

"PERTAINING TO AMBERJACK AND COBIA"

CHAPTER 4 VAC 20-510-10 ET SEQ.

DRAFT

PREAMBLE

This chapter establishes possession limits, season, and minimum size limits for cobia and amberjack in Virginia waters.

This chapter is promulgated pursuant to authority contained in §28.2-201 of the Code of Virginia. This chapter amends and re-adopts previous Chapter 4 VAC 20-510-10 et seq., which was adopted on ~~March 26, 2019~~ October 22, 2019 and effective on ~~April 1, 2019~~ October 23, 2019. The effective date of this chapter, as amended, is ~~October 23, 2019~~ June 1, 2020.

4VAC20-510-10. PURPOSE.

The purpose of this chapter is to control the harvest, protect the spawning stocks, minimize the possibility of recruitment failure and increase yield in the amberjack and cobia fisheries. The provisions pertaining to aquaculture serve to prevent cobia raised in an aquaculture facility from being placed into Virginia waters and to minimize the impact of cultured fish in the market place on the enforcement of other provisions of this chapter.

4 VAC 20-510-12. DEFINITIONS.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

“Amberjack” means any fish of the species *Seriola dumerili*.

“Cobia” means any fish of the species *Rachycentron canadum*.

“Mandatory Harvest Reporting Program Web Application” means the online web-based resource provided by the Commission to report commercial harvest of seafood (<https://webapps.mrc.virginia.gov/harvest/>).

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"Recreational vessel" means any vessel, kayak, charter vessel, or headboat participating in the recreational cobia fishery.

"Snout" means the most forward projection from a fish's head that includes the upper and lower jaw.

"Total length" means the length of a fish measured from the most forward projection of the snout, with the mouth closed, to the tip of the longer lobe of the tail (caudal) fin, measured with the tail compressed along the midline, using a straight-line measure, not measured over the curve of the body.

"Virginia Saltwater Fisherman's Journal" means the online web-based resource provided by the Commission to report recreational harvest of seafood (<https://www.vasaltwaterjournal.com>).

4VAC20-510-15. RECREATIONAL COBIA PERMIT AND MANDATORY REPORTING.

A. It shall be unlawful for any person to possess or land any cobia harvested from a recreational vessel unless the captain or operator of that recreational vessel has obtained a Recreational Cobia Permit from the Marine Resources Commission. The captain or operator shall be responsible for reporting for all anglers on the recreational vessel ~~and shall provide his MRC ID number; the date of harvest; the number of individuals on board; the mode of fishing; and the number of cobia kept or released.~~ Any captain or operator who did not participate in any recreational cobia season shall be responsible for reporting their lack of participation.

B. It shall be unlawful for any person to possess or land any cobia harvested recreationally

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from shore, a pier, or any other manmade structure without first having obtained a Recreational Cobia Permit from the Marine Resources Commission. ~~Any such permittee shall provide his MRC ID number; the date of harvest; the mode of fishing; and the number of cobia kept or released on that report to the Commission.~~ Permittees shall be responsible for reporting all trips. Any permittee who did not participate in any recreational cobia season shall be responsible for reporting their lack of participation.

C. ~~It shall be unlawful for any permittee to fail to report trips where cobia were caught, whether harvested, released, or possessed in accordance with this section, on forms provided by the commission within seven days after the trip occurred. It shall be unlawful for any permittee to fail to report trips where cobia were targeted but not successfully caught, by the 21st day after the close of any recreational cobia fishery season. It shall be unlawful for any recreational cobia permittee to fail to report on forms provided by the commission or through the Virginia Saltwater Fisherman's Journal. Reports shall include MRC ID number; the date of harvest; the mode of fishing; the number of cobia kept or released; and if fishing from a vessel the number of persons on board.~~

1. ~~Any permittee who did not participate in the recreational cobia season shall notify the commission of his lack of participation by the 21st day after the close of the recreational cobia season on forms provided by the commission or through the Virginia Saltwater Fisherman's Journal. Any permittee who did not participate in any recreational cobia season shall report their lack of participation by the 21st day~~

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after the close of any recreational cobia season.

