



COMMONWEALTH of VIRGINIA

Marine Resources Commission
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Travis A. Voyles
Secretary of Natural and Historic
Resources

Jamie L. Green
Commissioner

April 18, 2024

Robert E. Beal, Executive Director
Atlantic States Marine Fisheries Commission
1050 N. Highland Street, Suite 200 A-N,
Arlington, VA, 22201

Mr. Beal,

Your staff asked if I could provide another update on recent events regarding the Atlantic Menhaden fishery in the Commonwealth. I would ask that you refer to my memo of April 4, 2023, and presentation to the Atlantic Menhaden Fishery Management Board on May 1, 2023, for events prior to the last year.

Memorandum of Understanding

A memorandum of understanding was signed by participating parties (reduction representatives, bait representatives, and the Marine Resources Commission (MRC) on April 20, 2023. The MOU developed several new temporal and spatial restrictions on menhaden purses seines in the Chesapeake Bay with a goal to limit future spill incidents and to create a transparent and efficient spill response protocol. The intent of the time and area restrictions outlined in the MOU are to reduce the possibility of fish spills during weekends and holidays when stakeholders are using public beaches. In the event of spills, buffers were created along densely populated shorelines to ensure spills are more likely to be cleaned up prior to reaching shore. There were no reported spills during the 2023 fishing season – a first since records on spills began in 2016.

2024 Legislation

Two menhaden bills were introduced during the 2024 Virginia General Assembly session. [HB 19](#) (Ware) was a follow up to the 2023 [SB1388](#) (Lewis) which required VIMS to develop plans for studying the ecology, fishery impacts, and economic importance of menhaden populations in the waters of the Commonwealth and report to the Chairmen of the Senate Committee on Agriculture, Conservation and Natural Resources and the House Committee on Agriculture, Chesapeake and Natural Resources same committees by September 1, 2023. HB19 was continued to 2025 in the Rules Committee.

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[HB928](#) addressed interference with commercial fishing vessels or activity and pursuant penalties. A number of alarming videos surfaced of recreational watercraft harassing commercial fishing vessels, deliberately interfering with fishing activities, and even running vessels inside of a fish net while being deployed and retrieved. Although the Commonwealth already had laws preventing such interference, this bill increased the penalty to a Class 1 misdemeanor and included the revocation of all fishing and hunting privileges for one year. Repeat offenders would face a three-year revocation of all fishing and hunting privileges. The bill also requires any person convicted of a violation to complete boating safety education. The bill passed both the house and senate unanimously.

VIMS Atlantic Menhaden Workshop

Twenty-one scientists, fisheries managers, commercial fishermen, recreational anglers, stock assessment biologists, and members of non-government organizations met at William and Mary in Williamsburg, VA, on August 8-9, 2023, to discuss Atlantic Menhaden research priorities in accordance with [SB1388](#). The diverse list of participants generated ideas for Chesapeake Bay research projects which became the foundational objectives for future research. The second day was spent discussing the feasibility of those research topics and developing budgets and logistics for implementing that research. The group developed nine ecology, fisheries impacts, and economic research priorities planned over three years for the Virginia General Assembly to consider during the 2024 session. The estimated cost for all nine projects was \$2.5 million dollars. Those priorities included:

Ecology

1. Estimate the seasonal abundance of Atlantic menhaden in Chesapeake Bay.
2. Evaluate movement rates of Atlantic menhaden between the Atlantic coast and Chesapeake Bay.
3. Assess impacts of predator demand and consumption of Atlantic menhaden.

Fishery Impacts

1. Analyze spatiotemporal patterns in Atlantic menhaden commercial fishing effort in Chesapeake Bay.
2. Assess the possibility of localized depletion of Atlantic menhaden in Chesapeake Bay.
3. Quantify changes in the recreational fisheries in Chesapeake Bay.

Economic Importance

1. Assess the economic impacts of management decisions on Atlantic menhaden fisheries and related industries.
2. Conduct a contemporary assessment of the social and economic importance of Atlantic menhaden in the Chesapeake Bay region.
3. Quantify the bioeconomic impact of Atlantic menhaden fishery removals from the Chesapeake Bay to those from the Atlantic coast.

The report was submitted to the General Assembly on October 1, 2023, and became the foundation for House Bill 19 during the 2024 session. The bill was referred to the Rules Committee who in turn sent it to the Studies Subcommittee on January 25, 2024. The subcommittee recommended

continuing to 2025 by voice vote. Although funding for the priorities was not appropriated in 2024, The [workshop report](#) provides an outline for the menhaden research needs for the Chesapeake Bay that may produce future funding opportunities.

