

# Atlantic States Marine Fisheries Commission

## Atlantic Menhaden Management Board

*May 1, 2023*

*2:45 p.m. – 3:15 p.m.*

*Hybrid Meeting*

### Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

- |  |           |
|--|-----------|
| 1. Welcome/Call to Order ( <i>M. Bell</i> )  | 2:45 p.m. |
| 2. Board Consent   | 2:45 p.m. |
| • Approval of Agenda   |           |
| • Approval of Proceedings from February 2023   |           |
| 3. Public Comment  | 2:50 p.m. |
| 4. Review Report on the Atlantic Menhaden Fishery in Virginia ( <i>P. Geer</i> )                                   | 3:00 p.m. |
| 5. Progress Update on Menhaden Single-species and Ecological Reference Point (ERP) Stock Assessments <b>Action</b> | 3:10 p.m. |
| • Review and Consider Approval of ERP Terms of Reference ( <i>K. Drew</i> )  |           |
| 6. Other Business/Adjourn  | 3:15 p.m. |

The meeting will be held at The Westin Crystal City (1800 Richmond Highway, Arlington, VA; 703.486.1111) and via webinar; click [here](#) for details

# Atlantic States Marine Fisheries Commission

## MEETING OVERVIEW

### Atlantic Menhaden Management Board

Monday, May 1, 2023

2:45 p.m. – 3:15 p.m.

Hybrid Meeting

Chair: Mel Bell (SC) Assumed Chairmanship: 10/21	Technical Committee Chair: Caitlin Craig (NY)	Law Enforcement Committee Representative: Matthew Corbin (MD)
Vice Chair: Conor McManus (RI)	Advisory Panel Chair: Meghan Lapp (RI)	Previous Board Meeting: February 1, 2023
Voting Members: ME, NH, MA, RI, CT, NY, NJ, PA, DE, MD, PRFC, VA, NC, SC, GA, FL, NMFS, USFWS (18 votes)		

### 2. Board Consent

- Approval of Agenda
- Approval of Proceedings from February 1, 2023

**3. Public Comment** – At the beginning of the meeting public comment will be taken on items not on the agenda. Individuals that wish to speak at this time should use the webinar raise your hand function and the Board Chair will let you know when to speak. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance, the Board Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

### 4. Review Report on the Atlantic Menhaden Fishery in Virginia (3:00 p.m.–3:10 p.m.)

#### Background

- In response to the public comments from previous Board meetings, the Board requested that Virginia provide an overview of the recent developments in the state menhaden fishery (**Briefing Materials**).

#### Presentations

- Review of menhaden fishery in Virginia by P. Geer

### 5. Progress Update on Menhaden Single-species and Ecological Reference Point (ERP) Stock Assessments (3:10 p.m. –3:15 p.m.) Action

#### Background

- In April 2023, the Ecological Reference Point Working Group met to draft Terms of Reference (**Briefing Materials**).
- The Atlantic Menhaden Stock Assessment Subcommittee (SAS) and Ecological Reference Point Working Group discussed and recommend changing the single-species stock assessment from a benchmark to an update (**Supplemental Materials**).

## ***Atlantic States Marine Fisheries Commission***

<b>Presentations</b>
<ul style="list-style-type: none"><li>• Update on Menhaden Single-species and Ecological Reference Point (ERP) Stock Assessments by K. Drew and K. Anstead</li></ul>
<b>Board Actions for Consideration</b>
<ul style="list-style-type: none"><li>• Approve Draft Terms of Reference</li></ul>






### **6. Other Business/Adjourn**

## Atlantic Menhaden

### Activity level: High

**Committee Overlap Score:** High (SAS, ERP WG overlaps with American eel, striped bass, northern shrimp, Atlantic herring, horseshoe crab, weakfish)

#### Committee Task List

- 2023 Ageing Workshop
- 2025 Single-species and Ecological Reference Point Stock Assessments
- Annual compliance reports due August 1st

**TC Members:** Caitlin Craig (NY, Chair), Josh Newhard (USFWS), Holly White (NC), Keilin Gamboa-Salazar (SC), Jason McNamee (RI), Eddie Leonard (GA), Jeff Brust (NJ), Matt Cieri (ME), Ingrid Braun (PRFC), Micah Dean (MA), Kurt Gottschall (CT), Shanna Madsen (VMRC), Chris Swanson (FL), Ray Mroch (NMFS), Sydney Alhale (NMFS), Amy Schueller (NMFS), Alexei Sharov (MD), Garry Glanden (DE), Heather Walsh (USGS), Kristen Anstead (ASMFC), James Boyle (ASMFC)

