REPORT OF THE VIRGINIA MARINE RESOURCES COMMISSION

Meeting the Requirements of the National Saltwater Angler Registry (SJR 397, 2009)

TO THE GOVERNOR AND THE GENERAL ASSEMBLY OF VIRGINIA



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Meeting the Requirements of the National Saltwater Angler Registry

Virginia Marine Resources Commission

Enabling Authority: SJR 397 (Regular Session, 2009)

Executive Summary

The National Marine Fisheries Service (NMFS) has issued a federal rule creating the National Saltwater Angler Registry. The registry will contain the contact information of all saltwater anglers and will be used to improve the quality of federal surveys that estimate angler catch and effort information. Saltwater fishermen will be required to register with the NMFS, after December 31, 2009. Beginning in 2011, an annual fee of \$15 to \$25 will be charged to register.

Anglers are not required to register, if they hold a license issued by a state that has been designated by the NMFS as an exempted state. This report presents two options for Virginia to achieve the exempted-state designation. The first option requires the repeal of the recreational boat, rental boat, and commercial pier licenses and removal of the exemptions that allow unlicensed anglers to fish from private real property or from shore. This option requires most anglers to purchase the individual saltwater license and would generate approximately \$1.2 million in additional license fees and up to \$2.0 million in additional federal Sport Fish Restoration Funds.

A second option requires the design and implementation of a state-level registration program and leaves intact the existing state licensing program. The estimated costs to implement this option are \$145,000 - \$445,000.

Document Title:

Meeting the Requirements of the National Saltwater Angler Registry

Program

Author:

Virginia Marine Resources Commission (VMRC)

Enabling Authority: SJR 397 (Regular Session, 2009)

Background: On December 30, 2008, the National Marine Fisheries Service (NMFS) issued a final rule to adopt regulations (CFR 600.1400 - 600.1417) to establish a national registry of recreational anglers fishing in federal waters, for anadromous species in tidal waters, or for Continental Shelf fishing resources beyond federal waters. This fisherman registration requirement is intended to improve existing angling catch and effort surveys, in order to improve their efficiency, reduce sources of bias, and improve confidence in the survey results by anglers and fishery managers. Catch and effort survey results are important to fishery managers because surveys influence the annual setting of fishery specifications that include harvest quotas, bag limits, size limits, and fishing seasons.

A 2004 review of the current marine recreational fishery survey methods used by the NMFS, conducted by the National Research Council (NRC) of the National Academy of Sciences, identified numerous problems with that survey design and questioned its adequacy to provide statistics needed to support stock assessments and fishery management decisions. To resolve these problems, the NRC recommended the development of, and sampling from, a comprehensive list of saltwater anglers, rather than random sampling from coastal households. The NRC further recommended that the list be established either by implementing a federal registration requirement or by expanding current state saltwater licenses to include all saltwater anglers.

The NMFS final rule is intended to facilitate the development of a database of identification and contact information from saltwater recreational fishermen and for-hire fishing vessels engaged in angling and spear fishing for saltwater and anadromous fish. Effective January 1, 2010, saltwater recreational fishermen will be required to register annually with the NMFS. A fee may not be charged for anglers or vessels to register until January 1, 2011. Currently, the registration fee is estimated to be in the range of \$15 to \$25 per year, beginning in calendar year 2011. The fees generated will be deposited in the federal treasury and not returned to the states, according to existing plans.

Most importantly, recreational anglers and for-hire vessel operators are not required, by the federal rule, to register annually, if they hold a license issued by a state that has been designated by the NMFS as an exempted-state. The remainder of this report is intended to describe how Virginia might receive that "exempted-state" status. As directed by SJR 397, we examined the types of licenses and license exemptions that should be eliminated, the economic impacts to the Virginia Marine Resources Commission (VMRC) Saltwater Recreational Fishing Development Fund from such licensing changes, and other means to achieve an "exempted-state" status.

