steering Committee another meeting will be scheduled.

Attachment 1: Maryland Working Waterfront Program Review Presentation

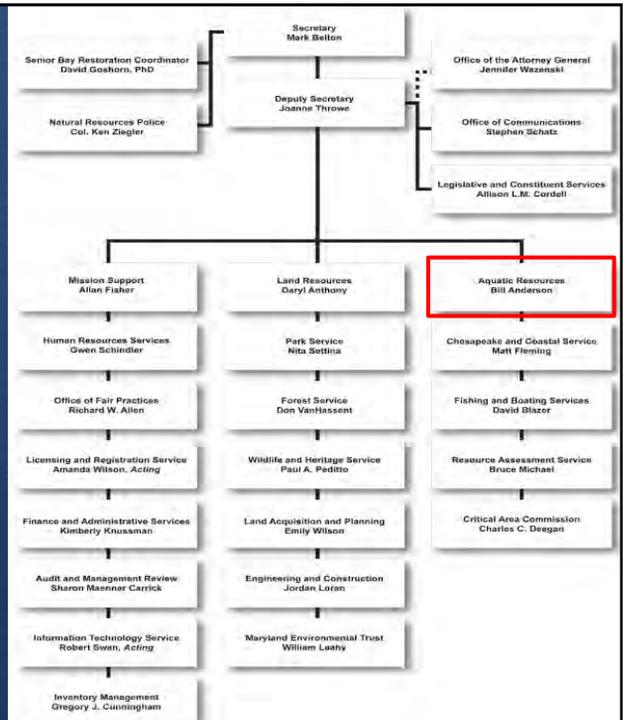


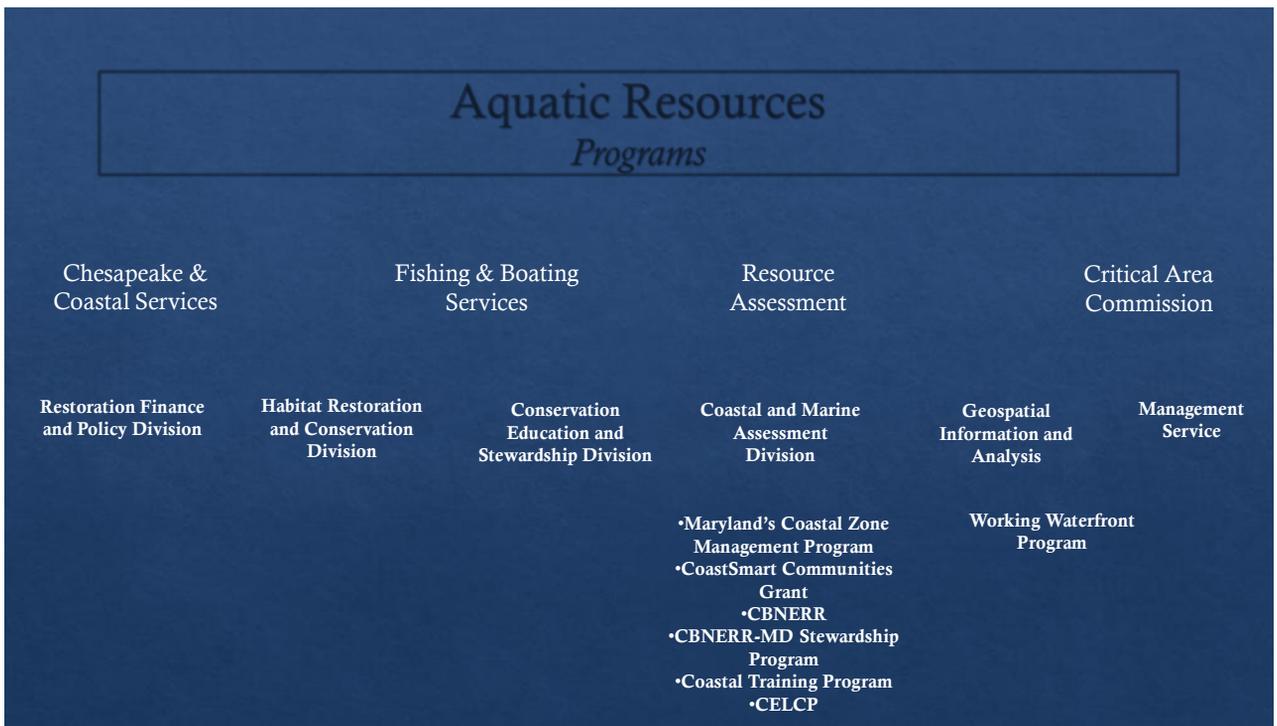
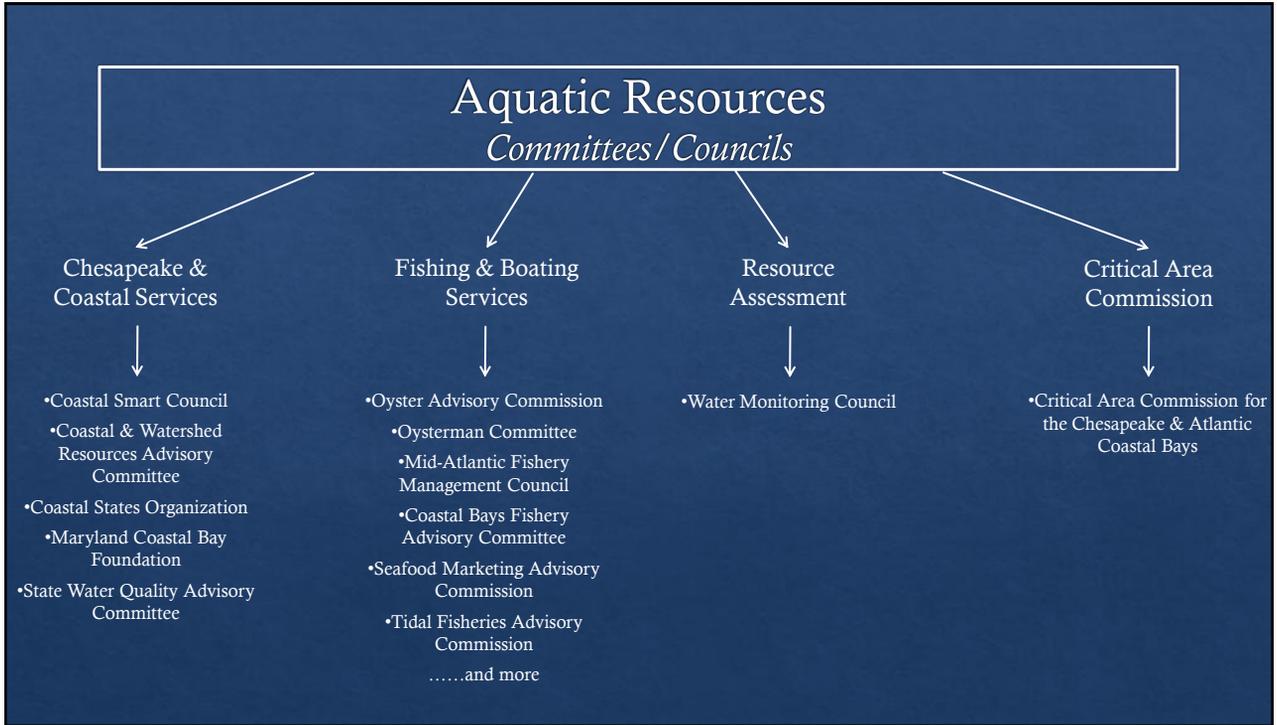
Maryland Working Waterfront Program