**SAS Members:** Amy Schueller (NMFS, SAS Chair), Caitlin Craig (NY, TC Chair), Brooke Lowman (VA), Matt Cieri (ME), Chris Swanson (FL), Sydney Alhale (NMFS), Jason McNamee (RI), Alexei Sharov (MD), Jeff Brust (NJ), Katie Drew (ASMFC), Kristen Anstead (ASMFC), James Boyle (ASMFC)

**ERP WG Members:** Matt Cieri (ME, ERP Chair), Jason Boucher (NOAA), Michael Celestino (NJ), David Chagaris (FL), Micah Dean (MA), Rob Latour (VIMS), Jason McNamee (RI), Amy Schueller (NMFS), Alexei Sharov (MD), Howard Townsend (NFMS), Jim Uphoff (MD), Shanna Madsen (VMRC), Kristen Anstead (ASMFC), Katie Drew (ASMFC)

**DRAFT PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ATLANTIC MENHADEN MANAGEMENT BOARD**

**The Westin Crystal City  
Arlington, Virginia  
Hybrid Meeting**

**February 1, 2023**

Draft Proceedings of the Atlantic Menhaden Management Board Hybrid Meeting  
February 2023

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These minutes are draft and subject to approval by the Atlantic Menhaden Management Board.  
The Board will review the minutes during its next meeting

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1. **Move to approve agenda** by Consent (Page 1).
2. **Move to approve proceedings of November 9, 2022** by Consent (Page 1).
3. **Move to approve the state implementation plans for Addendum I to Amendment 3** (Page 2). Motion by Lynn Fegley; second by Marty Gary. Motion carried (Page 2).
4. **Move to approve Technical Addendum I to Addendum I and have the measures become effective for the 2023 fishing year** (Page 3). Motion by Kris Kuhn; second by Nichola Meserve. Motion carried (Page 3).
5. **Move to adjourn by consent** (Page 5).

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**ATTENDANCE**

**Board Members**

Megan Ware, ME, proxy for Pat Keliher (AA)	John Clark, DE (AA)
Steve Train, ME (GA)	Roy Miller, DE (GA)
Cheri Patterson, NH (AA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Doug Grout, NH (GA)	Lynn Fegley, MD, AA (Acting)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Russell Dize, MD (GA)
Nichola Meserve, MA, proxy for D. McKiernan (AA)	Allison Colden, MD, proxy for Del. Stein (LA)
Raymond Kane, MA (GA)	Pat Geer, VA, proxy for J. Green (AA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Bryan Plumlee, VA (GA)
David Borden, RI (GA)	Chris Batsavage, NC, proxy for K. Rawls (AA)
Conor McManus, RI, proxy for J. McNamee (AA)	Jerry Mannen, NC (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Chad Thomas, NC, proxy for Rep. Wray (LA)
Matt Gates, CT, proxy for J. Davis (AA)	Mel Bell, SC (AA)
Rob LaFrance, CT, proxy for B. Hyatt (GA)	Malcolm Rhodes, SC (GA)
Jesse Hornstein, NY, proxy for B. Seggos (AA)	Chris McDonough, SC, proxy for Sen. Cromer (LA)
Emerson Hasbrouck, NY (GA)	Doug Haymans, GA (AA)
Joe Cimino, NJ (AA)	Erika Burgess, FL, proxy for J. McCawley (AA)
Peter Clarke, NJ, proxy for T. Fote (GA)	Gary Jennings, FL (GA)
Adam Nowalsky, NJ, proxy for Sen. Gopal (LA)	Marty Gary, PRFC
Kris Kuhn, PA, proxy for T. Schaeffer (AA)	Max Appelman, NMFS
Loren Lustig, PA (GA)	Rick Jacobson, USFWS

**(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)**

**Ex-Officio Members**

Scott Simmons, Law Enforcement Committee Rep.

**Staff**

Bob Beal	James Boyle
Toni Kerns	Chris Jacobs
Madeline Musante	Jeff Kipp
Tina Berger	

**Guests**

Mike Armstrong, MA DMF	Benson Chiles, Chiles Consulting
Pat Augustine, Coram, NY	Matt Cieri, ME DMR
Rob Beal, ME DMR	Nicholas Coleman, Univ MD
Jessica Best, NYS DEC	Margaret Conroy, DE DFW
Alan Bianchi, NC DENR	Caitlin Craig, NYS DEC
Ingrid Braun, PRFC	Jessica Daher, NJ DEP
Jeff Brust, NJ DEP	Conor Davis, NJ DEP
Mike Celestino, NJ DEP	Jacob Espittia, FL FWC

