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## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Marine Resources Commission
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	4 VAC 20-1270-10
<b>VAC Chapter title(s)</b>	Pertaining to Atlantic Menhaden
<b>Action title</b>	Establish the percentage Virginia receives of the coastwide total allowable catch per Addendum I to Amendment 3 of the Interstate Fishery Management Plan for Atlantic Menhaden.
<b>Final agency action date</b>	February 28, 2023
<b>Date this document prepared</b>	February 2, 2022

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

The Virginia Marine Resources Commission (VMRC) is amending Chapter 4 VAC 20-1270-10 et seq., "Pertaining to Atlantic Menhaden", to establish the percentage Virginia receives of the coastwide total allowable catch per Addendum I to Amendment 3 of the Interstate Fishery Management Plan for Atlantic Menhaden.

### Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or*

*board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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[Mandate] VMRC is authorized by § 28.2-201 of the Code of Virginia to promulgate regulations and guidelines necessary to carry out the provisions of Title 28.2, including marine fisheries regulations.

[Impetus] The Atlantic States Marine Fisheries Commission (ASMFC) approved Addendum I to Amendment 3 of the Fishery Management plan for Atlantic menhaden at their annual meeting in November 2022. Addendum I addresses commercial allocations, the Episodic Event Set Aside (EESA) Program, and the Incidental Catch/Small-Scale Fishery (IC/SSF) Provision. Additionally, the ASMFC Menhaden Board increased in the coastwide total allowable catch or landings (TAC) of menhaden at the November 2022 meeting. The 2023-2025 coastwide TAC is 233,550 metric tons. For Virginia, the total allowable commercial landings are 384,227,229 pounds for 2023. This amount represents 75.21% of the coastwide TAC after 1% is set aside for episodic events.

### **Statement of Final Agency Action**

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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This is to certify that the foregoing is a true and accurate copy of the chapter (4VAC20-1270-10 et seq., “Pertaining to Atlantic Menhaden”) passed by the Marine Resources Commission, pursuant to authority vested in the Commission by §28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission’s minute book, at meeting held in Hampton, Virginia on February 28, 2023.