A description of the program and how it compares to Virginia

Middle Peninsula Planning District Commission
 Jackie Rickards - August 2017

Maryland Department of Natural Resources Organizational Chart





Coastal Communities Initiative

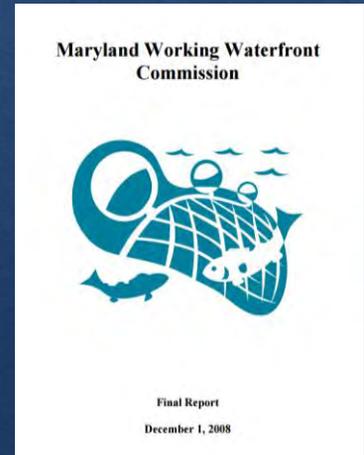
- ◇ 2005 program developed under DNR's Maryland Coastal Program
- ◇ Provides financial and technical assistance to local governments to promote the incorporation of natural resource and/or coastal management issues into local planning and permitting activities
 - ◇ Receive funding by NOAA
 - ◇ Funding for planning projects

2007: Working Waterfront Commission

- ◇ HB 414 – Establishing the Working Waterfront Commission
- ◇ Consisting of state agencies, elected officials, resource-based industry development entities, and local watermen
 - (f.) The Commission shall study and make recommendations regarding protecting and preserving Maryland's commercial fishing industry's access to public trust waters.

Working Waterfront Commission

- ◇ 2008 Report (<http://www.marbidco.org/Working%20Waterfront.pdf>)
- ◇ Reviewed –
 - ◇ state of working waterfronts;
 - ◇ existing laws and policies;
 - ◇ critical working waterfront sites;
 - ◇ reviewed other working waterfront efforts in other states;
 - ◇ establishment of working waterfront tools (i.e.. Maritime enterprise zones)



Working Waterfront Commission Tools

- ◇ TAX ABATEMENT –
 - ◇ Chapter 281 of 2008 gave Baltimore City, municipal corporations and counties the authority to grant a tax credit for WWF properties
- ◇ EDUCATION/ RESEARCH / OUTREACH
 - ◇ Institute for Governmental Services has an Academy for Excellence in Local Government
 - ◇ DNR
 - ◇ CCI
 - ◇ CBNERR Coastal Training Program

Working Waterfront Commission Tools

◆ INFRASTRUCTURE PRESERVATION & DEVELOPMENT –

- ◆ **Program Open Space:** Expedites the acquisition of outdoor recreation and open space areas and provisions of recreation facilities before land is devoted to other purposes
 - ◆ Funded by state transfer tax of 0.5% of the consideration paid for the transfer of real property from one owner to another
 - ◆ Used for fee simple transactions and for the purchase of conservation easements
- ◆ **Waterway Improvement Fund:** Funding to improve and promote the recreational and commercial capabilities, conditions and safety of MD's waterways for the benefit of the general boating public
 - ◆ Funding types available:
 - ◆ 100% state grant not to exceed \$100,000 to develop and maintain public boating facilities
 - ◆ 100% state grant of an unlimited amount to construct boating facilities on lands owned or leased by DNR
 - ◆ Matching grants with maximums 50% state cost-share with a local jurisdiction up to an unlimited amount to engineer, construct and maintaining public boating facilities

Working Waterfront Commission Tools

◆ INFRASTRUCTURE PRESERVATION & DEVELOPMENT (continued)–

- ◆ **Community Development Block Grant**
 - ◆ Available for economic development for low and moderate-income communities that wish to protect some of their working waterfront industries
- ◆ **Conservation Easements**
 - ◆ Land owners can sell or donate their development rights and still retain ownership to continue a commercial fishing operations
 - ◆ Department of Agriculture's Maryland Agriculture Land Preservation Foundation (MALPF)
 - ◆ DNR's Rural Legacy
 - ◆ Maryland Environmental Trust