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**Guests (continued)**

Glen Fernandes	Jeffrey Pierce, Dresden, ME
Jared Flowers, GA DNR	Michael Pierdinock
Tony Friedrich, SGA	Nicole Pitts, NOAA
Keilin Gamboa-Salazar, SC DNR	Bill Post, SC DNR
Shaun Gehan, Gehan Law	Will Poston, SGA
Ben German, NOAA	Chad Power, NJ DEP
Angela Giuliano, MD DNR	Sara Rademaker, American Unagi
Willy Goldsmith, Gloucester, ME	Jill Ramsey, VMRC
Kurt Gottschall, CT DEEP	Harry Rickabaugh, MD DNR
Marin Hawk, MSC	Lenny Rudow, Fish Talk Mag
Jay Hermsen, NOAA	Amy Schueller, NOAA
Joclyn Higgins, TRCP	Zachary Schuller, NYS DEC
Emily Hill, US FWS	Ross Self, SC DNR
Peter Himchak, Cooke Aqua	David Sikorski, Baltimore
Carol Hoffman	Ethan Simpson, VMRC
Harry Hornick, MD DNR	Melissa Smith, ME DMR
Jeff Kaelin, Lund's Fisheries	Somers Smott, VMRC
Greg Kenney, NYS DEC	David Stormer, DE DFW
Ben Landry, Ocean Harvesters	Troy Tuckey, VIMS
Thomas Lilly, Forage Matters	Beth Versak, MD DNR
Brooke Lowman, VMRC	Mike Waine, ASA
Shanna Madsen, VMRC	Craig Weedon, MD DNR
Dan McKiernan, MA (AA)	Tim Wildman, CT DEEP
Kevin McMenamin, Annapolis, MD	Kate Wilke, TNC
Meredith Mendelson, ME DMR	Chris Wright, NOAA
Steve Meyers	Darrell Young, MSFA
Kyle Miller, FL FWC	Phil Zalesak
Drew Minkiewicz, Kelly Drye	Erik Zlokovitz, MD DNR
Chris Moore, CBF	Renee Zobel, NH F&G
Paul Piavis, MD DNR	

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February 2023

The Atlantic Menhaden Management Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia, via hybrid meeting, in-person and webinar; Wednesday, February 1, 2023, and was called to order at 11:30 a.m. by Chair Mel Bell.

**CALL TO ORDER**

CHAIR MEL BELL: We're going to go ahead and get started here. Once again, menhaden seems to be standing between me and a meal. We don't have a lot on the agenda, so hopefully this will go fairly quickly. But we do have some business we need to conduct. First item, and this is the Menhaden Board, welcome. I'm Mel Bell, the Chair.

**APPROVAL OF AGENDA**

CHAIR BELL: First item is approval of the agenda. Any desired modifications to the agenda? I don't see any hands, so the agenda will stand approved by consensus.

**APPROVAL OF PROCEEDINGS**

CHAIR BELL: Next would be approval of the proceedings from the November 9, 2022 meeting. Any edits necessary to the minutes from the last meeting? I don't see any hands; then the proceedings will stand approved by consensus.

That takes us to Public Comment. This will be public comment for items not on the agenda. Are there any individuals in the room here that would like to make public comment? I don't see any hands, don't see anybody running up this way. All right, then we'll move to the web-based comments. Okay, we have Phil Zalesak online. Phil, if you would like to take three minutes to make a comment, we would receive those now. Are you with us Phil?

MS. TONI KERNS: Phil, we can't hear you on our end. You are unmuted, so it seems like it might be your microphone. We still don't hear you, Phil.

CHAIR BELL: In the interest of time, Phil, I know we have your written comments, so in the interest of

time here we're going to go ahead and move along. But, I would point out we do have written comments that have been submitted by Phil.

**CONSIDER STATE IMPLEMENTATION PLANS FOR  
ADDENDUM I TO AMENDMENT 3 TO THE FMP.**

CHAIR BELL: Then, that takes us to the first item that we need to discuss, as far as where we need some Board action. James will brief us on that, and this would be considered a State Implementation Plans for Addendum I to Amendment 3. Go ahead, James.

MR. JAMES BOYLE: I have a very quick summary of the Plan Review Team's comments on the State Implementation Plans. As a quick recap. Addendum I was approved at the annual meeting in November last year. The Board set a deadline for Implementation Plans to be submitted by January 1, when quota allocations also took effect, and then with full implementation of the management measures in the Addendum by May 1 of this year.

**PLAN REVIEW TEAM RECOMMENDATIONS**

MR. BOYLE: The PRT met to review the plans and developed just a few recommendations. Overall, the PRT is recommending the approval of all state implementation plans, after finding that they are consistent with the FMP For the May 1st deadline. There were a couple of further recommendations the PRT just wanted to make a quick note of.

In Maryland and Delaware regulatory language did not include a list of permitted gear, just because the gear types are already used within the state, already conform to the incidental catch and small-scales fisheries provision. The PRT was recommending adding language either through the regulatory or public notice process, if that's possible, that lists the permitted gears or defers to the FMP to preclude the remote possibility of new gears being introduced.

