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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 20-1270-10
VAC Chapter title(s)	Pertaining to Menhaden
Action title	Establishing a reciprocal quota transfer system.
Final agency action date	December 6, 2022
Date this document prepared	November 9, 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 20-1270-10 et seq., "Pertaining to Menhaden", to establish a reciprocal quota transfer system between the purse seine menhaden reduction sector and the purse seine menhaden bait sector of the fishery.

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the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."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] The Atlantic States Marine Fisheries Commission (ASMFC) approved a 10% decrease in the coastwide total allowable catch or landings (TAC) of menhaden at the October 2020 Board meeting. As a result, in 2021, the purse seine bait sector reached their quota early and was unable to fish the rest of the season due to this 10% reduction. At a Menhaden Management Advisory Committee (MMAC) meeting in November of 2021, the bait sector representative asked for the committee to consider potential paths forward in acquiring additional quota for the purse seine bait sector. The subcommittee and full MMAC committee recommended that transfers of quota between the purse seine reduction and purse seine bait sectors be permitted for the 2022 fishing year and into the future.

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 (4VAC20-1270-10 et seq., "Pertaining to Menhaden") 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 December 6, 2022.