PREAMBLE

This chapter establishes a limited commercial and recreational fishery for striped bass in Virginia. The provisions of this chapter are intended to comply with all Federal and interstate requirements for fishing for striped bass. This chapter also authorizes the aquaculture of striped bass and hybrid striped bass and sets forth the conditions required for their culture.

This chapter is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-204.1 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous Chapter 4 VAC 20-252-10 et seq. which was promulgated April 1, 2015 and made effective April 1, 2015. The effective date of this chapter, as amended, is April 29, 2015.

4 VAC 20-252-10. Purpose.

The purpose of this chapter is to provide for the continued sustained yield from the recovered striped bass stocks in Virginia and to limit the growth of the number of commercial participants in this fishery. The provisions pertaining to aquaculture serve to prevent the escape of cultured hybrid striped bass into the natural environment and to minimize the impact of cultured fish in the market place on the enforcement of other provisions of this chapter.

This regulation is not intended to create any property right in anyone, and the commission reserves the right to change this regulation at any time it deems it necessary because of biological conditions and to change the regulation in all other respects at any time it deems it necessary to carry out its statutory mission.

4 VAC 20-252-20. Definitions.

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

"Chesapeake area" means the area that includes the Chesapeake Bay and its tributaries and the Potomac River tributaries.

"Chesapeake Bay and its tributaries" means all tidal waters of the Chesapeake Bay and its tributaries within Virginia, westward of the shoreward boundary of the Territorial Sea, excluding the Coastal area and the Potomac River tributaries as defined by this section.

"Coastal area" means the area that includes Virginia's portion of the Territorial Sea, plus all of the creeks, bays, inlets, and tributaries on the seaside of Accomack County, Northampton County (including areas east of the causeway from Fisherman Island to the mainland), and the City of Virginia Beach (including federal areas and state parks, fronting on the Atlantic Ocean and east and

south of the point where the shoreward boundary of the Territorial Sea joins the mainland at Cape Henry).

"Commission" means the Marine Resources Commission.

"Commercial fishing" or "fishing commercially" or "commercial fishery" means fishing by any person where the catch is for sale, barter, trade, or any commercial purpose, or is intended for sale, barter, trade, or any commercial purpose.

"Great Wicomico-Tangier Striped Bass Management Area" means the area that includes the Great Wicomico River and those Virginia waters bounded by a line beginning at Dameron Marsh at NAD 83 North Latitude 37-46.9535, West Longitude 76-17.1294; thence extending to the southernmost point of Tangier Island, and thence north to a point on the Virginia–Maryland state boundary at NAD 83 North Latitude 37-57.0407, West Longitude 75-58.5043, thence westerly along the Virginia-Maryland state boundary to Smith Point.

"Potomac River tributaries" means all the tributaries of the Potomac River that are within Virginia's jurisdiction beginning with, and including, Flag Pond thence upstream to the District of Columbia boundary.

"Recreational fishing" or "fishing recreationally" or "recreational fishery" means fishing by any person, whether licensed or exempted from licensing, where the catch is not for sale, barter, trade, or any commercial purpose, or is not intended for sale, barter, trade, or any commercial purpose.

"Share" means a percentage of the striped bass commercial harvest quota.

"Spawning reaches" means sections within the spawning rivers as follows:

1. James River from a line connecting Dancing Point and New Sunken Meadow Creek upstream to a line connecting City Point and Packs Point.

2. Pamunkey River from the Route 33 Bridge at West Point upstream to a line connecting Liberty Hall and the opposite shore.

3. Mattaponi River from the Route 33 Bridge at West Point upstream to the Route 360 bridge at Aylett.

4. Rappahannock River from the Route 360 Bridge at Tappahannock upstream to the Route 1 Falmouth Bridge.

"Spear" or "spearing" means to fish while the person is fully submerged under the water's surface with a mechanically aided device designed to accelerate a barbed spear.

"Striped bass" means any fish of the species *Morone saxatilis*, including any hybrid of the species *Morone saxatilis*.

4 VAC 20-252-30. General prohibitions and requirements.

A. It shall be unlawful for any person to possess any striped bass taken from the tidal waters of Virginia, including Virginia's portion of the Territorial Sea, except in accord with the provisions of Title 28.2 of the Code of Virginia and in accord with the provisions of this chapter.

B. It shall be unlawful for any person to possess any striped bass taken from the tidal waters of Virginia, including Virginia's portion of the Territorial Sea, during a time, from an area, and with a gear type when there is no open season set forth in this chapter for such time, area, and gear type.

C. Except for those persons permitted in accordance with 4 VAC 20-252-170, it shall be unlawful for any person to possess any striped bass less than 18 inches total length at any time.

D. It shall be unlawful for any person to possess any striped bass that measures less than the minimum size or more than the maximum size applicable to the open season when fishing occurs, except as described in 4 VAC 20-252-115.

E. Total length measurement of striped bass shall be in a straight line from tip of nose to tip of tail.

F. It shall be unlawful for any person while aboard any boat or vessel or while fishing from shore or pier to alter any striped bass or to possess any altered striped bass such that its total length cannot be determined.

G. It shall be unlawful for any person to gaff or attempt to gaff any striped bass at any time.

H. It shall be unlawful for any person to use a commercial hook and line within 300 feet of any bridge, bridge-tunnel, jetty, or pier during Thanksgiving Day and the following day or during any open recreational striped bass season in the Chesapeake Bay and its tributaries, except during the period midnight Sunday through 6 a.m. Friday.

I. Unless specified differently in other regulations, it shall be unlawful to place, set, or fish any gill net within 300 feet of any bridge, bridge-tunnel, jetty, or pier during any open recreational striped bass season in the Chesapeake Bay and its tributaries, except during the period midnight Sunday through midnight Wednesday.

J. During the period April 1 through May 31, inclusive, it shall be unlawful for any person to set or fish any anchored gill net or staked gill net, for any purpose, within the spawning reaches of the James, Pamunkey, Mattaponi, and Rappahannock Rivers. Drift or float gill nets may be set and fished within the spawning reaches of these rivers during this period, provided that the person

setting and fishing the net remains with the net during the time it is fishing and all striped bass that are caught shall be returned to the water immediately.