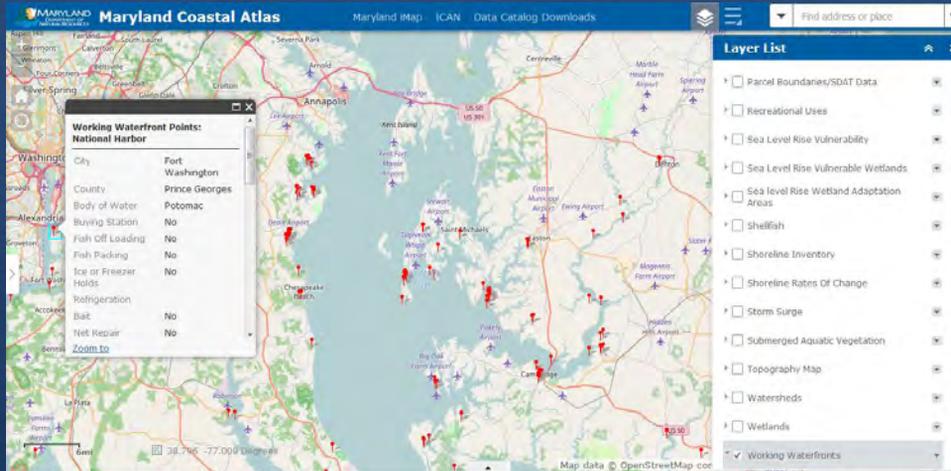
Working Waterfront Commission Tools

- ◆ Local Planning/Zoning Assistance
 - ◆ Article 66B – Reasonable access to the waterways
 - ◆ Requires commissioners counties and some code home rule counties along the tidal waters of the state incorporated working waterfront provisions in their comprehensive plans
 - ◆ Designate areas on the tidal water or in close proximity to the tidal water for the following purposes:
 1. Loading and unloading finfish and shellfish;
 2. Processing finfish and shellfish; and
 3. Docking and mooring commercial fishing boats and vessels.

Commission Recommendations

- ◆ Property, income or inheritance tax abatement for working waterfront owners
 - ◆ State enact legislation to
 - ◆ Change the inheritance tax to grant commercial waterfront properties an **exemption from the tax**;
 - ◆ provide a **special valuation** for commercial waterfront properties similar to the valuation provided for farmland or woodland; or
 - ◆ allow for an **alternative payment schedule** that would draw out the payments, thus making them more manageable.

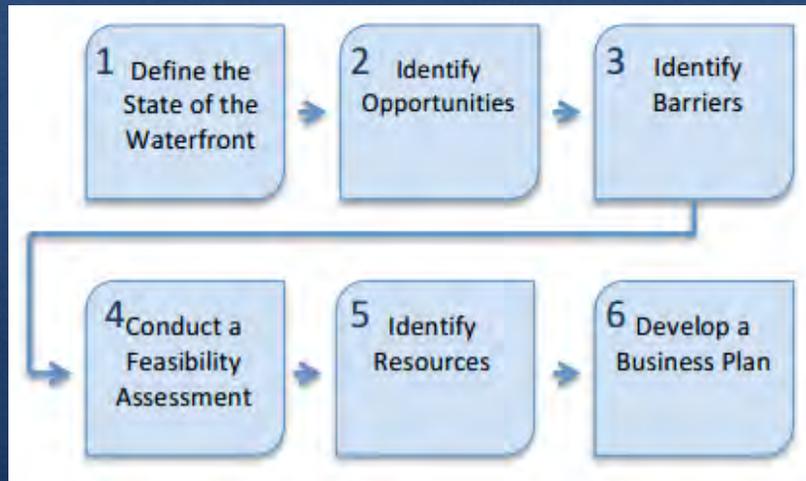
Maryland Coastal Atlas



2008 - 2015: Environmental Finance Center at the University of Maryland

- ◆ NOAA funded project
- ◆ **Phase 1: Completed Spring 2014**
 - ◆ laid out a strategy for incentivizing local efforts to revitalize working waterfront communities and economies throughout the state.
 - ◆ concluded that the dynamic nature of working waterfront development requires a very coordinated and multifaceted program effort at the state level.
 - ◆ including the coordination of multiple state agencies and programs, such as planning, financing, natural resource protection, and economic development.
- ◆ **Phase 2: Began fall 2014**
 - ◆ puts in place a framework for building a sustainable working waterfront program that is being piloted in the City of Cambridge

EFC 6-step Process



EFC 6-step Process

◆ STEP 1: State of the Waterfront

Mapping of the waterfront in order to ensure that stakeholder perceptions and beliefs align the reality

◆ STEP 2 and 3: Identify Opportunities and Barriers

Opportunities are ideas of what should be happening to support a working waterfront – preservation, enhancement or creation. Each opportunity comes with unique challenges (i.e.. physical, political, or financial

◆ STEP 4: Conduct a Feasibility Assessment

This step in the framework begins the process of distilling the collected information to ascertain what is achievable and where to begin among the most desirable and achievable opportunities. Used a “red light / green light” approach to identify what is achievable and what is not.

◆ STEP 5: Identify Resources

identify potential funding and resources rather than secure funding. Based on these pathways, the stakeholders can begin to assess: 1) how funding opportunities can be combined and mingled in a project; and 2) plan for how and when to access the funding opportunities in accordance with each source’s unique set of requirements and application cycles.