Options to Achieve Exempted-State Status

Option 1. Revise the VMRC Saltwater Fishing License Program

The NMFS has identified two options, described below, for states to achieve an exemption from the new federal requirement that all of its saltwater anglers register with the federal agency. Achieving this exempted status is attractive to most states because it will eliminate a January 1, 2011 requirement that each angler pay a federal fee, in the range of \$15 to \$25, as part of the registration process. Such fee would be in addition to the state's saltwater recreational fishing license fees already in place.

The first option to achieve exempted status requires states to impose a saltwater fisherman licensing program, or to modify its existing licensing program, to capture all of the data elements required by the federal rule. Since Virginia's saltwater fishing license program has been in place since 1993 and does not capture all of the required angler contact information, significant changes to the program design would be necessary.

The National Saltwater Angler Registry Program requires the full name, address, telephone number, and date of birth for each angler, age 16 and older. For each for-hire vessel and vessel owner, the following are required: full name of owner and, if different, of operator; name of vessel; vessel registration/documentation number; vessel homeport or principal operating area; address of owner; telephone number of owner and, if different, of operator; and the date of birth of the vessel owner.

Since the VMRC currently licenses all for-hire recreational fishing vessel owners and operators and collects all of the required data elements for that sector, Virginia can achieve an exempted-state designation for the for-hire sector without further legislative changes. On October 22, 2009, the VMRC submitted a request to the NMFS for exemption of the for-hire sector. When accepted by the NMFS, owners and operators of charter boats and head boats and anglers fishing solely aboard these types of vessels will be exempted from the requirement to register with the National Saltwater Angler Registry Program.

Unfortunately, the remainder of VMRC's licensing program does not capture all of the required contact information for individual saltwater anglers. Numerous exemptions from the state licensing requirements and the licensing of multiple anglers by a single license (blanket license) prevent the capture of the required information for every angler. Virginia's licensing program, for example, provides licensing exemptions for individuals fishing on a licensed pier, from a licensed private boat, from a licensed rental boat, and from privately owned land. None of these exemptions is permitted under the new federal rule, except as noted below for licensed piers. Therefore, Virginia must eliminate these licenses and exemptions to achieve an exempted status designation and avoid future federal licensing of its saltwater anglers.

The federal rule does allow states to offer a blanket license for pier owners, that covers all customers fishing from the pier, as long as the pier license holder provides to the VMRC complete angler contact information or angler effort information for all users of the pier. Then, continued sales of the pier license does not affect a state's exempt status. Since most of

Virginia's licensed piers are not manned facilities, the ability to collect the required information to meet this standard is not likely available. It is further unlikely that the local governments owning some of these piers would go to the expense to collect the required information.

Virginia also exempts from licensing those individuals aged 65 years or older. The federal rule allows for this exemption, but requires the state to implement measures to capture the name, address, telephone number and birth date of these anglers. The federal rule also requires a state to submit angler identification, updated annually, for holders of state lifetime licenses. Tables 1 and 2, below, specifically describe the necessary changes to the VMRC licensing program to achieve an exempted-state designation.

Table 1. License changes necessary for Virginia to achieve an exempted-state designation from the National Angler Registry Program				
Virginia Blanket License	Purpose	Action Required to Achieve Exempted Status		
Recreational Boat License (§28.2-302.7 and §28.2-302.7:1)	Covers passengers and owner/operator through the license year	Repeal		
Rental Boat License (§28.2-302.8.C)	Covers all customers fishing from a rented vessel	Repeal		
Commercial Fishing Pier License (§28.2-302.9)	Covers all customers fishing from the pier during the license year	Repeal or require pier owners/operators to collect required angler contact information from all customers		
Lifetime Saltwater License (§28.2-302.10:1)	Covers individual over his lifetime	Require the submission of name, address, telephone number and birth date, updated annually, of holders of lifetime license		

Table 2. License exemption changes necessary for Virginia to achieve an exempted-state designation from the National Angler Registry Program				
Virginia License Exemption	Action Required To Achieve Exempted Status			
A person fishing from private real property that he owns or rents, the nonpaying guest of such person, or a member of the immediate family of such person (§28.2-302.5. A.2)	Repeal			
A person fishing from a federally owned park or reserve with boundaries extending into an adjoining state that does not require a saltwater fishing license (§28.2-302.5. A.10)	Repeal			
A person under the age of 16 or a person who has attained the age of 65 (§28.2-302.5. A.1)	Require the submission of name, address, telephone number and birth date from excluded anglers age 65 and older			

Implementation of the license changes under this option, as listed in Tables 1 and 2, will require legislation. Legislation to implement this option is found in Attachment I.