K. Holding any permit issued by the commission to fish for striped bass, recreationally or commercially, shall authorize any commission personnel or their designees to inspect, measure, weigh, or take biological samples from any striped bass in possession of the permit holder.

L. Nothing in this chapter shall preclude any person, who is legally eligible to fish, from possessing any striped bass tagged with a Virginia Institute of Marine Science (VIMS) fluorescent green tag. Possession of these VIMS-tagged striped bass shall not count towards the personal recreational possession limit, and permitted commercial striped bass individual transferable quota (ITQ) holders shall not be required to apply a tamper evident, numbered tag provided by the commission, in order to possess any striped bass tagged with a VIMS-inscribed green fluorescent tag. It shall be unlawful for any person to retain any of these VIMS-tagged striped bass for a period of time that is longer than necessary to provide the VIMS-tagged striped bass to a VIMS representative. Under no circumstance shall any VIMS-tagged striped bass be stored for future use or sale or delivered to any person who is not a VIMS representative.

4 VAC 20-252-40. Severability.

Any provision of this chapter that is held invalid by a court of competent jurisdiction shall not affect the validity of other provisions of this chapter which can be given effect without the invalid provision.

4 VAC 20-252-50. Concerning recreational fishing: general.

A. It shall be unlawful for any person fishing recreationally to take, catch, or attempt to take or catch any striped bass by any gear or method other than hook and line, rod and reel, hand line, or spearing.

B. It shall be unlawful for any person fishing recreationally to possess any striped bass while fishing in an area where or at a time when there is no open recreational striped bass season, except as described in 4 VAC 20-252-115. Striped bass caught contrary to this provision shall be returned to the water immediately.

C. It shall be unlawful for any person fishing recreationally to possess, land and retain any striped bass in excess of the possession limit applicable for the area and season being fished within the 24-hour period of 12 a.m. through 11:59 p.m. Striped bass taken in excess of the possession limit shall be returned to the water immediately.

When fishing from a 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

persons on board legally eligible to fish multiplied by the applicable personal possession limit. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit.

D. It shall be unlawful to combine possession limits when there is more than one area or season open at the same time.

E. It shall be unlawful for any person while actively fishing pursuant to a recreational fishery to possess any striped bass that are smaller than the minimum size limit or larger than the maximum size limit for the area and season then open and being fished, except as described in 4 VAC 20-252-115. Any striped bass caught that does not meet the applicable size limit shall be returned to the water immediately.

F. It shall be unlawful for any person to sell, offer for sale, trade or barter any striped bass taken by hook and line, rod and reel, hand line, or spearing provided, however, this provision shall not apply to persons possessing a commercial hook-and-line license and a striped bass permit and meeting the other requirements of this chapter.

G. It shall be unlawful for any person fishing recreationally to transfer any striped bass to another person, while on the water or while fishing from a pier or shore.

H. It shall be unlawful for the captain of any charter boat or charter vessel to take hook-and-line, rod-and-reel, hand line, or spear fishermen for hire unless the captain has obtained a Striped Bass Charter Boat Permit from the commission and is a Coast Guard charter licensee.

I. Striped bass charter boat permittees shall report to the commission, on forms provided by the commission, all daily quantities of striped bass caught and harvested, and daily fishing hours for themselves or their customers, respectively. The written report shall be forwarded to the commission no later than 15 days following the last day of any open season. In addition, striped bass charter boat permittees engaging in the Bay and Coastal Spring Trophy-size Striped Bass Recreational Fishery and the Potomac River Tributaries Spring Striped Bass Recreational Fishery shall provide the report required by 4 VAC 20-252-60 and 4 VAC 20-252-70, respectively.

4 VAC 20-252-55.(Repealed.)

4 VAC 20-252-60. Bay and Coastal Spring Trophy-size Striped Bass Recreational Fisheries.

A. The open season for the Bay Spring Trophy-size Striped Bass Recreational Fishery shall be May 1 through June 15, inclusive.

B. The area open for the Bay Spring Trophy-size Striped Bass Recreational Fishery shall be the Chesapeake Bay and its tributaries, except the spawning reaches of the James, Pamunkey, Mattaponi, and Rappahannock Rivers.

C. The open season for the Coastal Spring Trophy-size Striped Bass Recreational Fishery shall be May 1 through May 15, inclusive.

D. The area open for the Coastal Spring Trophy-size Striped Bass Recreational Fishery is the Coastal area as described in 4 VAC 20-252-20.

E. The minimum size limit for the fisheries described in this section shall be 36 inches total length.

F. The possession limit for the fisheries described in this section shall be one fish per person.

G. It shall be unlawful for any person, 16 years of age or older, participating in the Bay and Coastal Spring Trophy-size striped bass recreational fisheries to fail to obtain a Spring Recreational Striped Bass Trophy Permit from the commission prior to any participation, except when fishing from a legally licensed headboat or charter boat.

H. It shall be unlawful for any spring recreational striped bass trophy permittee or any charter boat striped bass permittee to fail to report the take, harvest, or possession of any trophy-size striped bass, as described in subsection E of this section, on forms provided by the commission by the 15th day after the close of the Bay and Coastal Spring Trophy-size striped bass recreational fisheries. The report requirements shall be as follows:

1. Any spring recreational striped bass trophy permittees or charter boat striped bass permittees shall provide the permittee name, commission permit identification number, the date of any harvest, the water body where the trophy-size striped bass was caught, number of trophy-size striped bass kept or released, and the length of each trophy-size striped bass kept or released. Any weight information on any kept or released trophy-size striped bass may be provided voluntarily by the permittees.

2. Any spring recreational striped bass trophy permittees or charter boat striped bass permittees who did not participate in the Bay and Coastal Spring Trophy-size striped bass recreational seasons shall notify the commission of their lack of participation by the 15th day after the close of the Bay and Coastal Spring Trophy-size striped bass recreational seasons on forms provided by the commission.