Petitions for Rulemaking

Petitions for Rulemaking per [§ 2.2-4007](#) of the Code of Virginia is applicable for the menhaden fishery. The petition must specify the purpose and substance of the requested rulemaking, including references to relevant Virginia Administrative Code sections and must reference the legal authority of the agency to take the requested action. The request is posted on <https://townhall.virginia.gov> with a 21 day public comment period, where after the agency has 90 days to issue a written decision to grant or deny the petitioner's request, including reasons for either granting or denying.

On June 27, 2023, an email was received by an individual requesting a “*petition for regulation to ensure proper gear type use in Virginia Waters pertaining to the depth of current purse seine nets utilized and its relationship to the depth of waters within the Chesapeake Bay waters by the menhaden purse seine net fishery.*” A total of 1077 comments were received during the required 21-day comment period. The VMRC board voted 5-0-1 to deny the petitioner’s request at its October 26, 2023, public meeting.

On December 21, 2023, a petition was received by the Chesapeake Legal Alliance and Southern Maryland Recreational Fishing Organization entitled “*Petition for rulemaking to the Virginia Marine Resources Commission regarding Atlantic menhaden, the Chesapeake Bay, and the reduction fishery*”. The petition requests:

1. Enact a moratorium in the Bay: Set a precautionary moratorium on purse seine landings by the menhaden reduction fleet within the Chesapeake Bay.
2. Require no less than 40% of harvest from federal waters: Set a limit of no more than 60% of current purse seine menhaden landings within Virginia waters (approximately 94,000 metric tons).
3. Codify a 1-mile shoreline buffer: Establish a permanent 1-nautical mile shoreline buffer along Virginia’s shoreline prohibiting the use of menhaden purse seines.
4. Fund and implement a menhaden population study: Implement and enhance the Atlantic Menhaden Research proposal to investigate localized depletion and its impacts on the Bay (VIMS, October 1, 2023).
5. Establish proper industry oversight: Require increased vessel and landings monitoring and reporting to ensure compliance and reduce bycatch and impacts on Bay habitats.

The 21-day public comment period ended February 5, 2024, with 1052 total comments. The agency has 90 days to respond to this request and are planning a public hearing for the April 23rd Commission meeting.

Menhaden Management Advisory Committee (MMAC)

The MMAC is comprised of up to 12 non-legislative citizen members residing in the Commonwealth with knowledge of the menhaden resource and are appointed by the MRC Commissioner. Seven seats are designated for specific representatives – reduction, bait, labor,

recreational angler, conservation, sportfish industry, and ASMFC TC rep. The Committee has held one to two public meetings per year since April 2020 to discuss and address various concerns.

On September 27, 2023, a meeting was held to discuss the progress on SB1388 and the Chesapeake Bay Menhaden Research Objectives Workshop.

[Agenda](#)

[Meeting Video](#)

[Draft Minutes](#)

Public Interactions

There has been an increased number of public interactions regarding menhaden over the past three years. These interactions include increased public participation and comment during MRC's monthly Board meetings, 11 Freedom of Information Act (FOIA) requests (April 2023-March 2024), and correspondence with local and state representatives.

The Commonwealth has a very open and transparent process for regulating and managing our fisheries. The public is welcomed at all our workgroup, advisory committee, and Commission meetings and are given ample time to provide comment regarding items on each agenda item as well as given a specific time for items not on the agenda. Our Commission members and staff take the public's comments and concerns seriously and try to respond in a timely and responsible manner. Additionally, all our meetings are broadcast live on our YouTube channel (<https://www.youtube.com/@vamarineresources>) and archived for the public to watch at their convenience.

Again, we thank you for the opportunity to provide this update regarding menhaden issues in the Commonwealth. We will be glad to provide any additional information you, your staff, the Menhaden Board, or Technical Committee may have on these issues.

Sincerely,



Patrick J. Geer
Chief of Fisheries Management Division
Virginia Marine Resources Commission

cc: Jamie Green, Commissioner
Bryan Plumlee, Governor's Appointed Commissioner
Shanna Madsen, VA Menhaden TC rep
Toni Kerns, ASMFC Fisheries Policy Director, Interstate Fisheries Management Program
James Boyles, ASMFC Atlantic Menhaden FMP Coordinator