Option 2. Implement a State-Level Saltwater Angler Registry

A second option to comply with the National Saltwater Angler Registry Program would leave the current VMRC saltwater angler licensing program intact. To collect the required contact information for the national program, a separate state-level registration process could be established. Such a program would be quite similar to the Hunter Information Program (HIP) of the U.S. Fish and Wildlife Service that is used to register all who intend to hunt migratory game birds. The Department of Game and Inland Fisheries operates the HIP in Virginia.

Under this "HIP" approach, all prospective Virginia saltwater anglers, age 16 or older, whether they are licensed by VMRC or not, would be required to obtain a registration number on an annual basis before fishing in Virginia waters. This fisherman registration number, or FRN, would be obtained at no cost to the angler by calling a toll-free number and providing the required information over the phone or by entering the information on-line. Each person who requests a fisherman registration number would write this number on his Virginia saltwater fishing license, and for those who are legally unlicensed, would be able to produce this number when challenged by an authorized enforcement agent. The appropriate toll-free number and website would be advertised and made readily available to all prospective Virginia anglers. The callers will be instructed to provide their name, address, telephone number, and date of birth. Once all Virginia saltwater anglers have obtained a registration number, the VMRC will be able to supply a complete computerized list of contact information to the National Marine Fisheries Service so that Virginia may be exempt from the National Saltwater Angler Registry Program and associated federal fees.

Since VMRC lacks the authority to establish a fisherman registration process, legislation authorizing such a program would be necessary. A draft of such legislation is provided as Attachment II.

Economic Impacts to the Saltwater Recreational Fishing Development Fund

The economic impact analyses presented below are based upon saltwater fishing license sales in 2008, the last year for which all licensed sales data are available.

The options presented above, to comply with the standards of the National Saltwater Angler Registry Program, have widely varying effects on revenue generation. Option 1, which eliminates certain blanket licenses and license exemptions and requires almost all anglers to purchase an individual license, is revenue positive. On the other hand, option 2, which requires the design and imposition of a new state-level registration process, is revenue negative.

License Description	Price/License	Number Sold	Revenue (\$)
Individual	12.50	42,544	531,800
10-day Temporary	5.00	11,912	59,560
Recreational Boat*	38.00	34,572	1,313,736
Commercial Pier*	571.00	25	14,275
Rental Boat*	9.00	153	1,377
Individual resident FW/SW	30.00	31,005	930,150
Individual non-resident FW/SW	48.00	1,007	48,336
Resident FW/SW 5 day	16.00	263	4,208
Non-resident FW/SW 5 day	21.00	1,047	21,987
Special Lifetime Disabled	5.00	1,142	5,710
Lifetime resident/non-resident	30.00 to 250.00	289	22,225

Since Option 1 requires the elimination of the Recreational Boat, Rental Boat and Commercial Pier licenses, gross revenue (\$1,329,388 in 2008) from the sales of these licenses would be lost (Table 3). However, all individuals, 16 to 64 years of age, who would have been covered by these blanket licenses, would now be required to purchase the individual saltwater license to fish in future years. This raises the question of how many fishermen previously covered by a blanket license (Recreational boat, Rental boat or Commercial pier) would purchase an individual fishing license. Based upon an informal survey of recreational anglers, we estimate that the Recreational Boat license, on average, covers the fishing of 5.8 individuals per boat over the course of a year. Therefore, the 34,572 boat licenses sold in 2008 actually represents fishing by 200,517 anglers. Assuming each of these anglers purchases an individual license, new revenue in the amount of \$2,506,462 may be generated. The net positive gain from the increased

sale of individual licenses minus the decrease in the sale of the boat license is \$1,192,726. This is likely an overestimate of the net revenue result, as some of the anglers fishing on licensed private boats, may already have an individual license or may purchase the less expensive 10-day temporary license. Also, it is unlikely that all anglers previously covered by the blanket boat license will purchase individual licenses; some may simply stop fishing. Nevertheless, the results would be revenue neutral if only 52 percent (105,098) of the boat anglers purchase the individual license.