I. It shall be unlawful for any permittee, as described in 4 VAC 20-252-50H and subsection G of this section, to fail to report either the harvest of trophy-size striped bass or no harvest activity within 15 days of the closing of the Bay and Coastal Spring Trophy-size striped bass recreational seasons.

4 VAC 20-252-70. Potomac River tributaries spring trophy-size striped bass recreational fishery.

A. The open season for the Potomac River tributaries spring striped bass recreational fishery shall correspond to the open season as established by the Potomac River Fisheries Commission for the mainstem Potomac River spring fishery.

B. The area open for this fishery shall be those tributaries of the Potomac River that are within Virginia's jurisdiction beginning with, and including, Flag Pond thence upstream to the Route 301 bridge.

C. The minimum size limit for this fishery shall correspond to the minimum size limit as established by the Potomac River Fisheries Commission for the mainstem Potomac River spring trophy-size fishery.

D. The possession limit for this fishery shall be one fish per person.

E. It shall be unlawful for any person, 16 years of age or older, participating in the Potomac River tributaries spring trophy-size striped bass recreational fishery to fail to obtain a Spring Recreational Striped Bass Trophy Permit from the commission prior to any participation, except when fishing from a legally licensed headboat or charter boat.

F. It shall be unlawful for any spring recreational striped bass trophy permittee or any charter boat striped bass permittee to fail to report the take, harvest, or possession of any trophy-size striped bass, as described in this section, on forms provided by the commission by the 15th day after the close of the Potomac River tributaries spring trophy-size striped bass recreational fishery. The report requirements shall be as follows:

1. Any spring recreational striped bass trophy permittees or charter boat striped bass permittees shall provide the permittee name, commission permit identification number, the date of any harvest, the water body where the trophy-size striped bass was caught, number of trophy-size striped bass kept or released, and the length of each trophy-size striped bass kept or released. Any weight information on any kept or released trophy-size striped bass may be provided voluntarily by the permittees.

2. Any spring recreational striped bass trophy permittees or charter boat striped bass permittees who did not participate in the Potomac River tributaries spring trophy-size striped bass recreational season shall notify the commission of their lack of participation by the 15th day after the close of the Potomac River tributaries spring trophy-size striped bass recreational season on forms provided by the commission.

G. It shall be unlawful for any permittee, as described in 4 VAC 20-252-50H and 4 VAC 20-252-60G., to fail to report either the harvest of trophy-size striped bass or no harvest activity within 15 days of the closing of the Potomac River tributaries spring trophy-size striped bass recreational season.

4 VAC 20-252-80. Bay Spring/Summer Striped Bass Recreational Fishery.

A. The open season for the Bay Spring/Summer Striped Bass Recreational Fishery shall be May 16 through June 15 inclusive.

B. The area open for this fishery shall be the Chesapeake Bay and its tributaries.

C. The minimum size limit for this fishery shall be 20 inches total length, and the maximum size limit for this fishery shall be 28 inches total length, except as provided in subsection E of this section.

D. The possession limit for this fishery shall be two fish per person.

E. The possession limit described in subsection D of this section may consist of one trophy-size striped bass 36 inches or greater, which is subject to the provisions of subsections A, B, E, F, G and H of 4 VAC 20-252-60.

4 VAC 20-252-85. [Repealed]

4 VAC 20-252-90. Bay fall striped bass recreational fishery.

A. The open season for the bay fall striped bass recreational fishery shall be October 4 through December 31, inclusive.

B. The area open for this fishery shall be the Chesapeake Bay and its tributaries.

C. The minimum size limit for this fishery shall be 20 inches total length.

D. The maximum size limit for this fishery shall be 28 inches total length; however, the maximum size limit shall only apply to one fish of the possession limit.

E. The possession limit for this fishery shall be two fish per person.

4 VAC 20-252-100. Potomac River tributaries summer/fall striped bass recreational fishery.

A. The open season for the Potomac River tributaries summer/fall striped bass fishery shall correspond to the open summer/fall season as established by the Potomac River Fisheries Commission for the mainstem Potomac River.

B. The area open for this fishery shall be the Potomac River tributaries.

C. The minimum size limit for this fishery shall be 20 inches total length.

D. The maximum size limit for this fishery shall be 28 inches total length; however, the maximum size limit shall only apply to one fish of the possession limit.

E. The possession limit for this fishery shall be two fish per person.

4 VAC 20-252-110. Coastal striped bass recreational fishery.

A. The open seasons for the coastal striped bass recreational fishery shall be January 1 through March 31 and May 16 through December 31, inclusive.

B. The area open for this fishery shall be the Coastal area as defined in this chapter.

C. The minimum size limit for this fishery shall be 28 inches total length.

D. The possession limit for this fishery shall be one fish per person per day.

4 VAC 20-252-115. Exemptions from size limits and closed fishing seasons for recreational striped bass fishing tournaments.

A. The commissioner or his designee may grant exemptions for any recreational fishing tournament from size and season limitations described in 4 VAC 20-252-80, 4 VAC 20-252-90, 4 VAC 20-252-100 and 4 VAC 20-252-110 provided that the tournament meets all of the following conditions:

1. The tournament operates for a limited duration, with a maximum of three consecutive days.

2. The tournament format provides for the live release of all fish and significant penalties for entrants bringing in or weighing in dead striped bass.

3. The tournament director submits a written proposal to the commissioner detailing the measures the tournament will use to ensure the survivability of fish entered in the tournament, to include capture, handling and storage of fish by tournament entrants on the water during the competition, by tournament officials at the weigh-in, by tournament officials when transporting and returning the fish to the water, and any penalties that will apply to entrants bringing in or weighing dead fish. Such proposal must be submitted no later than 120 days prior to the tournament, and the proposal must be determined by the commissioner to adequately address potential mortality issues.

4. Tournament officials must agree to provide any or all fish entered in the tournament to the Marine Resources Commission, or to any designee of the Marine Resources Commission, upon written request, and tournament officials agree to allow Marine Resources

Commission staff access to all tournament areas during the event for the purposes of observation and assessment, upon request.

