

Unified Regulatory Plan of the Virginia Marine Resources Commission Fiscal Year 2023

Prepared on September 30, 2022

Description of Agency or Boards

The Virginia Marine Resources Commission is the policy making entity responsible for promulgating regulations and guidelines necessary to sustain Virginia’s marine resources for long term sustainability and the use of all Virginia citizens. § 28.2-201 of the Code of Virginia allows the Commission to adopt regulations, including those for taking seafood, necessary to promote the general welfare of the seafood industry and to conserve and promote the seafood and marine resources of the Commonwealth. Marine fisheries regulations shall be promulgated according to the procedures established in Article 2 (§ 28.2-209 et seq.) of Chapter 2 of this title. Habitat management regulations and guidelines shall be promulgated in accordance with the procedures established in Article 2 (§ 28.2-209 et seq.).

Title of Proposed Regulatory Action or Guidance Document Revisions to the Regulation Pertaining to Menhaden to Modify Purse-Seine Gear Time and Area Restrictions	
Brief Overview CHAPTER 4 VAC 20-1270-10 ET SEQ. “PERTAINING TO ATLANTIC MENHADEN” This regulatory change modifies areas and times that may not be fished while using purse-seine gear.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	None
Expected Date	October 2022

Title of Proposed Regulatory Action or Guidance Document Revisions to Regulation Pertaining to Sharks (Shortfin mako)	
Brief Overview CHAPTER 4 VAC 20-490-10 ET SEQ. "PERTAINING TO SHARKS" This regulatory change is to prohibit the possession of shortfin mako to mirror Federal Rule 87 FR 39373.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	None.
Expected Date	October 2022

Title of Proposed Regulatory Action or Guidance Document Revisions to the Regulations for Crabbing Transfers and Agents	
Brief Overview CHAPTER 4 VAC 20-610-10 ET SEQ. "PERTAINING TO COMMERCIAL FISHING AND MANDATORY HARVEST REPORTING" CHAPTER 4 VAC 20-1040-10 ET SEQ. "PERTAINING TO CRABBING LICENSES" This regulatory change sets specific requirements for blue crab transfers and modifies the agent permitting system.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	None.
Expected Date	December 2022

Title of Proposed Regulatory Action or Guidance Document Revisions to Regulations Pertaining Oyster User Fee Transfers	
Brief Overview CHAPTER 4 VAC 20-720-10 ET. SEQ. "PERTAINING TO RESTRICTIONS ON OYSTER HARVEST" This regulatory change sets specific requirements for transfers of oyster user fees in the case of death or sudden illness.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	This action reduces the regulatory restrictions on transfers of oyster user fees.
Expected Date	December 2022

Title of Proposed Regulatory Action or Guidance Document Revisions to Regulations Pertaining to Multi-year Licensing Fees	
Brief Overview CHAPTER 4 VAC 20-1090-10 ET. SEQ. "PERTAINING TO LICENSING REQUIREMENTS AND LICENSE FEES" HB1112 (Cordoza) was passed during the 2022 General Assembly session requiring the Commission to sell multi-year resident recreational saltwater fishing licenses. The bill went into effect July 1, 2022. However, given the bill's effective date was in the middle of the fishing year, the regulation is being amended with an effective date starting with the new calendar year (January 1, 2023). The regulation will mirror the Department of Wildlife Resources' multi-year recreational fishing licenses with a two, three, and four-year license.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action
Deregulatory Component	None.
Expected Date	December 2022

Title of Proposed Regulatory Action or Guidance Document Revisions to the Regulation Pertaining to Menhaden	
Brief Overview CHAPTER 4 VAC 20-1270-10 ET SEQ. "PERTAINING TO ATLANTIC MENHADEN" This regulatory change removes the calendar year limitation on transfers between the purse seine bait sector and the purse seine reduction sector and allows transfers between these sectors outside of 2022.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	None
Expected Date	December 2022

Title of Proposed Regulatory Action or Guidance Document Revisions to Regulations Pertaining to Black Sea Bass Season	
Brief Overview CHAPTER 4 VAC 20-950-10 ET. SEQ. "PERTAINING TO BLACK SEA BASS" This regulatory change is to establish a February 2023 recreational black sea bass fishery.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input checked="" type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	None.
Expected Date	January 2023

Title of Proposed Regulatory Action or Guidance Document Revisions to Regulations Pertaining to Cobia	
Brief Overview 4 VAC 20-510-10 ET SEQ. "PERTAINING TO AMBERJACK AND COBIA" This regulatory change is to remove the required recreational cobia permit program.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	The change removes the regulatory requirement of obtaining a recreational cobia permit.
Expected Date	January 2023