◆ STEP 6: Develop a Business Plan

generating a prospectus that will guide the process of moving an opportunity from concept to reality

Identified Funding Streams

- ◆ *Maryland Economic Development Assistance Authority and Fund (MEDAAF)*
<http://business.maryland.gov/fund/programs-for-businesses/medAAF>
- ◆ *Economic Development Opportunities Fund (Sunny Day)*
<http://business.maryland.gov/fund/programs-for-businesses/sunny-day>
- ◆ *State Small Business Credit Initiative (SSBCI)*
<https://business.maryland.gov/fund/programs-for-businesses/ssbcI>
- ◆ *ADVANCE Maryland*
<http://business.maryland.gov/fund/programs-for-businesses/advance-maryland>
- ◆ *Military Personnel and Veteran-owned Small Business Loan Program (MPVSBLP)*
<http://business.maryland.gov/fund/programs-for-businesses/mpvsblp>
- ◆ *Maryland Resource-Based Industry Financing Fund Loan (MRBIFF)*
<https://www.mrbiff.org/home.aspx>
- ◆ *Maryland Shellfish Aquaculture Loan Fund*
<http://www.dnr.maryland.gov/biomas/loans.html>
- ◆ *Forestry Equipment and Working Capital Loan (FEWCL)*
<http://www.mrbiff.org/biomas/fe-wcl.html>
- ◆ *Maryland Value Added Producer Matching Grant Program (MVAPMG)*
<http://www.mrbiff.org/biomas/mvapg.html>
- ◆ *U.S. Department of Agriculture (USDA) Intermediary Relending Program (IRP)*
<http://www.rd.usda.gov/programs-services/rural-economic-development/intermediary-relend-program>
- ◆ *Rural Business Energy Efficiency Program*
<http://www.rd.usda.gov/programs-services/rural-energy-america-program/renewable-energy-systems-energy-efficiency>
- ◆ *U.S. Department of Agriculture (USDA) Rural Energy for America Program Grants (REAP)*
<http://www.rd.usda.gov/programs-services/rural-energy-america-program/renewable-energy-systems-energy-efficiency>

Available Funding

PROJECT PROPOSALS MUST FOCUS ON:

- ◆ Community support and demonstrated partnerships;
- ◆ Multiple water dependent uses (i.e. commercial, recreational, public access, maritime heritage/interpretation/education);
- ◆ Economic and community need;
- ◆ Transferability to other communities; and
- ◆ Consideration of natural resource conservation and/or restoration, potential flooding, and storm surge impacts.

MARYLAND'S WORKING WATERFRONTS ENHANCEMENT GRANT FFY2017 REQUEST FOR PROPOSALS



Working Waterfronts Enhancement Grant Summary

The Maryland Department of Natural Resources' Working Waterfronts Program provides financial and technical assistance to local governments to promote and assist with the preservation of existing and historic working waterfronts in Maryland. The Working Waterfronts Program is soliciting proposals from local governments for a unique grant to support revitalization of working waterfront communities and economies throughout Maryland. Local governments are welcome to apply for financial assistance to complete one-year projects focused on planning or implementation.

Ideal project proposals will target: Development of new, or modifying existing waterfront and comprehensive plans, maritime zoning, codes, ordinances, visioning workshops, as well as programs and tools dedicated to working waterfront protection and enhancement.

Applicants are encouraged to address multiple program priorities including: traditional uses, public access, maritime heritage, tourism and business, recreation, and natural resources conservation and/or restoration, while taking into account potential flooding and storm surge impacts.

Who is Eligible?

Municipalities and counties in the coastal zone are eligible to apply for and receive funds on an annual basis. Maryland's coastal zone includes the following counties and the municipalities located within: Worcester, Somerset, Wicomico, Dorchester, Talbot, Caroline, Queen Anne's, Kent, Cecil, Harford, Baltimore, Baltimore City, Anne Arundel, Prince George's, Calvert, Charles and St. Mary's.

WHAT?

Funding for a one-year project to support revitalization of working waterfront communities and economies through planning or implementation

HOW MUCH?

Total request may not exceed \$60,000. No matching funds are required.

WHEN?

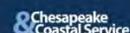
Application Deadline June 12, 2016

HOW?

Submit proposals online through CCS's grants management service, at: <https://mmpgs.com/GrantOnline/>

CONTACT

Kelly Collins
Maryland Department of Natural Resources
Chesapeake & Coastal Service
kelly.collins@dnr.maryland.gov
410.260.8912



MD vs. VA

MARYLAND



Inventory



Define the state of the Waterfront



Identify Opportunities



Identify Barriers



Conduct a Feasibility Assessment



Identify Resources



Develop a Business Plan

VIRGINIA



Maryland's Working Waterfront Program

◇ FUNDED:

through Maryland's Coastal Zone Management Program, which is housed within the Maryland Department of Natural Resources in our Chesapeake and Coastal Service.

◇ *Last year we were allocated approximately:*

\$2.1M in CZM 306 funds

- *Working Waterfront Program staff funding (it's partial time (about 25%) of 1-2 staff who also work on other programs)*

\$451K in CZM 309 funds

- *Working Waterfronts Enhancement Grants directly to communities : \$125,000*

Virginia's Working Waterfront Initiative

◆ FUNDED

through Virginia's Coastal Zone Management Program, which is housed within the Virginia Department of Environmental Quality.

For the past 6 years (FY 11- FY 16) we have been allocated an average of

\$2.5M in CZM 306 funds.

- The Working Waterfront Program staff funding comes from our section 306 funds. There is one dedicated staff person, partial time at about 25 percent.

\$502K in CZM 309 funds

- allocated \$297,000 of our 309 funds to the Working Waterfronts Enhancement Grants that we distribute to select coastal Planning District Commissions (about \$50K each year).

Funding Comparison

Maryland's Working Waterfront Program

◆ *Last year we were allocated approximately:*

\$2.1M in CZM 306 funds

\$451K in CZM 309 funds

- allocated \$297,000 to communities

Virginia's Working Waterfront Initiative

◆ *For the past 6 years (FY 11- FY 16) allocated an average of:*

\$2.5M in CZM 306 funds

\$502K in CZM 309 funds

- about \$50K each year to communities

Where does Virginia go from here?