B. Any determination by the commissioner or his designee that approval of any requested recreational striped bass tournament could jeopardize the status of the striped bass stock or prove to be an issue of compliance with the interstate fishery management plan will result in disapproval of that request.

4 VAC 20-252-120. Concerning commercial fishing: general.

A. It shall be unlawful for any person to engage in the commercial fishery for striped bass without first having the necessary commercial fisherman's registration license and appropriate gear license as required by Title 28.2 of the Code of Virginia, and the special permit to fish for striped bass established in 4 VAC 20-252-130, except as provided in subsection G of 4 VAC 20-252-160.

B. It shall be unlawful for any person fishing commercially to possess any striped bass taken outside any open commercial season or area, or with gear inapplicable to the season and area, as specified in 4 VAC 20-252-140. Any striped bass caught contrary to this provision shall be returned to the water immediately.

C. It shall be unlawful for any person while actively fishing pursuant to a commercial fishery to possess any striped bass that is less than the minimum size limit applicable for the area and season then open and being fished. Any striped bass caught that does not meet the applicable minimum size limit shall be returned to the water immediately.

D. All striped bass in the possession of any person for the purpose of sale must be identified with a tamper-evident sealed tag that has been approved and issued by the appropriate authority in the jurisdiction of capture. Whole striped bass shall have tags attached directly to the fish. Processed or filleted striped bass must be accompanied by the tags removed from the fish when processed. Any person who possesses any amount of striped bass in excess of the maximum number allowed for a licensed recreational fisherman as described in 4 VAC 20-252-60 through 4 VAC 20-252-110, inclusive, shall be considered as possessing all striped bass for the purpose of sale. When any person possesses striped bass in excess of the maximum number allowed a licensed recreational fisherman, all striped bass of said person shall be tagged, and the possession of any untagged striped bass shall be prima facie evidence of a violation of this chapter and subject to the provisions of 4 VAC 20-252-160 H and I and 4 VAC 20-252-230.

E. When the striped bass are in the possession of any person, other than the original harvester, for the purpose of resale, the striped bass shall be accompanied by a bill of sale which shall include the name of the seller, the permit or license number of the seller if such permit or license is required in the jurisdiction of harvest, the date of sale, the pounds of striped bass in possession, the location of catch and the gear type used to harvest the striped bass. If the striped bass product for sale is fillets, the bill of sale shall also specify the number of fillets.

F. It shall be unlawful for any person fishing commercially to harvest striped bass by any method other than gill net, pound net, haul seine, fyke net, or commercial hook and line.

4 VAC 20-252-130. Entry limits, permits, and reports.

A. There is established a special permit for engaging in either the Chesapeake area commercial fishery for striped bass or the Coastal area commercial fishery for striped bass, and it shall be unlawful for any person to engage in either commercial fishery for striped bass without first having obtained the permit from the commission and meeting the following conditions:

1. The person shall be a licensed registered commercial fisherman.

2. The person shall have reported all prior fishing activity in accordance with 4 VAC 20-610 and shall not be under any sanction by the Marine Resources Commission for noncompliance with the regulation.

B. Permits for the commercial harvest of striped bass in the Chesapeake area or Coastal area shall be issued to any registered commercial fishermen holding striped bass quota shares issued under the provisions of 4 VAC 20-252-150 and 4 VAC 20-252-160.

C. Permits shall be in the possession of the permittee while catching, harvesting, selling or possessing striped bass. Failure to have the appropriate permit in possession shall be a violation of this chapter.

D. It shall be unlawful for any person, business, or corporation, except for licensed restaurants, to purchase from the harvester any quantity of striped bass greater than 10 pounds in total weight taken from Virginia's tidal waters for the purpose of resale without first obtaining a striped bass buyer's permit from the commission, except as described in subsection E of this section. Such permit shall be completed in full by the permittee and kept in possession of the permittee while selling or possessing striped bass. Failure to have the appropriate permit in possession shall be a violation of this chapter.

E. Restaurants shall not be required to obtain a striped bass buyer's permit from the commission but shall be required to certify and maintain a record of any striped bass purchased from any harvester for a period of not less than one year.

F. All permitted commercial harvesters of striped bass shall report to the commission in accordance with 4 VAC 20-610. In addition to the reporting requirements of 4 VAC 20-610, all permitted commercial harvesters of striped bass shall record and report daily striped bass harvest by specifying the number of tags used on striped bass harvested for each day in either the Chesapeake area or Coastal area and reporting the daily total whole weight of striped bass harvested in either the Chesapeake area or Coastal area. Daily striped bass tag use on harvested striped bass and daily total

whole weight of harvested striped bass from either the Chesapeake area or Coastal area, within any month, shall be recorded on forms provided by the commission and shall accompany the monthly catch report submitted no later than the fifth day of the following month.

G. Any permitted commercial harvester of striped bass who self markets his striped bass to a restaurant, individual, or out-of-state market shall be required to prepare a receipt describing each sale greater than 10 pounds in total weight. Each receipt shall be a record and report of the date of transaction, name and signature of buyer, address and phone number of buyer, number and total weight of striped bass sold, and name and signature of harvester. Copies of each receipt shall be forwarded to the commission in accordance with 4 VAC 20-610.

H. Any buyer permitted to purchase striped bass harvested from Virginia tidal waters shall provide written reports to the commission of daily purchases and harvest information on forms provided by the Marine Resources Commission. Such information shall include the date of the purchase, buyer's and harvester's striped bass permit numbers, and harvester's Commercial Fisherman Registration License number. In addition, for each different purchase of striped bass harvested from Virginia waters, the buyer shall record the gear type, water area fished, city or county of landing, weight of whole fish, and number and type of tags (Chesapeake area or Coastal area) that applies to that harvest. These reports shall be completed in full and submitted monthly to the Marine Resources Commission no later than the fifth day of the following month. In addition, during the month of December, each permitted buyer shall call the Marine Resources Commission interactive voice recording system on a daily basis to report his name and permit number, date, pounds of Chesapeake area striped bass purchased and pounds of Coastal area striped bass purchased.

