"PERTAINING TO SHARKS"

CHAPTER 4 VAC 20-490-10 ET SEQ.

## PREAMBLE

This chapter establishes gear restrictions, a possession limit, and limitations on the taking and landing of sharks, and prohibits the transfer of any spiny dogfish limited entry permit. This chapter is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia.

This chapter amends and re-adopts, as amended, previous chapter 4 VAC 20-490-10 et seq. which was promulgated September 23, 2014 and made effective on October 1, 2014. The effective date of this chapter, as amended, is June 1, 2015.

## 4 VAC 20-490-10. PURPOSE.

The purpose of this chapter is to ensure the conservation of shark resources, by preventing overfishing by commercial and recreational fisheries, and to control the practice of finning.

## 4 VAC 20-490-20. DEFINITIONS.

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

*"Agent"* means any person who possesses the Commercial Fisherman Registration License, fishing gear license, or fishing permit of a registered commercial fisherman in order to fish that commercial fisherman's gear or sell that commercial fisherman's harvest.

*"Carcass length"* means that length measured in a straight line from the anterior edge of the first dorsal fin to the posterior end of the shark carcass.

*"COLREGS line"* means the COLREGS Demarcation Line, as defined in the Code of Federal Regulations (33 CFR 80.510 Chesapeake Bay Entrance, VA).

*"Commercial shark fisherman"* means any commercial fisherman permitted to land or possess sharks (excluding spiny dogfish) that has landed and sold one pound of shark or more (excludes spiny dogfish) in that calendar year (January 1 through December 31).

*"Commercially permitted aggregated large coastal shark"* means any of the following species:

Blacktip, *Carcharhinus limbatus*
Bull, *Carcharhinus leucas*
Lemon, *Negaprion brevirostris*
Nurse, *Ginglymostoma cirratum*
Silky, *Carcharhinus falciformis*
Spinner, *Carcharhinus brevipinna*

Tiger, *Galeocerdo cuvier*

*"Commercially permitted blacknose shark"* means any of the following species:

Blacknose, *Carcharhinus acronotus*

*"Commercially permitted hammerhead shark"* means any of the following species:

Great hammerhead, *Sphyrna mokarran*
Scalloped hammerhead, *Sphyrna lewini*
Smooth hammerhead, *Sphyrna zygaena*

*"Commercially permitted nonblacknose small coastal shark"* means any of the following species:

Atlantic sharpnose, *Rhizoprionodon terraenovae*
Bonnethead, *Sphyrna tiburo*
Finetooth, *Carcharhinus isodon*

*"Commercially permitted pelagic shark"* means any of the following species:

Blue, *Prionace glauca*
Oceanic whitetip, *Carcharhinus longimanus*
Porbeagle, *Lamna nasus*
Shortfin mako, *Isurus oxyrinchus*
Thresher, *Alopias vulpinus*

*"Commercially prohibited shark"* means any of the following species:

Atlantic angel, *Squatina dumeril*
Basking, *Cetorhinus maximus*
Bigeye sand tiger, *Odontaspis noronhai*
Bigeye sixgill, *Hexanchus nakamurai*
Bigeye thresher, *Alopias superciliosus*
Bignose, *Carcharhinus altimus*
Caribbean reef, *Carcharhinus perezii*
Caribbean sharpnose, *Rhizoprionodon porosus*
Dusky, *Carcharhinus obscurus*
Galapagos, *Carcharhinus galapagensis*
Longfin mako, *Isurus paucus*
Narrowtooth, *Carcharhinus brachyurus*
Night, *Carcharhinus signatus*
Sand tiger, *Carcharias taurus*

Sevengill, *Heptranchias perlo*
Sixgill, *Hexanchus griseus*
Smalltail, *Carcharhinus porosus*
Whale, *Rhincodon typus*
White, *Carcharodon carcharias*

*"Control rule"* means a time-certain date, past, present or future, used to establish participation in a limited entry fishery and may or may not include specific past harvest amounts.