Attachment 2: “Legislative List” of Dredging Solutions Handout



**LEGISLATIVE BRAINSTORM:
Funding Future Dredging Projects**

Below is a list of legislative ideas to fund future dredging projects in coastal Virginia. These ideas will be reviewed and discussed at the Working Waterfront Steering Committee. Please come with questions and or other ideas to add to the list.

- 1. Authorize VRA to specifically loan \$ to local governments for dredging if the localities create a dredging taxing district to repay the debt service. Purchase of a municipally owned dredge to dredge creeks and channels on the MP, NN, & ES. Establish local tax districts to fund dredging. Member localities annually fund the dredge operations. Set rotational schedule for dredging and disposal.**
- 2. Smart Scale Commonwealth Transportation Board - Amend the statewide prioritization process for project selection to make dredging an eligible expenditure for rural coastal areas. From an economic development perspective, a commercial boat sitting idle is no different than a commercial truck sitting idle due to a transportation infrastructure problem. Need to make the maritime transportation system work better.**
- 3. § 28.2-302.3. Virginia Saltwater Recreational Fishing Development Fund: Amend to allow for dredging if localities cost share. Rational: if you can't get your boat out, you can't fish or fishing activity only occurs in areas with deep water access.**
- 4. Amend the Virginia Port Authority "Aid to Local Ports program" to allow local governments to use port authority funds for local dredging projects if the creeks have commercial seafood activity. Further, allow publicly owned waterfront land to be used as match if the land is dedicated to support water based commerce, including commercial seafood, recreational boating and eco water-based businesses. Leverage the public assets for greater utility when cash match isn't available.**

5. **Local governments implement a Tax Incremental Financing (TIF) District specific to generating revenue for dredging projects. Modify TIF for rural waterfront blight - (property values decrease, loss of tax base) to leverage increased waterfront real-estate tax revenue as matching funds against state dredging dollars.**

6. **Legislate a “Waterway Management Fund” for the exclusive support of the Commonwealth of Virginia’s waterway management operations, in order to keep channels open and safe for the navigation of Virginia’s waterways which support our economy and tourism, as well as commercial and recreational fishing vital to the sustainability of Working Waterfronts.**

7. **Direct DHCD to develop program guidelines that will allow the use of CDBG funds for rural coastal dredging projects when a locality can document that low income watermen/subsistence farmers utilize the river, creek, or cove for commercial fishing. Dredging is no different that funding water and sewer infrastructure.**

Any other ideas?

Attachment 3: Waterway Maintenance Handout

Action: Establishing a Dedicated and Sustainable Funding Source for the Commonwealth's Waterway Management Operations

Purpose: Create a **"Waterway Management Fund"** for the exclusive support of the Commonwealth of Virginia's waterway management operations, in order to keep channels open and safe for the navigation of Virginia's waterways which supports our economy and tourism, as well as commercial and recreational fishing and is vital to the sustainability of Working Waterfronts.

Defining the Problem: Recreational and commercial fishing, recreational boating and tourism is integral to state and local economies including the shore-side support infrastructure of these activities, e.g., marinas, bait & tackle shops, restaurants, lodging, etc. Commercial and recreational users of the Commonwealth's waterways continue experiencing difficulties in navigating the state's waterways due to the buildup of silt and sediment within and along main channels. Without navigable waterways, working waterfronts are not viable.

Legislation is needed to ensure Virginia's waterways remain safe and navigable for the users of our waterways. The responsibility for dredging and channel marking in federally authorized waterways is the responsibility of the federal government, however, federal funding for federal waterways has declined precipitously over the past decade. The maintenance of non-federally designated waterways, falls to the state to maintain. During an era of challenging state budgets, state funding for waterway maintenance has not kept pace with need. However, the main issue is that there is not a dedicated revenue stream for the specific purpose of maintaining the Commonwealth of Virginia waterways.

Virginia is ranked 8th of all the states for total shoreline miles, which is a direct correlation as to the extent of the total miles of federally designated and state navigable waterways. Yet the Commonwealth of Virginia does not have a state funding mechanism sufficient to maintain the navigable depth of state waterways for the benefit of residents and visitors.

The Virginia Port Authority (VPA) receives 4.2% of Transportation Trust Fund (TTF) taxes collected on a monthly basis. The allocation is called the "Commonwealth Port Fund" (CPF). Tax collections allocated to the Transportation Trust Fund (TTF) are derived from a half percent of the Commonwealth's retail sales and use tax, motor vehicle sales and use taxes, motor fuel taxes, and motor vehicle registration fees.