I. Failure of any person permitted to harvest, buy, or sell striped bass, to submit the required written report for any fishing day shall constitute a violation of this chapter.

4 VAC 20-252-135. Gill net mesh size and tending restrictions: exemptions.

A. Any registered commercial fisherman who is permitted to harvest striped bass from the Coastal area in accordance with 4 VAC 20-252-130 C and sets or fishes any gill net in the Coastal area shall be exempt from the maximum gill net mesh size requirements during November and December as described in 4 VAC 20-430-65 A and B.

B. Any registered commercial fisherman who is permitted to harvest striped bass from the Coastal area in accordance with 4 VAC 20-252-130 C and sets or fishes any gill net seven inches or greater in stretched mesh in the Coastal area shall be exempt from the tending requirements described in 4 VAC 20-430-65 E and F during the months of November and December.

C. Any registered commercial fisherman who is permitted to harvest striped bass from the Coastal area in accordance with 4 VAC 20-252-130 C shall display an optic yellow flag issued by the commission while fishing for striped bass in the Coastal area and while transiting the Coastal

area before and after a striped bass fishing trip. This flag shall be prominently displayed on the starboard side of the vessel.

4 VAC 20-252-140. Commercial seasons, areas, and size limits.

Except as may be adjusted pursuant to 4 VAC 20-252-150, the open commercial striped bass fishing seasons, areas, and applicable size limits shall be as follows:

1. In the Chesapeake area, the open commercial season shall be from January 16 through December 31, inclusive. The minimum size limit shall be 18 inches total length during the periods of January 16 through December 31. The maximum size limit shall be 28 inches from March 26 through June 15.

2. In the Coastal area, the open commercial season shall be January 16 through December 31, inclusive, and the minimum size limit shall be 28 inches total length.

4 VAC 20-252-150. Individual commercial harvest quota.

A. The commercial harvest quota for the Chesapeake area shall be determined annually by the Marine Resources Commission. The total allowable level of all commercial harvest of striped bass from the Chesapeake Bay and its tributaries and the Potomac River tributaries of Virginia for all open seasons and for all legal gear shall be 1,064,997 pounds of whole fish. At such time as the total commercial harvest of striped bass from the Chesapeake area is projected to reach 1,064,997 pounds, and announced as such, it shall be unlawful for any person to land or possess striped bass caught for commercial purposes from the Chesapeake area.

B. The commercial harvest quota for the coastal area of Virginia shall be determined annually by the Marine Resources Commission. The total allowable level of all commercial harvest of striped bass from the coastal area for all open seasons and for all legal gear shall be 138,640 pounds of whole fish. At such time as the total commercial harvest of striped bass from the coastal area is projected to reach 138,640 pounds, and announced as such, it shall be unlawful for any person to land or possess striped bass caught for commercial purposes from the coastal area.

C. For the purposes of assigning an individual's tags for commercial harvests in the Chesapeake area as described in 4 VAC 20-252-160, the individual commercial harvest quota of striped bass in pounds shall be converted to an estimate in numbers of fish per individual harvest quota based on the average weight of striped bass harvested by the permitted individual during the previous fishing year. The number of striped bass tags issued to each individual will equal the estimated number of fish to be landed by that individual harvest quota, plus a number of striped bass tags equal to 10% of the total allotment determined for each individual.

D. For the purposes of assigning an individual's tags for commercial harvests in the Coastal area of Virginia as described in 4 VAC 20-252-160, the individual commercial harvest quota of striped

bass in pounds shall be converted to a quota in numbers of fish per individual commercial harvest quota, based on the reported average Coastal area harvest weight of striped bass harvested by the permitted individual during the previous fishing year, except as described in subsection E of this section. The number of striped bass tags issued to each individual will equal the estimated number of fish to be landed by that individual harvest quota, plus a number of striped bass tags equal to 10% of the total allotment determined for each individual.

E. For any individual whose reported average coastal area harvest weight of striped bass in the previous fishing year was less than 12 pounds, a 12-pound minimum weight shall be used to convert that individual's harvest quota of striped bass, in pounds of fish, to harvest quota in number of fish.

4 VAC 20-252-155. Individual transferable shares monitoring and penalties.

A. Any initial overage by any person of an individual commercial harvest quota during any calendar year shall be considered a first offense, with penalties prescribed according to the severity of the overage as described in subdivisions 1 through 5 of this subsection.

1. Any overages that are less than 76 pounds shall result in a warning being issued.

2. Any overages that range from 76 to 250 pounds shall result in a one year deduction of that overage from that individual commercial harvest quota during the following calendar year.

3. Any overages that range from 251 to 475 pounds shall result in a one year deduction of two times that overage from that individual commercial harvest quota during the following calendar year.

4. Any overages that range from 476 to 725 pounds shall result in that overage being permanently deducted from that individual commercial harvest quota and a one year suspension of that individual from the commercial fishery for striped bass.

5. Any overages that are greater than 725 pounds shall result in the revocation of that individual striped bass permit, and that person shall not be eligible to apply for a like permit for a period of two years from the date of revocation.

B. Any second overage by any person of an individual commercial harvest quota within five years of a previous offense shall result in penalties prescribed according to the severity of the overage as described in subdivisions 1 through 4 of this subsection.

1. Any overages that are less than 76 pounds shall result in a one year deduction of the overage from that individual commercial harvest quota during the following calendar year.

2. Any overages that range from 76 to 250 pounds shall result in a one year deduction of two times the overage from that individual commercial harvest quota during the following calendar year.

3. Any overages that range from 251 to 475 pounds shall result in the overage being permanently deducted from the individual commercial harvest quota and a one year suspension of that individual from the commercial fishery for striped bass.

4. Any overages that are greater than 475 pounds shall result in the revocation of that individual striped bass permit, and that individual shall not be eligible to apply for a like permit for a period of two years from the date of revocation.