Similarly, repeal of the Commercial Pier license eliminates \$14,275 in gross revenue based on 2008 sales. However, if all anglers fishing on the state's 25 piers purchased individual licenses, the net revenue gain would likely be positive. Although we cannot estimate the number of anglers fishing on these piers annually, the sale of only 46 additional individual angler licenses per pier would cover the \$571 loss of each pier license. Likewise, it is not possible to determine the number of anglers fishing from private real property, who are not currently required to be licensed. But, it is obvious that elimination of this license exemption would generate additional individual license sales.

The license changes described in Option 1 may also result in an increase in federal Sport Fish Restoration Act (Wallop-Breaux) funds that are available to Virginia. Wallop-Breaux funds are petitioned among eligible states, partly based upon the number of anglers each state can certify as licensed. Since Option 1 increases the number of individually licensed anglers by as much as 200,000, Virginia's share of these federal funds will increase. The U.S. Fish and Wildlife Service estimates that, for each additional angler certified as licensed, Virginia would receive \$10. This could result in an increase in total funds for Virginia of as much as \$2.0 million.

Option 2, which requires the design and implementation of a state-level angler registration program, is revenue negative. Based upon the cost associated with similar programs, such as, the DGIF Hunter Information Program and a saltwater angler registration program in Delaware, we estimate the cost at \$0.50 per angler registration under Option 2. One vendor has already contacted the VMRC to express an interest in designing and operating an angler registration system for all of the Atlantic coastal states. The vendor predicts the cost per registration will decrease, if the number of states choosing this option increases. Nevertheless, given the large number of saltwater anglers in Virginia, this type of registration program could prove expensive. For example, the National Marine Fisheries Service, in 2008, estimated the number of coastal, non-coastal, and non-resident saltwater anglers in Virginia to be 891,349. Using this estimate, if the registration cost is \$0.50/angler, the total annual cost of Option 2 could be as high as \$445,675. A more realistic estimate of the number of Virginia saltwater anglers might be based on the total number of licenses sold (in 2008) plus 200,000 for those now covered by the boat license. Using this total (289,209), the cost of Option 2 would be \$144,605. The actual cost of Option 2 is likely between the two estimates (\$144,605-\$445,349).

Current projections of the revenue produced from the sales of saltwater fishing licenses range from \$2.0 - \$2.2 million, annually. Yearly, permanent, obligations on these funds for the Marine Resources Commission total approximately \$1.8 million and include \$1,126,060 in obligations that are the result of 2007-09 budget reduction exercises, \$300,000 that is needed to

annually match federal Sport Fish Restoration Act funds, and \$377,240 for other VMRC recreational fishing programs and administrative costs. Given the sum of these permanent obligations, it may not be possible to fund Option 2 solely from the Saltwater Recreational Fishing Development Fund.

ATTACHMENT 1

Draft Legislation to Implement Option 1

- § 28.2-302.5. Exemptions to saltwater recreational fishing license.
- A. The following persons shall be exempt from the requirements of obtaining a saltwater recreational fishing license as set forth in § 28.2-302.1:
- 1. A person under the age of sixteen or a person who has attained the age of sixty-five.
- 2. A person fishing from private real property that he owns or rents, the nonpaying guest of such person, or a member of the immediate family of such person.
- 3. A person fishing from a licensed recreational boat licensed pursuant to § 28.2-302.7.
- 42. A person fishing from a licensed headboat, or charterboat or pier licensed pursuant to § 28.2-302 or § 28.2-302.8.
- 53. A person fishing with gear licensed by the Commission.
- 64. The holder of a valid recreational fishing license issued by another state or jurisdiction, upon determination of reciprocity of the license by the Commissioner.
- 75. Members of the following groups, as determined by the Commissioner:
- a. Organized groups of individuals with physical or mental limitations;
- b. Organized groups of military veterans residing in veterans' hospitals; and
- c. School groups, grades kindergarten through twelve, participating in school-sponsored trips.
- <u>86</u>. A permanently and totally disabled person as defined in § <u>58.1-3217</u> holding a special lifetime saltwater recreational fishing license issued pursuant to § <u>28.2-302.10</u>.
- 97. A person holding a lifetime saltwater recreational fishing license issued pursuant to § 28.2-302.10:1.
- 10. A person fishing from a federally owned park or reserve with boundaries extending into an adjoining state that does not require a saltwater fishing license.
- B. No saltwater recreational fishing licenses shall be required on days that are designated as free fishing days. The Commissioner shall designate no more than three free fishing days in any calendar year. This exemption shall not apply to headboats, or charterboats, or rental boats.

