**"PERTAINING TO BLACK SEA BASS"**

**CHAPTER 4VAC20-950-10 ET SEQ.**

## PREAMBLE

This chapter establishes minimum size limits, gear restrictions, and quotas for the harvest of black sea bass. This chapter authorizes the aquaculture of black sea bass and sets forth the conditions required for black sea bass 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, Chapter 4VAC20-950-10 et seq. which was promulgated January 27, 2015 and made effective January 31, 2015. The effective date of this chapter, as amended, is May 1, 2015.

### 4VAC20-950-10. Purpose.

The purposes of this chapter are to (i) reduce fishing mortality in the black sea bass fishery to ensure that overfishing does not occur, (ii) increase the spawning stock biomass, (iii) improve the yield from the fishery, (iv) distribute shares of the black sea bass quota to those fishermen who demonstrate a previous history of participation in the fishery, and (v) encourage safe black sea bass aquaculture practices.

### 4VAC20-950-20. Definitions.

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

"Black sea bass" means any fish of the species *Centropristis striata*.

"Land" or "landing" means to (i) enter port with finfish, shellfish, crustaceans, or other marine seafood on board any boat or vessel; (ii) begin offloading finfish, shellfish, crustaceans, or other marine seafood; or (iii) offload finfish, shellfish, crustaceans, or other marine seafood.

### 4VAC20-950-30. Minimum size limit.

A. The minimum size for black sea bass harvested by commercial fishing gear shall be 11 inches, total length.

B. The minimum size of black sea bass harvested by recreational gear, including but not limited to hook and line, rod and reel, spear and gig, shall be 12-1/2 inches, total length.
C. It shall be unlawful for any person to possess any black sea bass smaller than the minimum size limit, as designated respectively, in subsections A and B of this section, except as described in 4VAC20-950-70.

D. It shall be unlawful for any person to sell, trade, or barter, or offer to sell, trade, or barter any black sea bass less than 11 inches, total length, except as described in 4VAC20-950-70.

E. Total length shall be measured along the lateral midline from tip of nose to tip of tail excluding the caudal fin filament.

**4VAC20-950-40. Gear restrictions.**

It shall be unlawful for any person to place, set, or fish any fish pot in Virginia tidal waters for the purposes of harvesting black sea bass or to possess or to land in Virginia black sea bass harvested by fish pots which are not constructed as follows:

1. With two escape vents of 2-1/2 inches diameter circular dimension, or 2 inches square dimension, or 1-3/8 inches by 5-3/4 inches rectangular dimension.

2. With hinges or fasteners on one side panel or door made of the following materials:

a. Untreated hemp, jute, or cotton string of 3/16 inches or less diameter;

b. Magnesium alloy, timed float releases (pop-up devices), or similar magnesium alloy fasteners; or

c. Ungalvanized or uncoated iron wire of 0.094 inches or less in diameter.

**4VAC20-950-45. Recreational possession limits and seasons.**

A. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig, or other recreational gear to possess more than 15 black sea bass. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for that boat or vessel and shall be equal to the number of persons on board legally licensed to fish, multiplied by 15. The captain or operator of the boat or vessel shall be responsible for that boat or vessel possession limit. Any black sea bass taken after the possession limit has been reached shall be returned to the water immediately.

B. Possession of any quantity of black sea bass that exceeds the possession limit described in subsection A of this section shall be presumed to be for commercial purposes.

C. The open recreational fishing season shall be from May 15 through September 21 and October 22 through December 31.

D. It shall be unlawful for any person fishing recreationally to take, catch, or possess any black sea bass, except during an open recreational season.

**4VAC20-950-46. Directed fishery and bycatch fishery permits.**

A. It shall be unlawful for any person to participate in the commercial black sea bass fishery or to possess, harvest, or sell black sea bass, except as described in 4VAC20-950-60 and 4VAC20-950-70, without first qualifying for and obtaining either a directed fishery permit or a bycatch fishery permit from the commission, as described, respectively, in subsections B and C of this section, unless that person meets the requirements described in 4VAC20-950-48.2.

B. A person shall be considered eligible for a directed commercial black sea bass fishery permit by satisfying all of the following eligibility criteria:

1. That person shall hold either a Commercial Fisherman Registration License or a Seafood Landing License in addition to a federal Black Sea Bass Moratorium Permit; and

2. That person shall have landed and sold in Virginia at least 10,000 pounds of black sea bass from July 1, 1997, through December 31, 2001.