C. Any third overage by any person of an individual commercial harvest quota within five years of two previous offenses shall result in penalties prescribed according to the severity of the overage as described in subdivisions 1 through 3 of this subsection.

1. Any overages that are less than 76 pounds shall result in a one year deduction of two times the overage from that individual commercial harvest quota during the following calendar year.

2. Any overages that range from 76 to 250 pounds shall result in the overage being permanently deducted from that individual commercial harvest quota and a one year suspension of the individual from the commercial fishery for striped bass.

3. Any overages that are greater than 250 pounds shall result in the revocation of that individual striped bass permit, and that person shall not be eligible to apply for a like permit for a period of two years from the date of revocation.

D. Any fourth overage by any person of an individual commercial harvest quota within five years of three previous offenses shall result in penalties prescribed according to the severity of the overage as described in subdivisions 1 and 2 of this subsection.

1. Any overages that are less than 76 pounds shall result in the overage being permanently deducted from that individual commercial harvest quota and a one year suspension of the individual from the commercial fishery for striped bass.

2. Any overages that are greater than 75 pounds shall result in the revocation of that individual striped bass permit, and that individual shall not be eligible to apply for a like permit for a period of two years from the date of revocation.

4 VAC 20-252-160. Individual transferable shares; tagging.

A. For each person permitted under the provisions of 4 VAC 20-252-130 to harvest striped bass commercially, a weight quota shall be issued to permitted fishermen in amounts equal to the percentage share of the Chesapeake area and Coastal area striped bass harvest quota they hold. Tags issued for Chesapeake area harvest quota shall only be used for striped bass harvests in the Chesapeake area, and tags issued for the Coastal area harvest quota shall only be used for striped bass harvests in the Coastal area.

B. It shall be unlawful for any person, onboard any vessel, to possess any striped bass tags, in Virginia waters, according to the following provisions:

1. It shall be unlawful for any person, onboard any vessel, to set, place or fish any gear that can harvest striped bass, in the Chesapeake area, when in possession of Coastal area striped bass tags issued by the Marine Resources Commission or striped bass tagged with Coastal area tags.

2. It shall be unlawful for any person to possess Virginia coastal area striped bass tags in the Chesapeake area, or striped bass tagged with Coastal area tags, except when transiting the Chesapeake area.

3. It shall be unlawful for any person to possess striped bass tags issued for previous years for the Chesapeake area, Coastal area, or any other jurisdiction.

4. It shall be unlawful for any person to possess Potomac River Fisheries Commission striped bass tags in Virginia waters, except when transiting the Virginia tributaries of the Potomac River to land in Virginia and as provided by 4 VAC 20-252-160C.

5. It shall be unlawful for any person to possess any non-Virginia jurisdictional striped bass tags, in Virginia waters, or striped bass tagged with any non-Virginia jurisdictional striped bass tags, except as provided by 4 VAC 20-252-160B.4 and 4 VAC 20-252-160C.

6. Any violation of this subsection shall result in the confiscation and impoundment of all striped bass tags or striped bass on the vessel.

C. It shall be unlawful for any person, onboard any vessel, to possess any striped bass tags in the Great Wicomico-Tangier Striped Bass Management Area, except current year striped bass tags issued by the jurisdictions of the Virginia Marine Resources Commission, State of Maryland or the Potomac River Fisheries Commission and according to the following provisions:

1. It shall be unlawful for any person, onboard any vessel, to possess more than one jurisdiction's tags, or more than one jurisdiction's tagged striped bass, in the Great Wicomico-Tangier Striped Bass Management Area.

2. It shall be unlawful for any person, onboard any vessel, to place, set or fish any gear that can harvest striped bass, in the Great Wicomico-Tangier Striped Bass Management Area, when in possession of any striped bass tags not issued by the Virginia Marine Resources Commission.

3. Any violation of this subsection shall result in the confiscation and impoundment of all striped bass tags or striped bass on the vessel.

D. Shares of the commercial striped bass quota held by any permitted fisherman may be transferred to any other person who is a licensed registered commercial fisherman; such transfer shall allow the transferee to harvest striped bass in a quantity equal to the share transferred. Any transfer of striped bass commercial shares shall be limited by the following conditions:

1. Shares of commercial striped bass quota shall not be permanently transferred in any quantity less than 500 pounds, or 100% of unused permanent shares, in any year, from February 1 through October 31. Permanent transfers of shares of commercial striped bass quota shall be prohibited during the period of November 1 through January 31.

2. Shares of commercial striped bass quota shall not be temporarily transferred in any quantity less than 500 pounds, from February 1 through October 31, or less than 200 pounds, from November 1 through December 15. Temporary transfers of shares of commercial striped bass quota shall be prohibited from December 16 through January 31.

3. No licensed registered commercial fisherman shall hold more than 2.0% of the total annual Chesapeake area commercial striped bass harvest quota or more than 11% of the total annual Coastal area commercial striped bass harvest quota.

4. No transfer of striped bass commercial harvest quota shall be authorized by the commission unless transferor and transferee provide up-to-date records of all commercial landings of striped bass and striped bass tag use to the commission prior to such transfer.

5. No transfer of striped bass commercial harvest quota shall be authorized unless such transfer is documented on a form provided by the Virginia Marine Resources Commission, notarized by a lawful Notary Public, and approved by the commissioner.

E. Transfers of Chesapeake area or Coastal area striped bass commercial quota from one person to another may be permanent or temporary. Transferred quota from the Chesapeake area striped bass commercial quota shall only be used by the transferee for striped bass harvested from the Chesapeake area, and transferred quota from the Coastal area striped bass commercial quota shall only be used by the transferee for striped bass harvested from the Coastal area. Permanent transfers of commercial quota shall grant to the transferee that transferred percentage of the quota for future years, and the transferor loses that same transferred percentage of the quota in future years. Temporary transfers of individual striped bass commercial harvest quota shall allow the transferee to harvest only that transferred percentage of the quota during the year in which the transfer is

approved. Transferors are solely responsible for any overage of the transferred percentage of the quota by the transferee. Thereafter, any percentage of the transferred striped bass commercial quota, less any overage incurred by the transferee, reverts back to the transferor.