§ 28.2-302.7. Recreational boat; reporting of catch.

A. The owner or operator of a recreational boat used for saltwater recreational fishing shall have the option of purchasing a saltwater recreational fishing license which covers his passengers and himself to meet the licensing requirements set forth in § 28.2-302.1. The cost of the license shall be \$30 or as subsequently revised by the Commission pursuant to § 28.2-201 a year for boats. If the owner or operator of the boat does not purchase a license which covers all his passengers, individuals shall still purchase a license as required by § 28.2-302.1. Purchasers of licenses pursuant to this section will be issued an individual license, at no additional cost, as required in § 28.2-302.1.

B. Holders of licenses issued pursuant to subsection A shall report eatch and other data as are deemed necessary by the Commission for effective fisheries management.

C. All funds collected pursuant to this section shall be paid into the state treasury to the credit of the Virginia Saltwater Recreational Fishing Development Fund, as established by § 28.2-302.3.

§ <u>28.2-302.7:1</u>. Reissuance of licenses for recreational boats.

The Commission shall provide for the reissuance of a saltwater recreational fishing license to a person who holds a valid license for a recreational boat issued pursuant to § 28.2-302.7 and who owns or operates another recreational boat. The cost of reissuing a license shall be five dollars or as subsequently revised by the Commission pursuant to § 28.2-201. A reissued license shall be valid for the balance of the term of the original license.

§ 28.2-302.8. Headboat or charterboat; rental boats.

A. The Commission may establish the sale of a fishing guide license. If established, such fishing guide license shall be required for each charterboat and headboat captain. The Commission may limit the sale of such licenses when deemed necessary by the Commission for effective fisheries management. The application for the license shall include a copy of the applicant's current U.S. Coast Guard license permitting him to carry passengers for hire. The fee for the license shall not exceed \$100. The Commission may reduce the fee charged for the saltwater recreational fishing license under subsection B by an amount equal to the fee for the fishing guide license.

B. The owner of a headboat or charterboat annually shall purchase a recreational fishing license which covers his passengers and the captain and mate of the vessel to meet the requirements set forth in § 28.2-302.1. The annual cost of the license shall be \$150 for uninspected vessels licensed by the United States Coast Guard to carry six fishing passengers or fewer and, for boats United States Coast Guard certified to carry a number of fishing passengers greater than six, \$150 plus \$4 for each passenger over six for which the boat is designed. A headboat or charterboat owner who has purchased the license required under this subsection shall be issued, at no additional cost, the saltwater recreational fishing license issued pursuant to § 28.2-302.1.

C. The owner of a boat rental service shall purchase a recreational fishing license which covers his customers to meet the requirements set forth in § 28.2-302.1. The annual cost of the license shall be \$7.50 per boat with a maximum fee of \$500, whichever is less.

<u>DC</u>. Charterboat and headboat operators shall report such data as are deemed necessary by the Commission for the effective fisheries management as a condition of issuance of the license.

<u>ED</u>. All funds collected pursuant to this section shall be paid into the state treasury to the credit of the Virginia Saltwater Recreational Fishing Development Fund, as established by § <u>28.2-302.3</u>. The Commission may subsequently revise the cost of licenses in this section pursuant to § <u>28.2-201</u>.

§ 28.2-302.9. Commercial fishing pier.

