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Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Marine Resources Commission
Virginia Administrative Code (VAC) Chapter citation(s)	4VAC20-490
VAC Chapter title(s)	Pertaining to Sharks
Action title	Amending language to prohibit overnight soaks of gillnets in specific areas and times
Final agency action date	August 1, 2025
Date this document prepared	June 17, 2025

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.

Proposal to amend Chapter 4VAC20-490, "Pertaining to Sharks" to provide clarifying language regarding the prohibition of overnight soaks for Virginia spiny dogfish permit holders on gillnets with 5.25-to-10-inch mesh from November through March in specified areas in Virginia coastal waters to meet implementation mandates by ASMFC and NOAA Fisheries.

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the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”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] In February 2025, the ASMFC approved Addendum VII to the Spiny Dogfish Fishery Management plan to complement measures already adopted by the MAFMC’s Spiny Dogfish Framework Adjustment 6.

This addendum prohibits overnight soaks of gills nets with 5.25-to-10-inch mesh in specific areas and times to reduce the incidental take (bycatch) of threatened and endangered Atlantic Sturgeon. The amendments must be approved by May 1, 2025, to remain in compliance with these plans.

VMRC approved the changes on April 22, 2025, but the ASMFC and NOAA Fisheries had some concern with the modified language in Chapter 4VAC20-490 and the associated implementation plan. ASMFC said they will not approve the implementation plan until the language is corrected. If the implementation plan is not approved, Virginia could face a non-compliance finding and possible moratorium on all harvest of spiny dogfish until the issue is addressed.

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 “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 July 22, 2025.