F. The commission will issue striped bass tags to permitted striped bass commercial fishermen as follows: those fishermen permitted only for Chesapeake area or Coastal area harvests of striped bass will receive their allotment of tags prior to the start of the fishing season. Any permitted fisherman, eligible for both Chesapeake area and Coastal area tags, shall receive only one type of area-specific tag allotment, of his choosing, prior to the start of the fishing season, and his other type of area-specific tags will be distributed when it has been determined from the commission's mandatory harvest reporting program that the fisherman has used all of his first allotment of tags and has not exceeded his individual harvest quota. The commissioner may authorize the distribution of the second allotment of area-specific tags to a fisherman eligible for both Chesapeake area and Coastal area tags prior to that fisherman's complete use of his first allotment of tags, provided that fisherman surrenders any remaining tags of his first allotment of tags.

G. Striped bass tags are valid only for use by the permittee to whom the tags were allotted. The permittee shall be on board the boat or vessel when striped bass are harvested and tags are applied. Nothing in this subsection shall prevent a permitted commercial hook-and-line fisherman from using three crew members who are not registered commercial fishermen to assist in the harvest of his allotment of striped bass.

H. At the place of capture, and before leaving that place of capture, tags shall be passed through the mouth of the fish and one gill opening, and interlocking ends of the tag shall then be connected such that the tag may only be removed by breaking. Failure to comply with these provisions shall be a violation of this chapter.

I. It shall be unlawful to bring to shore any commercially caught striped bass that has not been tagged at the place of capture by the fisherman with a tamper evident, numbered tag provided by the commission. It shall be unlawful to possess striped bass in a quantity greater than the number of tags in possession. If a permittee violates this section, the entire amount of untagged striped bass, as well as the number of tags equal to the amount of striped bass in his possession, shall be confiscated. Any confiscated striped bass shall be considered as a removal from that permittee's harvest quota. Any confiscated striped bass tags shall be impounded by the commission. Upon confiscation, the marine police officer shall inventory the confiscated striped bass and may redistribute the catch by one or a combination of the following methods:

1. The marine police officer shall secure a minimum of two bids for purchase of the confiscated striped bass from approved and licensed seafood buyers. The confiscated fish will be sold to the highest bidder, and all funds derived from such sale shall be deposited to the Commonwealth pending court resolution of the charge of violating the possession limits established in this chapter. All of the collected funds and confiscated tags will be returned

to the accused upon a finding of innocence or forfeited to the Commonwealth upon a finding of guilt.

2. The marine police officer shall provide the confiscated striped bass to commission staff for biological sampling of the catch. Upon receipt of confiscated striped bass, commission staff will secure a minimum of two estimates of value per pound for striped bass from approved and licensed seafood buyers. The confiscated tags and the estimated value of confiscated striped bass provided for biological sampling will be reimbursed to the accused upon a finding of innocence or retained by the commission upon a finding of guilt.

J. Altering or attempting to alter any tag for the purpose of reuse shall constitute a violation of this chapter.

K. Prior to receiving any commercial season's allotment of striped bass tags, a permitted commercial harvester shall be required to have returned all unused tags from the previous commercial season to the commission within 30 days of harvesting their individual harvest quota, or by the second Thursday in January, whichever comes first. Any unused tags that cannot be turned in to the commission shall be accounted for by the harvester submitting an affidavit to the commission that explains the disposition of the unused tags that are not able to be turned into the commission. Each individual shall be required to pay a processing fee of $25, plus $0.13 per tag, for any unused tags that are not turned in to the commission.

L. Any individual with remaining unused striped bass commercial quota in the current year requesting additional commercial season striped bass tags shall provide up-to-date records of landings and account for all previously issued tags prior to receiving an additional allotment of tags. The harvester shall submit an affidavit to the commission that explains the disposition of the tags that are not accounted for and shall be required to pay a processing fee of $25, plus $0.13 per tag, for such tags to the commission.

M. For the commercial fishing season, one type of tag shall be distributed to Chesapeake area permittees and one type of tag shall be distributed to Coastal area permittees. For the Chesapeake area, the tag shall only be used on striped bass 18 inches or greater. For the Coastal area, the tag shall only be used on striped bass 28 inches or greater. The possession of any improperly tagged striped bass by any permitted striped bass fisherman shall be a violation of this chapter.

4 VAC 20-252-170. Aquaculture of striped bass; permit required.

A. It shall be unlawful for any person to operate a striped bass aquaculture facility without first obtaining a permit from the commission. Such permit shall authorize and define the limits of activities concerning the purchase, possession, sale, giving, receiving, and transportation of striped bass or hybrid striped bass in accordance with the other rules contained in this chapter.

B. The application for a striped bass aquaculture facility shall state the name and address of the applicant, the type and location of the facility, type of water supply, location of nearest tidal waters or tributaries to tidal water, and an estimate of production capacity. All aquaculture permits shall expire on December 31 of the year of issue and are not transferable. Permits shall be automatically renewed by the commission provided no structural changes in the facility have been made, the facility has been adequately maintained, and the permittee has complied with all of the provisions of this chapter.

C. The original of each permit shall be maintained and prominently displayed at the aquaculture facility described therein. A copy of such permit may be used as evidence of authorization to transport striped bass or hybrid striped bass or to sell the fish away from the permitted facility under the conditions imposed in 4 VAC 20-252-210.

4 VAC 20-252-180. Water supply; outfall; prevention of entry and escapement.

A. A striped bass or hybrid striped bass aquaculture facility may consist of one or more ponds, artificial impoundments, closed recirculating systems or a combination of the above.

B. No pond or impoundment used for striped bass or hybrid striped bass aquaculture may be constructed or situated on a natural water course that originates beyond the boundaries of private land upon which the pond or impoundment is located.