2. ~~Following the 21st day after the close of any recreational cobia season, any permittee who failed to report, whether there was harvest or no activity during that season shall be ineligible to receive a recreational cobia permit for the following cobia season, but shall be eligible to reapply for that permit in subsequent years.~~
Any permittee shall report trips where cobia were targeted but not successfully caught, by the 21st day after the close of any recreational cobia fishery season.

3. Any permittee shall report trips where cobia were caught, whether harvested, released, or possessed, within seven days after the trip occurred.

D. Following the 21st day after the close of any recreational cobia season, any permittee who failed to report for any season shall be ineligible to receive a recreational cobia permit for the following calendar year, but shall be eligible to reapply for that permit in subsequent years.

4VAC20-510-20. RECREATIONAL FISHERY POSSESSION LIMITS, SEASON, CLOSURE, AND, VESSEL ALLOWANCE.

A. It shall be unlawful for any person fishing recreationally to possess ~~more than two amberjack or more than one cobia~~ at any time. ~~Any amberjack or cobia caught after the possession limit has been reached shall be returned to the water immediately.~~ When fishing from any boat or vessel where the entire catch is held in a common hold or

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container, the possession limit ~~shall be~~ for the boat or vessel ~~and~~ shall be equal to the number of persons on board legally eligible to fish multiplied by ~~two for amberjack or one for cobia~~, except there is a maximum vessel limit of three cobia per vessel per day. ~~That vessel limit may only include one cobia greater than 50 inches in total length.~~ The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any cobia caught after the possession limit has been reached shall be returned to the water immediately.

B. It shall be unlawful for any person, fishing recreationally, to harvest or possess any cobia before June 1st or after September 30th of the current calendar year.

C. It shall be unlawful for any person fishing recreationally to possess more than two amberjack at any time. When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit for the boat or vessel shall be equal to the number of persons on board legally eligible to fish multiplied by two. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any amberjack caught after the possession limit has been reached shall be returned to the water immediately.

4VAC20-510-25. COMMERCIAL FISHERY POSSESSION LIMITS, AND SEASON, AND REPORTING REQUIREMENTS.

A. It shall be unlawful for any person fishing commercially to possess more than ~~two~~ ~~amberjack or more than~~ two cobia at any time, ~~except as described in 4VAC 20-510-33.~~

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~~Any amberjack or cobia caught after the possession limit has been reached shall be returned to the water immediately.~~ When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit ~~shall be~~ for the boat or vessel ~~and~~ shall be equal to the number of valid commercial fisherman registration licensees on board multiplied by two, except there is a maximum vessel limit of six cobia per vessel per day. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any cobia caught after the possession limit has been reached shall be returned to the water immediately.

B. ~~In 2019 it shall be unlawful for any person, fishing commercially, to harvest or possess any cobia after September 30.~~ Any commercial harvest of cobia shall only be reported through the Online Mandatory Harvest Reporting Program Web Application. Such reports shall record daily harvests from Sunday through Saturday and be submitted on a weekly basis no later than Wednesday of the following week in accordance with 4 VAC 20-610.

C. It shall be unlawful for any person to take, harvest, or possess any cobia for commercial purposes, once it has been announced by the commission that the commercial quota has been landed for the current calendar year.

D. It shall be unlawful for any person fishing commercially to possess more than two amberjack at any time. When fishing from any boat or vessel where the entire catch is held

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in a common hold or container, the possession limit for the boat or vessel shall be equal to the number of valid commercial fisherman registration licensees on board multiplied by two. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any amberjack caught after the possession limit has been reached shall be returned to the water immediately.

E. The possession of amberjack or cobia by licensed seafood buyers or wholesale and retail seafood establishments when operating in their capacity as buyer, wholesaler or retailer shall not be limited by the possession limits described in this section.

