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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 20-252
VAC Chapter title(s)	Pertaining to Atlantic Striped Bass
Action title	Management measures to comply with ASMFC Addendum II to Amendment 7 and additional changes to season and aquaculture language.
Final agency action date	April 1, 2024
Date this document prepared	March 1, 2024

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) proposes to amend Chapter 4VAC20-252-10 et seq., "Pertaining to Atlantic Striped Bass", to change management measures to comply with ASMFC Addendum II to Amendment 7 for striped bass, to change the recreational season for Potomac River tributaries summer/fall striped bass season, to streamline the aquaculture of striped bass process, and remove all gear restrictions for commercial harvesters that hold striped bass quota.

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the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."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.

[Impetus] January 24, 2024, the Atlantic States Marine Fisheries Commission (ASMFC) Atlantic Striped Bass Management Board voted to approve Addendum II to Amendment 7 to the Interstate Fisheries Management Plan (FMP) for Atlantic Striped Bass. The main goal of this Addendum is to reduce fishing mortality in the recreational and commercial striped bass fisheries. Addendum II implements a smaller recreational slot size limit for striped bass caught in the Chesapeake Bay and tributaries and decreases all commercial striped bass quotas by 7%. Addendum II will continue the recreational ocean slot size limit put into place during the 2023 emergency action. Jurisdictions must implement compliant measures as soon as possible and no later than May 1, 2024.

The Virginia recreational Potomac River tributaries summer/fall striped bass season is currently open from May 16 through December 31. The main stem of the Potomac River is managed by the Potomac River Fisheries Commission (PRFC) and closes the recreational striped bass season from July 7 through August 20. Closing Virginia's tributaries of the Potomac River from July 7 through August 20 will eliminate confusion for anglers and law enforcement on where it is legal and illegal to harvest and possess a striped bass.

All aquaculture requirements for raising and selling striped bass are currently outlined in the striped bass regulation. Removing this information from the regulation will streamline the process of receiving a striped bass aquaculture permit and more clearly explain the requirements for raising and selling striped bass. Removing these requirements will also reduce regulatory burden.

Currently, there are 5 approved gear types that commercial harvesters can use to catch striped bass when holding quota, gill net, pound net, haul seine, fyke net, or commercial hook-and-line. Commercial harvesters that hold striped bass quota do catch striped bass while targeting other species and using an unapproved gear type. Currently, any striped bass that is caught using an unapproved gear type is required to be released.

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 (4VAC20-252-10 et seq., "Pertaining to Atlantic Striped Bass", 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 March 26, 2024.