A. The owner of a commercial fishing pier, as defined in § 28.2-302, shall have the option of purchasing a saltwater recreational fishing license, covering his customers, in order to meet the licensing requirements set forth in § 28.2-302.1. The cost of the license shall be \$450. If the owner of the pier does not purchase such a license, individuals shall still purchase a license as required by § 28.2-302.1.

B. Owners of commercial piers shall report catch and other data as are deemed necessary by the Commission for effective fisheries management.

C. All funds collected pursuant to this section shall be paid into the state treasury to the credit of the Virginia Saltwater Recreational Fishing Development Fund, as established by § 28.2-302.3. The Commission may subsequently revise the cost of licenses in this section pursuant to § 28.2-201.

§ 28.2-302.11. Angler contact information for the National Registry.

The Commission is authorized to require, by regulation, the submission of angler contact information, in a form that is consistent with the National Saltwater Angler Registry Program, from those anglers purchasing lifetime saltwater licenses and from those anglers 65 years or older, who are exempt from licensing.

ATTACHMENT 2

Draft Legislation to Implement Option 2; a State-Level Saltwater Angler Registration Program

§ 28.2-201. Authority of Commission to make regulations, establish licenses, and prepare fishery management plans; accept federal grants; enforcement; penalty for violation of regulation.

The Commission may:

- 1. Promulgate regulations, including those for taking seafood, necessary to promote the general welfare of the seafood industry and to conserve and promote the seafood and marine resources of the Commonwealth. The Commission may also promulgate regulations necessary for the conservation and reasonable use of surf clams.
- 2. Establish new licenses and fees commensurate with other licenses in an amount not to exceed \$100 for any device used for taking or catching seafood in the tidal waters of the Commonwealth when the device (i) is not otherwise licensed in this title and (ii) is used for commercial purposes. The Commission may specify, when issuing such licenses, any restrictions or control over the devices or the persons operating the device.
- 3. Establish fees for permits required for delayed or limited entry fisheries, shellfish relaying, scientific collections, and for the administrative transfer of these permits among fishermen, where applicable.
- 4. Beginning July 1, 2004, and not more frequently than every three years thereafter, increase fees for tidal fisheries licenses and permits that are authorized under this title or by regulation promulgated pursuant to Article 2 (§ 28.2-209 et seq.) of this chapter. Any fee increase for such licenses and permits shall be capped at \$5 or a percentage equal to the increase in the Consumer Price Index calculated from the time the fee was last set or adjusted, whichever is greater. Beginning July 1, 2004, any amounts generated from the increases in commercial fishing licenses and permits shall be paid into the Marine Fishing Improvement Fund for the purposes authorized by § 28.2-208, and any amounts generated from the increases in recreational fishing licenses shall be paid into the Virginia Saltwater Recreational Fishing Development Fund for the purposes authorized by §28.2-302.3.
- 5. The Commission shall ensure that increases in licenses and fees are equitably distributed among resource user groups.
- 6. Prepare fishery management plans containing evaluations of regulatory management options, based upon scientific, economic, biological, and sociological information, and

use them in the development of regulations. The Commissioner may appoint a fisheries advisory committee and its chairman, consisting of representatives of the various fishery user groups, to assist in the preparation and implementation of the fishery management plans. The commission may expend funds to compensate the members of the committee pursuant to § 2.2-2825.

- 7. Provide for enforcement of any regulation governing surf clams by any law-enforcement officer of any agency of the Commonwealth or its political subdivisions or by any law-enforcement officer of any agency of the federal government. Enforcement agreements with other agencies or political subdivisions shall be stated in the regulation.
- 8. The Commonwealth hereby assents to the provisions of the Federal Aid in Sport Fish Restoration Act of August 9, 1950 (16 U.S.C. §§ 777-777k), as amended. The Commission is authorized to perform all such acts as may be necessary for the establishment and implementation of cooperative fish restoration and management projects as defined by these federal statutes and the implementing regulations promulgated thereunder.
- Require the registration of all recreational fishermen who fish in tidal waters in a manner
 and form that meets the requirements of the National Saltwater Angler Registry Program
 of the Department of Commerce.