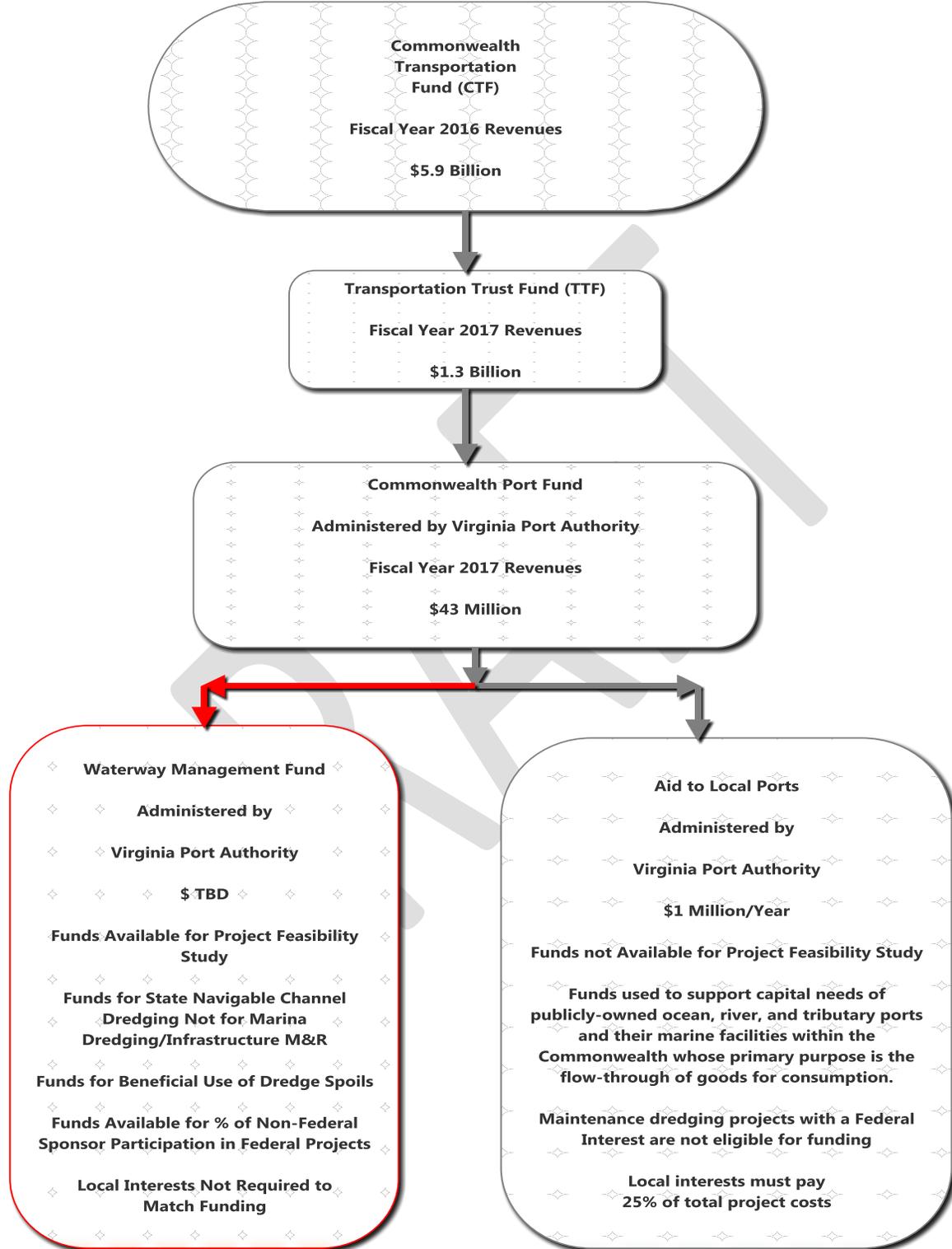
As required by statute, CPF revenues are used by the VPA to pay for capital projects, terminal maintenances expenses, and aid to local ports. The VPA often utilizes CPF revenues to support the issuance of bonds to finance capital projects.

The Commonwealth Transportation Fund (CTF) was budgeted to receive \$5.9 Billion in FY 2016. Of that amount, the TTF was budgeted to receive \$1.8 Billion, with approximately \$43 Million of those funds being allocated to the Port Trust Fund (PTF), which then provides the Aid to Local Ports Fund managed by VPA, with an annual appropriation of \$1 Million, which requires local entities to contribute 25% of their share of the project costs

For Fiscal Year 2017, there were \$4.64 Million requested for the VPA Aid to Local Ports Fund but only \$1 Million was allocated for this program, therefore as is usually the case, funding availability is totally insufficient for the demand. These funds are not specifically targeted to waterway maintenance, such as dredging or the beneficial use of dredge spoils for the purpose of mitigation of coastal erosion and flooding. These VPA funds can be used for dock improvements/repairs, breakwater construction, boat launching ramps, thus, there is little remaining for specific dredging projects that may cost \$1 million dollars per project.

Legislative Concept: Accomack & Northampton Counties to agree on a concept, and propose the concept to Senator Lewis and Delegate Bloxom to develop into legislative language. In consultation with other regions of the Commonwealth with similar waterway needs, legislative language should be developed and agreed to for the purpose of filing in the 2018 General Assembly. Ideally, the legislative language should incorporate the following concepts:

- 1) Create a "Waterway Management Fund" to be administered by the Virginia Port Authority separate and distinct from other funding programs currently administered under the purview of the VPA.



- 2) Require an increase of contributions from the Transportation Trust Fund to the Commonwealth Port Fund with this increase being passed through to the Waterway Management Fund (WMF). The amount of the funds to the

WMF to be stipulated in the legislation. (**Note:** Authors of legislation should be aware when determining the amount of funds to be designated in the legislation that \$1 million per dredging project is the norm versus the exception.)

- 3) The Waterway Management Fund, administered by the VPA within its existing organizational procedures, will annually take applications from local jurisdictions for state waterway dredging projects. The project applications are to be evaluated and if judged feasible, including beneficial use of the dredge spoils for the purpose of mitigation of coastal erosion/flooding or other purposes for the common good, the project would be eligible for funding.
- 4) The VPA, will determine the appropriate projects to fund on an annual basis based upon the applications received. Projects will be judged upon completeness of the application concerning project justification, permit status, project management organization and potential beneficial use of dredged materials.
- 5) Projects should not require any level of matching contributions from the local jurisdictions since most local jurisdictions would not have sufficient funding sources for a matching contribution and in theory, the project will benefit all citizens of the Commonwealth since the funds are being used for a state waterway, thus, the project should be fully funded by the Commonwealth.
- 6) Funding from the Waterway Management Fund **should** be available for:
 - a. project feasibility evaluations, pre-project engineering study, permitting costs and project management;
 - b. Commonwealth matching funds of non-federal sponsor requirements on federal 204 projects;
 - c. Non-Federal designated State waterway maintenance dredging; and
 - d. Beneficial use of dredge spoils for mitigation of coastal erosion/flooding or other related spoils beneficial use projects for the public good.
 - e. Aids to navigation on a state waterway if federal aids are not being provided.
- 7) Funding from the Waterway Management Fund **should not** be available for:
 - a. Boat launching ramp construction/maintenance
 - b. Dock structure construction/maintenance
 - c. Purchase of land for public access
 - d. Federal navigable waterway dredging
 - e. Aids to navigation on a Federal waterway
- 8) Alternative options:
 - a. In lieu of the VPA involvement, Public Access Authorities (PAA) could be the beneficiaries of funds from the Commonwealth Port Fund. PAA's would determine the justification and feasibility of each waterway project and have the project management responsibility to oversee the projects. Question remains who and what entity in Richmond would control the funding to the PAAs and what funding methodology evaluation would be used to ensure each PAA is provided a certain portion of the available funding.
 - b. Funds provided to the PAA's would only be available to be used as stated in #6 and not available as stated in #7.