*"Dressed weight"* means the result from processing a fish by removal of head, viscera, and fins, but does not include removal of the backbone, halving, quartering, or otherwise further reducing the carcass.

*"Finning"* means removing the fins and returning the remainder of the shark to the sea.

*"Fork length"* means the straight-line measurement of a fish from the tip of the snout to the fork of the tail. The measurement is not made along the curve of the body.

*"Large mesh gill net"* means any gill net with a stretched mesh of greater than five inches.

*"Longline"* means any fishing gear that is set horizontally, either anchored, floating or attached to a vessel, and that consists of a mainline or groundline, greater than 1,000 feet in length, with multiple leaders (gangions) and hooks, whether retrieved by hand or mechanical means.

*"Movable gill net"* means any gill net other than a staked gill net.

*"Permitted commercial gear"* means rod and reel, handlines, shark shortlines, small mesh gill nets, large mesh gill nets, pound nets, and weirs.

*"Recreational shore angler"* means a person not fishing from a vessel nor transported to or from a fishing location by a vessel.

*"Recreational vessel angler"* means a person fishing from a vessel or transported to or from a fishing location by a vessel.

*"Recreationally permitted shark"* means any of the following species:

Atlantic sharpnose, *Rhizoprionodon terraenovae*
Blacknose, *Carcharhinus acronotus*
Blacktip, *Carcharhinus limbatus*
Blue, *Prionace glauca*
Bonnethead, *Sphyrna tiburo*

Bull, *Carcharhinus leucas*
Finetooth, *Carcharhinus isodon*
Great hammerhead, *Sphyrna mokarran*
Lemon, *Negaprion brevirostris*
Nurse, *Ginglymostoma cirratum*
Oceanic whitetip, *Carcharhinus longimanus*
Porbeagle, *Lamna nasus*
Scalloped hammerhead, *Sphyrna lewini*
Shortfin mako, *Isurus oxyrinchus*
Smooth Dogfish, *Mustelus canis*
Smooth hammerhead, *Sphyrna zygaena*
Spinner, *Carcharhinus brevipinna*
Thresher, *Alopias vulpinus*
Tiger, *Galeocerdo cuvier*

*"Recreationally prohibited shark"* means any of the following species:

Atlantic angel, *Squatina dumeril*
Basking, *Cetorhinus maximus*
Bigeye sand tiger, *Odontaspis noronhai*
Bigeye sixgill, *Hexanchus nakamurai*
Bigeye thresher, *Alopias superciliosus*
Bignose, *Carcharhinus altimus*
Caribbean reef, *Carcharhinus perezii*
Caribbean sharpnose, *Rhizoprionodon porosus*
Dusky, *Carcharhinus obscurus*
Galapagos, *Carcharhinus galapagensis*
Longfin mako, *Isurus paucus*
Narrowtooth, *Carcharhinus brachyurus*
Night, *Carcharhinus signatus*
Sand tiger, *Carcharias taurus*
Sandbar, *Carcharhinus plumbeus*
Sevengill, *Heptranchias perlo*
Silky, *Carcharhinus falciformis*
Sixgill, *Hexanchus griseus*
Smalltail, *Carcharhinus porosus*
Whale, *Rhincodon typus*
White, *Carcharodon carcharias*

*"Research only shark"* means any of the following species:

Sandbar, *Carcharhinus plumbeus*

*"Shark shortline"* means a fish trotline that is set horizontally, either anchored, floating or attached to a vessel, and that consists of a mainline or groundline, 1,000 feet in length or less, with multiple leaders (gangions) and no more than 50 corrodible circle hooks, whether retrieved by hand or mechanical means.

*"Small mesh gill net"* means any gill net with a stretched mesh of equal to or less than five inches.

