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Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Marine Resources Commission
Virginia Administrative Code (VAC) Chapter citation(s)	4 VAC 20-490
VAC Chapter title(s)	Pertaining to Sharks
Action title	Spiny Dogfish Trip Limit Increase
Final agency action date	September 27, 2022
Date this document prepared	August 25, 2022

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Virginia Marine Resources Commission (VMRC) is amending Chapter 4 VAC 20-490-10 et seq., "Pertaining to Sharks", to modify the spiny dogfish trip limit from 6,000 pounds to 7,500 pounds. On April 7, 2022, National Marine Fisheries Service (NMFS) published a final rule increasing the spiny dogfish trip limit from 6,000 pounds to 7,500 pounds for federal waters. VMRC has received requests from the Virginia spiny dogfish industry to update the state trip limit to 7,500 pounds to mirror the federal limit. This change will maintain consistency with federal waters and help the industry meet market demands. In the fall of 2021, the Mid-Atlantic Fishery Management Council (MAFMC) began discussions on raising the trip limit for spiny dogfish. Spiny dogfish processors had requested an increased trip limit of up to 12,000 pounds to fully utilize the quota and meet market demands. Through a review of previous trip limit increases in the fishery, MAFMC staff concluded that relatively small, incremental trip limit change would not negatively affect prices. Over a series of MAFMC meetings, a compromise was reached and a trip limit of 7,500 pounds was established. This is a 25% increase from the previous limit of 6,000 pounds.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

[Mandate] VMRC is authorized by § 28.2-201 of the Code of Virginia to promulgate regulations and guidelines necessary to carry out the provisions of Title 28.2, including marine fisheries regulations.

[Impetus] On April 7, 2022, National Marine Fisheries Service (NMFS) published a final rule increasing the spiny dogfish trip limit from 6,000 pounds to 7,500 pounds for federal waters. Staff has received request from the Virginia spiny dogfish industry to update the state trip limit to 7,500 pounds to mirror the federal limit.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

This is to certify that the foregoing is a true and accurate copy of the chapter (4VAC20-490-10 et seq., "Pertaining to Sharks") passed by the Marine Resources Commission, pursuant to authority vested in the Commission by § 28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Hampton, Virginia, on September 27, 2022.