**Appendix B:
HRPDC SUMMARY OF WORK**

Working Waterfronts in Coastal Virginia

In 2017 the HRPDC expanded an existing inventory of working waterfront facilities, which covered the Eastern Shore, Hampton Roads, Middle Peninsula, and Northern Neck regions of coastal Virginia, to include the other four planning districts: Crater, George Washington, Northern Virginia, and Richmond. This inventory was based on methods used for the HRPDC’s working waterfronts inventory, which was completed in 2013. The Hampton Roads definition of working waterfronts was used to develop the new inventory.¹ That inventory incorporated several sources, including businesses from the Quarterly Census of Employment and Wages, review of commercial fishing licenses, and manual review of aerial imagery to identify additional potential facilities. Once an initial inventory was completed, additional information was accessed through review of business websites and other information available online.

Overall, the expanded inventory identified an additional 102 working waterfront facilities in the four regions. Of these, eighteen (18) were located in the Crater Planning District, thirty-one (31) were located in the George Washington Planning District, thirty-one (31) were located in the Northern Virginia Planning District, and twenty-two were located in the Richmond Planning District. Working waterfronts identified in this inventory include marinas, ports, industrial facilities, boat repair shops, and boat access points. The facilities were grouped into four main categories (commercial, government, industrial, and recreational) and nineteen subcategories. This categorization is shown in Table 1. A summary table of working waterfronts by type for each planning district is also included.

In addition to the summary table, a GIS shapefile including all 102 facilities was also produced.

For more information, please contact:

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¹ The Hampton Roads Working Waterfronts Inventory defined working waterfronts as “areas or structures on, over, or adjacent to navigable bodies of water that provide access to the water and are used for water-dependent commercial, industrial, or government activities, including commercial fishing, recreational fishing, tourism, aquaculture, boat and ship building, boat and ship repair, boat and ship services, seafood processing, seafood sales, transportation, shipping, marine construction, and military activities.”

Table 1: Working Waterfront Inventory Classifications

Working Waterfront Groups	Working Waterfront Subgroups
Commercial	Boat Building Boat Repair Boat Supplies Commercial Marina Restaurant
Government	Federal Military Research Facility
Industrial	Dredging Industrial Petroleum Bulk Station/Terminal Power Generation Shipping
Recreational	Boat Ramp Boat Rentals Boat Tours Pier/Wharf Sailing Center

Table 2: Working Waterfronts in Select Coastal Virginia Planning Districts

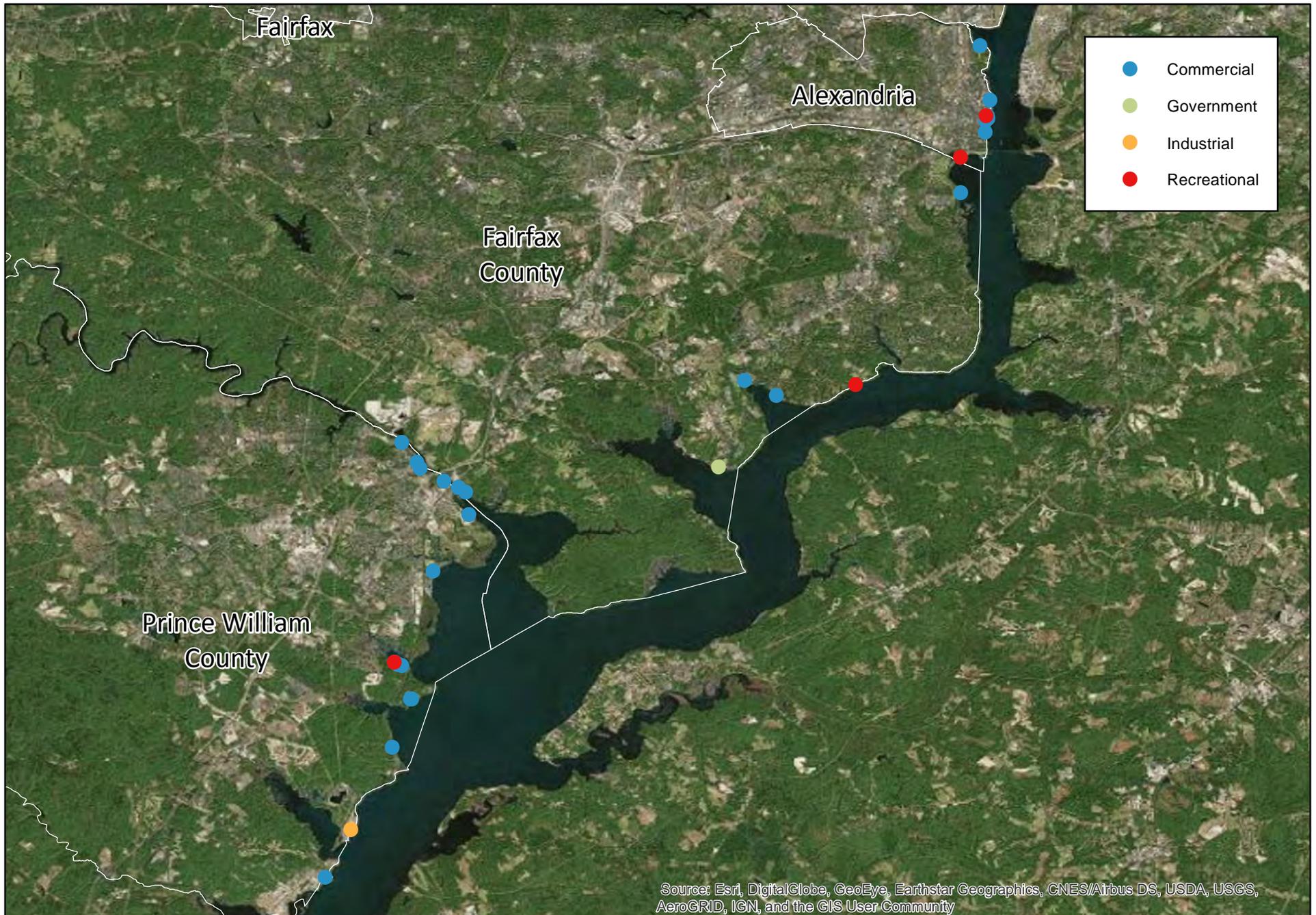
Planning District	Commercial	Government	Industrial	Recreational	Total
Crater	6	2	6	4	18
George Washington	24	3	1	3	31
Northern Virginia	25	1	1	4	31
Richmond	8	1	9	4	22
Total	63	7	17	15	102