Title of Proposed Regulatory Action or Guidance Document Revisions to Regulations Pertaining to Menhaden	
Brief Overview CHAPTER 4 VAC 20-1270-10 ET SEQ. "PERTAINING TO ATLANTIC MENHADEN" This regulatory change is to mirror the management measures set forth by Addendum I to the ASMFC Fishery Management Plan for Atlantic menhaden.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input checked="" type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action
Deregulatory Component	None.
Expected Date	February 2023

Title of Proposed Regulatory Action or Guidance Document Revisions to Regulations Pertaining to Black Sea Bass Recreational Fishing Season	
Brief Overview CHAPTER 4 VAC 20-950-10 ET. SEQ. "PERTAINING TO BLACK SEA BASS" This regulatory change is to establish the 2023 recreational fishery management measures and season.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input checked="" type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input checked="" type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action
Deregulatory Component	None.
Expected Date	April 2023

Title of Proposed Regulatory Action or Guidance Document Revisions to Regulations Pertaining to the Blue Crab Fishery	
Brief Overview CHAPTER 4 VAC 20-270-10 ET SEQ. "PERTAINING TO BLUE CRAB FISHERY" CHAPTER 4 VAC 20-1140-10 ET SEQ. "PROHIBITION OF CRAB DREDGING IN VIRGINIA WATERS " This regulatory change is to establish management measures, including season and bushel limits, for the 2023-2024 commercial crab fishery and to close the 2023-2024 winter dredge fishery.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input checked="" type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	None.
Expected Date	June 2023

Title of Proposed Regulatory Action or Guidance Document

Revisions to Regulation Governing VMRC's Public Notice for Use of State-Owned Submerged Lands

Brief Overview**CHAPTER 4 VAC 20-120-10 "PERTAINING TO PUBLIC NOTICE OF APPLICATIONS FOR PERMITS FOR CERTAIN USES OF STATE-OWNED BOTTOMLANDS"**

This regulatory change proposes to eliminate the use of newspapers to satisfy the public notice requirements for projects or activities requiring a permit from the Marine Resources Commission. Public notice would instead be satisfied by posting notice of proposed activity on the Commission's website and on the Virginia Regulatory Town Hall site.

Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	This action eliminates the public's cost for advertising in local newspapers, decreases delays in permit processing times by improving staff efficiencies, and reduces the regulatory burden on citizens regarding the requirements for public notices.	
Expected Date	February 2023	

Title of Proposed Regulatory Action or Guidance Document	
Regulation Governing Utility Line Encroachments Beneath or Over State-Owned Submerged Lands	
Brief Overview	
CHAPTER 4 VAC 20-1410-10 "UTILITY LINE ENCROACHMENTS BENEATH OR OVER STATE-OWNED SUBAQUEOUS BEDS"	
This regulation describes the qualifications, procedures, and manner of registration to qualify for a general permit for certain activities beneath or over State-owned subaqueous beds. The regulation is intended to increase efficiency in the review and approval of projects involving the installation of utility lines in a manner that does not require instream construction activities upon State-owned subaqueous beds.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	This action provides for a general permit in an expedited manner for certain activities beneath or over State-owned subaqueous beds whereby owners of private or commercial properties, public utility companies, and political subdivisions are granted authority for the installation of aerial and directionally drilled utility lines that do not involve instream work.
Expected Date	February 2023

Title of Proposed Regulatory Action or Guidance Document Tidal Wetlands Guidelines	
Brief Overview Sections 28.2-1301 and 28.2-1308 of the Code of Virginia require the Marine Resources Commission to promulgate and periodically update its tidal wetlands guidelines. The Code stipulates that the guidelines shall be considered in applying the standards for the use and development of wetlands in Tidewater Virginia..	
Regulatory Stage (check one box)	<input checked="" type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	<p>Since the last Tidal Wetlands Guidelines update, Boards, agents, contractors, and homeowners have asked for further clarification about what constitutes the best available science used to aid in decision making, and if a Board can consider project costs as part of a permit decision. The proposed edits to the Guidelines will address those two questions. In addition, the proposed edits remove references to the 1) the Chesapeake Bay Preservation Act (CBPA), as recommended by the Attorney General's office; and 2) the 2017 NOAA Intermediate-High scenario projection curve, which also lies landward of the Board's jurisdictional limits. These updates will provide further clarity and guidance for local decision makers in identifying preferred shoreline management options.</p>
Expected Date	August 2023