*"Smooth Dogfish"* means any shark of the species *Mustelus canis.*

*"Spiny dogfish"* means any shark of the species *Squalus acanthias.*

**4 VAC 20-490-30. GEAR RESTRICTIONS.**

A. It shall be unlawful for any person to place, set, or fish any longline in Virginia's tidal waters.

B. It shall be unlawful for any person to place, set, or fish any shark shortline in Virginia's tidal waters with more than 50 hooks. All hooks must be corrodible circle hooks. In addition, any person aboard a vessel fishing shortlines must practice the protocols and possess the federally required release equipment, for pelagic and bottom longlines, for the safe handling, release and disentanglement of sea turtles and other non-target species; all captain and vessel owners must be certified in using handling and release equipment.

C. It shall be unlawful for a person to possess more than two shark shortlines on board a vessel.

D. It shall be unlawful for any person fishing recreationally to take any shark using any gear other than handline or rod and reel.

E. It shall be unlawful for any person fishing for commercial purposes to possess any shark caught by means other than permitted commercial gear.

F. Any commercial shark fisherman fishing for sharks shall check all of his large mesh gill nets at least once every two hours.

**4 VAC 20-490-35. [Repealed]**

**4 VAC 20-490-40. RECREATIONAL CATCH LIMITATIONS.**

A. Recreational fishing vessels are allowed a maximum possession limit of one recreationally permitted shark, excluding smooth dogfish, per trip, regardless of the number of people on board the vessel. In addition, each recreational vessel angler may possess one bonnethead and one Atlantic sharpnose per trip. The possession aboard a vessel of more than one recreationally permitted shark, excluding smooth dogfish, or the possession of more than one Atlantic sharpnose shark or one bonnethead shark, per person, shall constitute a violation of this regulation. When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limits for Atlantic sharpnose shark or bonnethead shark shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish, plus one additional recreationally permitted shark. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limits.

B. A recreational shore angler is allowed a maximum possession limit of one recreationally permitted shark, excluding smooth dogfish, per calendar day. In addition a recreational shore angler may harvest one additional bonnethead and one additional Atlantic sharpnose per calendar day. The possession of more than one recreationally permitted shark, excluding smooth dogfish, or the possession of more than one bonnethead and one Atlantic sharpnose, by any person, shall constitute a violation of this regulation.

C. It shall be unlawful for any person to possess any recreationally prohibited shark.

D. It shall be unlawful for any person to possess any recreationally permitted shark landed under the recreational catch limitations described in this section that is less than 54 inches in fork length except as described in subdivisions 1 and 2 of this subsection:

1. It shall be unlawful for any person to possess any recreationally caught great hammerhead, scalloped hammerhead, or smooth hammerhead shark that is less than 78 inches in fork length.

2. Atlantic sharpnose, bonnethead, finetooth, blacknose, and smooth dogfish sharks are exempt from the recreational size limit described in this subsection.

E. It shall be unlawful for any person to take, harvest, land, or possess any blacktip, bull, great hammerhead, lemon, nurse, scalloped hammerhead, smooth hammerhead, spinner or tiger shark from May 15 through July 15 of any calendar year.

F. All sharks must have heads, tails and fins attached naturally to the carcass. Anglers may gut and bleed the carcass as long as the head and tail are not removed. Filleting any shark is prohibited, until that shark is offloaded at the dock or on shore.

## 4 VAC 20-490-41. COMMERCIAL CATCH LIMITATIONS.

A. It shall be unlawful for any person to possess on board a vessel or to land in Virginia more than a combined total of 36 commercially permitted aggregated large coastal sharks and commercially permitted hammerhead sharks in one twenty-four hour period. The person who owns or operates the vessel is responsible for compliance with the provisions of this subsection.

B. It shall be unlawful for any person to fillet a shark, until that shark is offloaded at the dock or on shore, except smooth dogfish as provided in subsection C of this section. A licensed commercial fisherman may eviscerate and remove the head of any shark, but the tail and all fins of any shark, except smooth dogfish as provided in subsection C of this section, shall remain naturally attached to the carcass through landing. The fins of any shark, except smooth dogfish, may be partially cut but some portion of the fin shall remain attached, until the shark is landed.