4VAC20-510-30. ~~MINIMUM SIZE LIMITS.~~

A. It shall be unlawful for any person to take, catch or have in possession any amberjack less than 32 inches in total length.

B. It shall be unlawful for any person fishing commercially to take, harvest or possess any cobia less than 37 inches in total length.

C. It shall be unlawful for any person to take, catch or have in possession any recreationally harvested cobia less than 40 inches in total length.

D. When fishing from any boat or vessel, it shall be unlawful to take, catch or have in possession more than one recreationally harvested cobia greater than 50 inches in total length per vessel.

4VAC20-510-33. ~~EXCEPTIONS TO POSSESSION LIMITS AND MINIMUM SIZE LIMITS. REPEALED.~~

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~~A. Nothing in 4VAC20-510-25 shall limit the possession of amberjack or cobia by licensed seafood buyers or wholesale and retail seafood establishments when operating in their capacity as buyer, wholesaler or retailer.~~

~~B. Nothing in 4VAC20-510-25 and 4VAC20-510-30 shall limit the possession of cobia by an aquaculture facility that is permitted in accordance with the provisions of 4VAC20-510-35.~~

~~C. Any person employed by a permitted cobia aquaculture facility for the purpose of harvesting cobia as broodstock for the aquaculture facility shall be exempt from the provisions of 4VAC20-510-20 and 4VAC20-510-30 provided that person possesses a scientific collection permit issued by the commissioner.~~

4VAC20-510-35. AQUACULTURE OF COBIA; PERMIT REQUIRED.

A. Any person operating an aquaculture facility in which cobia that exceed the possession limit or are of sublegal size will be cultured, possessed, offered for sale or sold shall first obtain a permit from the commissioner for the facility. That permit shall exempt the facility from the possession requirements described in 4VAC20-510-20, 4VAC20-510-25, and 4VAC20-510-30, and authorize the possession, culturing and sale of sublegal size cobia.

B. The application for a cobia aquaculture permit shall list the name and address of the applicant, the type and location of the facility, and an estimate of production capacity. An aquaculture permit shall be valid for 10 years from the date of issue and may be renewed by the commissioner provided the permittee has complied with all of the provisions of this chapter. The issuance and continuation of any person's cobia aquaculture permit are

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contingent on that designated facility being open for inspection by the Marine Resources Commission for the purposes of determining compliance with this regulation. An aquaculture permit is not transferable.

C. Any person employed by a permitted cobia aquaculture facility for the purpose of harvesting cobia as broodstock for the aquaculture facility shall be exempt from the provisions of 4VAC20-510-20, 4VAC20-510-25, and 4VAC20-510-30 provided that person possesses a scientific collection permit issued by the commissioner.

4VAC20-510-37. AQUACULTURE OF COBIA; SALE, RECORDS, IMPORTATION, RELEASE.

A. All cobia produced by an aquaculture facility permitted under this section shall be packaged prior to sale with a printed label indicating the product is of aquaculture origin. When packaged and labeled according to these requirements, such fish may be transported and sold at retail or wholesale or for commercial distribution through normal channels of trade until reaching the consumer.

B. Cobia that measure less than the lawful minimum size described in 4VAC20-510-30 B but are the product of a permitted aquaculture facility in another state may be imported into Virginia for the consumer market. Such fish shall be packaged and labeled in accordance with the provisions contained in subsection A of this section.

~~C. Release of live fish. Under no circumstance shall~~ It shall be unlawful for any cobia produced by an aquaculture facility located within or outside the Commonwealth of Virginia to be placed into the waters of the Commonwealth without first having notified the commissioner and having received written permission from the commissioner.

4VAC20-510-40. PENALTY.

As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor and a second or subsequent violation

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of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

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This is to certify that the foregoing is a true and accurate copy of the chapter 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 May 26, 2020.

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION**

BY: _____
Steven G. Bowman
Commissioner

Subscribed and sworn to before me this _____ day of May 2020.

Notary Public