Working Waterfronts in Virginia Planning District 19



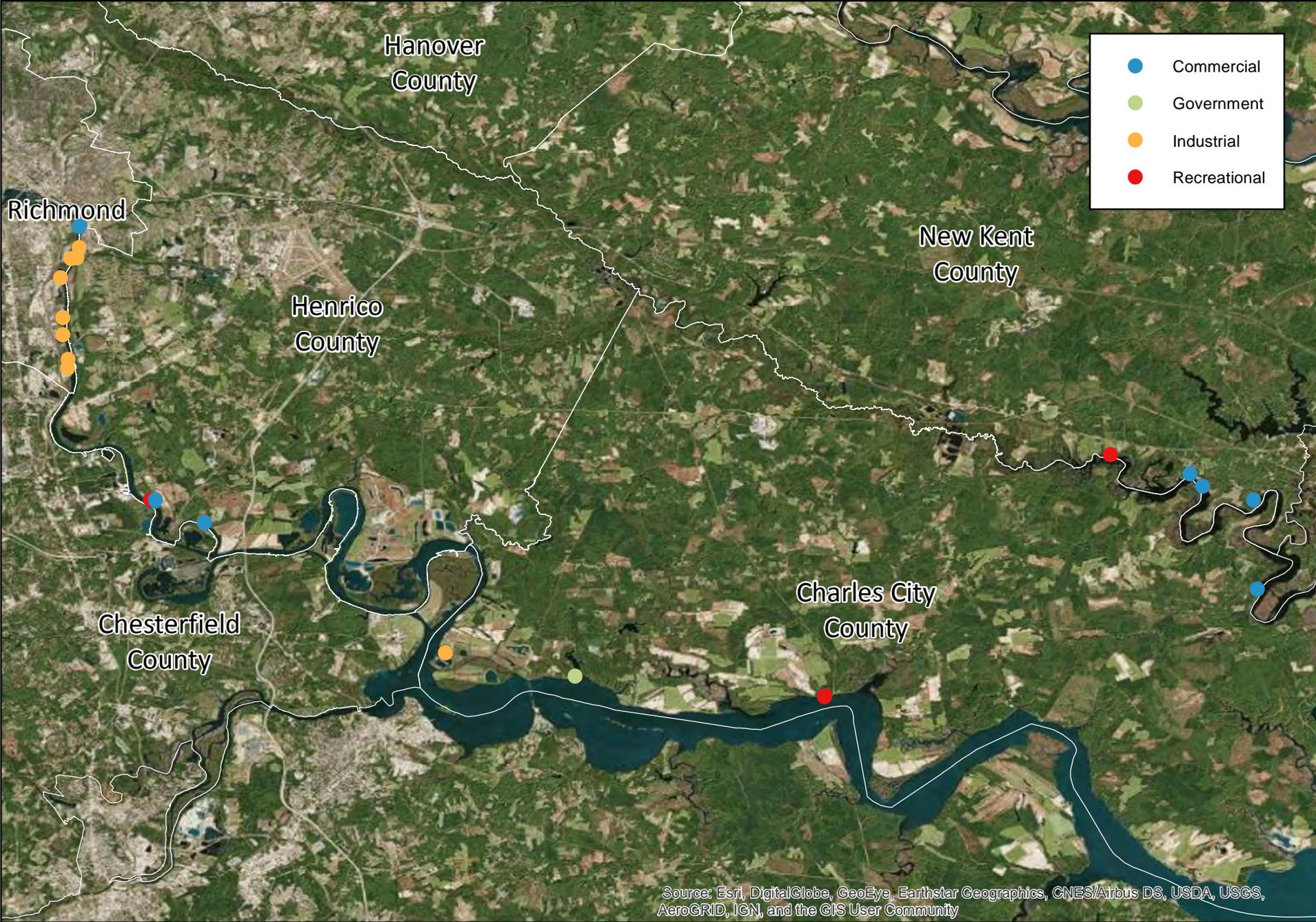
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Working Waterfronts in Virginia Planning District 8



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Working Waterfronts in Virginia Planning District 15



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Working Waterfronts in Virginia Planning Districts 8, 15, 16, and 19