C. A person shall be considered eligible for a bycatch commercial black sea bass fishery permit by satisfying all of the following eligibility criteria:

1. That person shall hold either a Commercial Fisherman Registration License or a Seafood Landing License, in addition to a federal Black Sea Bass Moratorium Permit; and

2. That person shall have landed and sold in Virginia at least one pound of black sea bass from July 1, 1997, through December 31, 2001.

**4VAC20-950-47. Commercial harvest quotas.**

A. The annual commercial black sea bass directed fishery quota is 402,584 pounds. When it has been announced that the directed fishery quota has been projected as reached and the directed fishery has been closed, it shall be unlawful for any directed commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass.

B. The annual commercial black sea bass bycatch fishery quota is 40,000 pounds. When it has been announced that the bycatch fishery quota has been projected as reached and the bycatch fishery has been closed, it shall be unlawful for any bycatch commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass. In the event the bycatch fishery quota is exceeded, the amount of the quota overage shall be deducted from the following year's bycatch fishing quota.

**4VAC20-950-48. Individual fishery quotas; bycatch limit; at sea harvesters; exceptions.**

A. Each person possessing a directed fishery permit shall be assigned an individual fishery quota, in pounds, for each calendar year. A person's individual fishery quota shall be equal to that person's percentage of the total landings of black sea bass in Virginia from July 1, 1997, through December 31, 2001, multiplied by the directed commercial fishery black sea bass quota for the calendar year. Any directed fishery permittee shall be limited to landings in Virginia in the amount of his individual fishery quota, in pounds, in any calendar year and it shall be unlawful for any permittee to exceed his individual fishery quota. In addition to the penalties prescribed by law, any overages of an individual's fishery quota shall be deducted from that permittee's individual fishery quota for the following year.

B. In the determination of a person's percentage of total landings, the commission shall use the greater amount of landings from either the National Marine Fisheries Service Dealer Weigh-out Reports or National Marine Fisheries Service Vessel Trip Reports that have been reported and filed as of November 26, 2002. If a person's percentage of the total landings of black sea bass is determined by using the Vessel Trip Reports as the greater amount, then the person shall provide documentation to the Marine Resources Commission to verify the Vessel Trip Reports as accurate. This documentation may include dealer receipts of sales or other pertinent documentation, and such documentation shall be submitted to the commission by December 1, 2004. In the event the commission is not able to verify the full amount of the person's Vessel Trip Reports for the qualifying period, the commission shall use the greater amount of landings, from either the Dealer Weigh-Out Reports or the verified portion of the Vessel Trip Reports to establish that person's share of the quota.

C. It shall be unlawful for any person harvesting black sea bass to possess aboard any vessel in Virginia waters any amount of black sea bass that exceeds the combined total of any portion of the Virginia permitted landing limit, as described in subsection A of this section, and the North Carolina legal landing limit.

D. It shall be unlawful for any person permitted for the bycatch fishery to do any of the following:

1. Possess aboard a vessel or land in Virginia more than 200 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, in any one day, except as provided in subdivision 2 of this subsection;

2. Possess aboard a vessel or land in Virginia more than 1,000 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, in any one day, provided that the total weight of black sea bass on board the vessel does not exceed 10%, by weight, of the total weight of summer flounder, scup, Longfin squid, and Atlantic mackerel on board the vessel; or,

3. Possess aboard a vessel or land in Virginia more than 100 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, when it is projected and announced that 75% of the bycatch fishery quota has been taken.

E. It shall be unlawful for any person to transfer black sea bass from one vessel to another while at sea.

F. Any hardship exception quota granted by the commission prior to October 27, 2009, shall be converted to a percentage of the directed fishery quota based on the year in which that hardship exception quota was originally granted. The hardship exception quota shall not be transferred for a period of five years from the date the commission granted that hardship exception quota.

G. An individual fishery quota, as described in subsection A of this section, shall be equal to an individual's current percentage share of the directed fishery quota, as described in 4VAC20-950-47 A.

**4VAC20-950-48.1. Individual transferable quotas.**

A. Shares of the directed fishery quota, in pounds, held by any permitted fisherman in the directed fishery may be transferred to another person, and such transfer shall allow the transferee to harvest, possess and land black sea bass in Virginia in a quantity equal to the shares of the directed fishery quota transferred. Any transfer of black sea bass shall be limited by the following conditions.

1. Commercial black sea bass shares of the directed fishery quota shall not be transferred in any quantity less than 200 pounds.