C. There shall be no direct and unscreened discharge from any facility to any natural watercourse. Except as provided in subsection D of this section, outfall from any pond or impoundment shall be processed according to one of the following systems:

1. The outfall shall pass over a dry ground percolation system in which ground absorption of the water is sufficient to prevent the formation of a watercourse which is capable of reaching any natural watercourse. The outfall shall pass through a screened filter box prior to entering the percolation area.

2. The outfall shall pass through a chlorination process and retention pond for dechlorination. The outfall shall pass through a filter box prior to entering the chlorination system.

3. Such facilities must also comply with regulations of the State Water Control Board.

D. If the outfall from an aquaculture facility does not conform to the systems described in subdivision C 1 or C 2 of this section, then all of the following conditions shall be required:

1. The aquaculture of striped bass or hybrid striped bass shall be restricted to the use of cage culture. Such cages shall be constructed of a vinyl coated wire or high density polyethylene

mesh material sufficient in size to retain the fish, and all cages must be securely anchored to prevent capsizing. Covers shall be required on all cages.

2. The outfall from the pond or impoundment shall pass through a screened filter box. Such filter box shall be constructed of a mesh material sufficient in size to retain the fish and shall be maintained free of debris and in workable condition at all times.

3. The outfall from the screened filter box shall pass into a containment basin lined and filled with quarry rock or other suitable material to prevent the escapement of the fish from the basin.

E. Those facilities utilizing embankment ponds shall maintain sufficient freeboard above the spillway to prevent overflow.

4 VAC 20-252-190. Acquisition of fish, fingerlings, fry, and eggs.

Striped bass or hybrid striped bass fingerlings, fry, or eggs, may be obtained only from state permitted fish dealers and must be certified by the seller as having a disease free status. Each purchase or acquisition of striped bass or hybrid striped bass must be accompanied by a receipt or other written evidence showing the date, source, species, quantity of the acquisition and its destination. Such receipt must be in the possession of the permittee prior to transportation of such fish, fingerlings, fry, or eggs to the permitted facility. All such receipts shall be retained as part of the permittee's records. The harvesting of striped bass from the tidal waters of Virginia for the purpose of artificially spawning in a permitted aquaculture facility shall comply with all of the provisions of this chapter and state law including minimum size limits, maximum size limits, and closed harvesting seasons and areas.

4 VAC 20-252-200. Inspection of facilities; diseased fish.

A. Inspections. Agents of the commission and the Department of Game and Inland Fisheries are authorized to make periodic inspection of the facilities and the stock of each operation permitted under this section. Every person engaged in the business of striped bass aquaculture shall allow such inspection at any reasonable time.

B. Diseased fish. No person permitted under this chapter shall maintain in the permitted facility any fish which shows evidence of any contagious disease listed in the most current list by the United States Fish and Wildlife Service as "certifiable diseases," except for the period required for application of standard treatment procedures or for approved disposition.

C. Disposition. No person permitted under this chapter shall sell or otherwise transfer possession of any striped bass or hybrid striped bass which shows evidence of a "certifiable disease" to any person, except that such transfer may be made to a fish pathologist for examination and diagnosis.

4 VAC 20-252-210. Sale, records, importation, release.

A. All striped bass or hybrid striped bass except fingerlings, fry, and eggs, which are the product of an aquaculture facility permitted under this section shall be packaged with a printed label bearing the name, address, and permit number of the aquaculture facility. When so packaged and labeled such fish may be transported and sold at retail or at wholesale for commercial distribution through normal channels of trade until reaching the ultimate consumer. Every such sale must be accompanied by a receipt showing the date of sale, the name, address and permit number of the aquaculture facility, the numbers and species of fish sold, and the name of the purchaser. Each subsequent resale must be accompanied by a receipt clearly identifying the seller by name and address, showing the number and species of the fish sold, the date sold, the permit number of the aquaculture facility and, if the sale is to other than the ultimate consumer, the name and address of the purchaser. The purchaser in possession of such fish must exhibit the receipt on demand of any law enforcement officer. A duplicate copy of each such receipt must be retained for one year by the seller as part of the records of each transaction.

B. Each permitted aquaculture facility operator shall maintain a chronological file of the receipts or copies thereof showing the dates and sources of acquisitions of striped bass or hybrid striped bass and quantities thereof, and a chronological file of copies of receipts of his sales required under subsection A of this section. Such records shall be segregated as to each permit year, shall be made available for inspection by any authorized agent of the commission or Department of Game and Inland Fisheries, and shall be retained for at least one year following the close of the permit year to which they pertain.

C. Striped bass or hybrid striped bass which are the product of an approved and state 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. Any sale of such fish also shall be accompanied by receipts as described in subsection A of this section.

D. Release of live fish. Under no circumstance shall striped bass which are the product of an aquaculture facility located within or outside the Commonwealth of Virginia be placed into the waters of the Commonwealth without first having notified the commission and having received written permission from the Commissioner of Marine Resources.

4 VAC 20-252-220. 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 of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

4 VAC 20-252-230. Sanctions.

A. Any person failing to submit any report required by this chapter shall be denied any striped bass permit for the following year.

B. It shall be unlawful for any person with a pending violation of this chapter or found guilty of violating any provision of this chapter to receive or transfer striped bass commercial harvest quota as described in 4 VAC 20-252-160.

C. It shall be unlawful for any person with a pending violation of this chapter or found guilty of violating any provision of this chapter to receive additional tag distributions as described in 4 VAC 20-252-160.

D. Any person found guilty of violating any provision of this chapter may have his permit or license revoked at any time upon review by the commission as provided for in § 28.2-232 of the Code of Virginia. If the commission revokes any person's permit for an aquaculture facility, then that person shall not be eligible to apply for a like permit for a period of two years from the date of revocation.

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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 Newport News, Virginia, on April 28, 2015.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: _____
John M. R. Bull
Commissioner

Subscribed and sworn to before me this 30th day of April 2015.

_____
Notary Public

MICHELLE GUILFORD
NOTARY PUBLIC
REG. #7302832
MY COMMISSION EXPIRES 4/30/2017
COMMONWEALTH OF VIRGINIA