C. Virginia licensed commercial fishermen may completely process smooth dogfish at sea prior to landing, except that it shall be unlawful for anyone to land or possess on board any vessel any amount of processed smooth dogfish whereby the total weight of fins exceeds 12 percent of the total dressed weight of any smooth dogfish.

D. It shall be unlawful to possess, on board a vessel, or to land in Virginia any species of shark, after NOAA Fisheries has closed the fishery for that species in Federal waters.

E. There are no commercial trip limits or possession limits for smooth dogfish or sharks on the lists of commercially permitted pelagic species, commercially permitted non-blacknose species or commercially permitted blacknose species.

F. Except as described in this section, it shall be unlawful for any person to take, harvest, land, or possess in Virginia any blacktip, bull, great hammerhead, lemon, nurse, scalloped hammerhead, silky, smooth hammerhead, spinner or tiger shark from May 15 through July 15. These sharks may be transported by vessel, in Virginia waters, during the closed season provided the sharks were caught in a legal manner consistent with federal regulations outside Virginia waters and:

1) The vessel does not engage in fishing, in Virginia waters, while possessing the above species; and

2) All fishing gear aboard the vessel is stowed and not available for immediate use.

G. It shall be unlawful for any person to retain, possess or purchase any commercially prohibited shark or any research only shark, except as provided in subsection I of this section.

H. All sharks harvested from state waters or federal waters, for commercial purposes, shall only be sold to a federally permitted shark dealer.

I. The commissioner may grant exemptions from the seasonal closure, quota, possession limit, size limit, gear restrictions and prohibited species restrictions. Exemptions shall be granted only for display or research purposes. Any person granted an exemption for the harvest of any shark for research or display shall report the species, weight, location caught and gear used for each shark collected within 30 days. Any person granted a permit to possess any shark for research or display shall provide the commissioner, on an annual basis, information on the location and status of the shark throughout the life of the shark.

**4 VAC 20-490-42. SPINY DOGFISH COMMERCIAL QUOTA AND CATCH LIMITATIONS.**

A. For the 12-month period of May 1, 2015, through April 30, 2016, the spiny dogfish commercial landings quota shall be limited to 5,463,565 pounds.

B. It shall be unlawful for any person to take, harvest, or possess aboard any vessel or to land in Virginia any spiny dogfish harvested from federal waters for commercial purposes after it has been announced that the federal quota for spiny dogfish has been taken.

C. It shall be unlawful for any person to take, harvest, or possess aboard any vessel or to land in Virginia more than 5,000 pounds of spiny dogfish per day for commercial purposes.

D. It shall be unlawful for any person to harvest or to land in Virginia any spiny dogfish for commercial purposes after the quota specified in subsection A of this section has been landed and announced as such.

E. Any spiny dogfish harvested from state waters or federal waters, for commercial purposes, shall only be sold to a federally permitted dealer.

F. It shall be unlawful for any buyer of seafood to receive any spiny dogfish after any

commercial harvest or landing quota described in this section has been attained and announced as such.

## 4 VAC 20-490-43. LIMITED ACCESS CONTROL RULE.

At such time the status of shark stocks or their fisheries warrant the establishment of a limited access program for participation in the commercial fishery for sharks, a control rule may be enacted that limits participation in the commercial fisheries for sharks to those individuals who participated in that fishery on and before December 31, 2004. The control rule may also include eligibility requirements based on past harvest amounts.