2. No person permitted for the directed fishery may hold more than 20% of the annual directed fishery quota.

3. No transfer of shares of the black sea bass directed fishery quota shall be authorized unless such transfer is documented on a form provided by the commission and approved by the commissioner.

B. Transfers of all or a portion of person's share of the directed fishery quota may be permanent or temporary. Transferred quota shall only be used by the transferee for black sea bass landed in Virginia. Permanent transfers of shares of directed fishery quota shall grant to the transferee that transferred share of the quota for future years, and the transferor loses that same transferred share of the directed fishery quota in future years. Temporary transfers of shares of the directed fishery quota shall allow the transferee to harvest that transferred share of the directed fishery quota during the year in which the transfer is approved. Thereafter, any transferred share of the directed fishery quota reverts back to the transferor.

**4VAC20-950-48.2. Alternate vessel authorization requirements.**

A. Any person possessing a directed fishery permit may authorize an alternate vessel to harvest, possess and land any portion of his individual fishery quota, provided the following conditions are met:

1. The directed fishery permit holder has submitted a completed and notarized alternate vessel authorization form to the commission.

2. The alternate vessel named on the authorization form holds a federal Black Sea Bass Moratorium Permit and that alternate vessel either holds a Virginia Seafood Landing License or that alternate vessel's owner and operator holds a Commercial Fisherman Registration License.

3. The alternate vessel authorization has been accepted and approved by the commissioner.

4. The alternate vessel maintains copies of the alternate vessel authorization form and the permit of the directed fishery quota owner at all times while serving as the alternate vessel.

B. No authorization for an alternate vessel to land black sea bass shall extend for more than 60 days from the date the commissioner approves the authorization. After 60 days, any unused portion of quota authorized for the alternate vessel shall revert to its directed fishery permit holder.

**4VAC20-950-49. Reporting requirements.**

A. It shall be unlawful for any person permitted for the directed fishery, the bycatch fishery, or for an authorized alternate landing to fail to contact, within one hour of landing, the Marine Resources Commission's Law Enforcement Operations Division to report his name and the name of the vessel, his permit number, the location where catch will be offloaded, and the estimated weight of the landing of black sea bass.

B. It shall be unlawful for any person permitted for the directed fishery, the bycatch fishery, or for an authorized alternate landing to fail to contact, within 24 hours of landing, the Marine Resources Commission's Interactive Voice Recording System to report the name of the permit holder and the name of the vessel that landed the black sea bass, date of landing, the permit number and the weight of black sea bass landed.

C. Any buyer of black sea bass from a directed fishery permittee, a bycatch fishery permittee, or an authorized alternate landing vessel shall maintain records of all purchases for the current year and prior year and make those records available to the Marine Resources Commission upon request.

**4VAC20-950-50. Penalty. (REPEALED)**

**4VAC20-950-60. Black sea bass aquaculture facility permit.**

A. Any person operating an aquaculture facility in which any black sea bass will be cultured, possessed, offered for sale, or sold shall possess a black sea bass aquaculture facility permit for that facility that was obtained from the commissioner.

1. The black sea bass aquaculture facility permit shall allow the facility to import black sea bass eggs, fry, and brood-stock from captive brood-stock facilities.

2. A black sea bass aquaculture facility permit is not transferable.

B. The application for a black sea bass aquaculture facility permit shall list the name and address of the applicant, the type and location of that facility, and an estimate of production capacity. A black sea bass aquaculture facility permit shall be valid for ten years, from the date of issue, and may be renewed by the commissioner. The issuance and continuation of any person's black sea bass aquaculture facility permit are contingent on that designated facility being open for inspection by the Marine Resources Commission for the purposes of determining compliance with this chapter.

C. The original of the black sea bass facility aquaculture permit shall be maintained by the permittee and prominently displayed at the location of the permitted aquaculture facility. A copy of such permit shall be used as evidence of authorization to transport black sea bass to and from the permitted aquaculture facility.

**4 VAC20-950-70. Sale, records, importation, and release of black sea bass.**

A. All black sea bass produced by an aquaculture facility and permitted by 4VAC20-950-60 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, at wholesale, or commercially until reaching the consumer.

B. Any black sea bass that measures less than the lawful minimum size described in 4VAC 20-950-30, but are the product of a permitted aquaculture facility in another state, may be imported into Virginia for the consumer market. Any fish shall be packaged and labeled in accordance with the provisions contained in subsection A of this section.

C. Under no circumstance shall any black sea bass produced by an aquaculture facility be placed into Virginia waters without written permission from the commissioner.

**4VAC20-950-80. 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.

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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

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