## 4 VAC 20-490-44. SPINY DOGFISH LIMITED ENTRY FISHERY PERMIT AND PERMIT TRANSFERS.

A. It shall be unlawful for any person to take, catch, possess, or land any spiny dogfish without first having obtained a Spiny Dogfish Limited Entry Fishery Permit from the Marine Resources Commission. Such permit shall be completed in full by the permittee who shall keep a copy of that permit in his possession while fishing for or selling spiny dogfish. Permits shall only be issued to Virginia registered commercial fishermen meeting either of the criteria described in subdivision 1 or 2 of this subsection:

1. Shall have documentation of (i) harvest from a movable gill net for an average of at least 60 days from 2006 through 2008, (ii) a minimum harvest of one pound of spiny dogfish at any time from 2006 through 2008, and (iii) harvest of at least one pound of spiny dogfish from May 1, 2010, through April 30, 2012, in the Marine Resources Commission's mandatory harvest reporting system, except that federal dealer reports to the Standard Atlantic Fisheries Information System can satisfy the one pound harvest requirement, for May 1, 2010, through April 30, 2012.

2. Shall have documentation of (i) harvests that total greater than 10,000 pounds of spiny dogfish in any one year from 2006 through 2008, and (ii) harvest of at least one pound of spiny dogfish from May 1, 2010, through April 30, 2012, in the Marine Resources Commission's mandatory harvest reporting system, except that federal dealer reports to the Standard Atlantic Fisheries Information System can satisfy the one pound harvest requirement, for May 1, 2010, through April 30, 2012.

B. Any smooth dogfish or unidentified dogfish documented on Virginia mandatory reporting forms as harvested during the months of November through February 2006 through 2008 shall be classified as spiny dogfish when determining eligibility for a Spiny Dogfish Limited Entry Fishery Permit as described in subdivisions A 1 and A 2 of this section.

C. It is unlawful to transfer any Spiny Dogfish Limited Entry Fishery permit after November 23, 2009.

D. The use of agents in the spiny dogfish fishery is prohibited.

E. The commissioner or his designee may grant exceptions to the prohibition against transfers of the Spiny Dogfish Limited Entry Fishery Permit as described in subsection C of this section to any individual who meets any of the following criteria:

1. Demonstrates a significant hardship on the basis of health and provides the commissioner documentation, by an attending Physician, of the medical condition.

2. Demonstrates a significant hardship on the basis of a call to active military duty and provides the commissioner an explanation, in writing, and copy of the military orders for active duty.

3. Documents the retirement or death of the immediate family member permitted for the spiny dogfish limited entry fishery and possessing a legal Commercial Fisherman Registration License.

**4VAC20-490-45. [Repealed]**

**4VAC20-490-46. SPINY DOGFISH MONITORING REQUIREMENTS.**

A. Any Virginia seafood buyer purchasing spiny dogfish shall provide written reports to the Marine Resources Commission of weekly landings for each registered commercial fisherman to include that commercial fisherman's registration license number and exact weight of the spiny dogfish landed, in pounds, until it is projected and announced that 80% of Virginia spiny dogfish quota has been landed.

B. When it has been projected and announced by the Marine Resources Commission that 80% of the Virginia spiny dogfish quota has been landed, each Virginia seafood buyer shall call the Marine Resources Commission's interactive voice recording system on a daily basis to report the daily landings for each registered commercial fisherman to include the commercial fisherman's registration license number and exact weight of spiny dogfish landed, in pounds, until it is projected and announced that the Virginia spiny dogfish quota has been landed and the fishery closed.

**4VAC20-490-47. CONTROL DATE**

The Marine Resources Commission hereby establishes April 30, 2011, as the control date for

management of all spiny dogfish licenses and fisheries in Virginia. The harvest of any spiny dogfish or the participation by any individual in any Virginia spiny dogfish fishery after the control date will not be considered in the calculation of spiny dogfish rights should further entry limitations be established. Any individual entering the spiny dogfish fishery after the control date may forfeit any right to future participation in the spiny dogfish fishery should further entry limitation be established.

**4VAC20-490-50. FINNING.**

It shall be unlawful for any person to engage in finning.

**4VAC20-490-60. [Repealed]**

**4VAC20-490-70. 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 May 26, 2015.

**COMMONWEALTH OF VIRGINIA**
**MARINE RESOURCES COMMISSION**

BY: _____
**John M. R. Bull**
**Commissioner**

Subscribed and sworn to before me this 28th day of May, 2015.

_____
Notary Public

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