Additionally, the plans for Pennsylvania, South Carolina and Georgia are sufficient, while they don't have a directed fishery. But should one develop,

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the PRT would recommend they develop new plans similarly to the agreement when Amendment 3 is implemented. That is all I have, are there any questions?

CHAIR BELL: Are there any questions? Yes, John Clark.

MR. JOHN CLARK: Not a question, I just wanted to emphasize again that our gear is listed under state law, that is why they are not in the regulations. We do have a list of permitted gear under our state's code, so I could supply that to the PRT.

CHAIR BELL: All right, thanks, John. Yes, Nichola.

MS. NICHOLA MESERVE: I do have one question about Virginia's proposed regulations, where they are adopting the 75.21 percent allocation. It didn't appear to me that that took into consideration the 1 percent that's coming off the top for episodic event set-aside, nor would it allow you to receive redistributed quota or quota transfers. But perhaps that is elsewhere in your language.

MR. PAT GEER: We've always put our allocation percentage into our regulation. Shanna wrote it, so I would probably ask her to respond to that one.

MS. SHANNA MADSEN: Sorry, tag team in. Yes, the rest of that is actually in our regulations. That section that specifically pertains to allocations, further down also has an option that talks about the 1 percent set-aside for the EESA. Then, what happens when/if that 1 percent is reallocated to the states. All that is already outlined, and I'm happy to provide that language if you want to see it.

MS. MESERVE: No, just thanks for the clarification.

CHAIR BELL: All right, great, any other questions or discussion at this point? Yes, Lynn.

MS. LYNN FEGLEY: Mr. Chair, if you're ready, I would make a motion.

CHAIR BELL: Yes, Ma'am, that would be great.

**MS. FEGLEY: I would move to approve the state implementation plans for Atlantic menhaden, if there is one written throw some addendum number in there somewhere.**

CHAIR BELL: Okay yes, Marty.

MR. MARTIN GARY: Just second.

CHAIR BELL: Okay, got you. Did we have that? Are we going to put it up there? Hang on one sec. Good, moving along. There it is before you. **Let me read it, the motion is to move to approve the state implementation plans for Addendum I to Amendment 3.** The motion was by Ms. Fegley, seconded by Marty Gary.

Yes, Ray, okay. **Any discussion of the motion? Any opposition to the motion? Seeing none; then the motion carries.** Thank you. It carries without opposition. Sorry, just clarification, thank you. We're moving pretty quick. Queue up, next we have another presentation by James.

**CONSIDER APPROVAL OF MENCHADEN TECHNICAL ADDENDUM TO ADDENDUM I TO AMENDMENT 3**

MR. BOYLE: I'll get started and jump right in. As I mentioned in the last presentation, at the annual meeting last November, the Board approved Addendum I for Amendment 3, which changed the commercial allocations, including updating the timeframe used to allocate the remaining TAC after the fixed minimums from 2009 to 2011 to 2018, '19, and 2021.

However, Addendum I inadvertently did not include text to amend the time period used to redistribute relinquished quota. Therefore, staff has drafted a Technical Addendum to correct the error, which was supplied in supplemental materials. Specifically, Amendment 3, Section 4.3.2 includes the following quote.

"Any quota that is relinquished by a state will be redistributed to the other jurisdictions, i.e., those which are not relinquished quota, based on landings from 2009 to 2011." Although based on the motion

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that was approved to establish the redistribution of relinquished quota at the November 2017 Board meeting, which contained “Any quota that is relinquished by a state is redistributed to the other jurisdictions based on historic landings from the time period selected by the Board in this Amendment.”

It was the Board’s intention for relinquished quota to be redistributed according to the same timeframe as the quota allocation. Therefore, if approved the draft Technical Addendum will replace the third paragraph in Section 3.1.2 in Addendum I, with the paragraph on the slide. The only change to that paragraph is the last sentence, where it states that “Any quota that is relinquished by a state will be redistributed to the other jurisdictions, i.e., those which have not relinquished quota, based on landings from 2018, 2019 and 2021.”

If approved, the Board will need to determine an implementation timeframe, and whether or not to implement for the 2023 or 2024 fishing year. If some states have already finalized their 2023 quota, and do not have the ability to change it, it may not be possible to implement for this year. For 2023, Delaware has relinquished 1 million pounds. This table on the slide show the comparison of how 2023 quota allocations would change from the current redistribution to the new redistribution, if the Board approved the Technical Addendum and implemented it for this year, 2023. With that the Board action to consider today are the approval of the Technical Addendum and the timeline for implementation. I’m happy to take any questions.

CHAIR BELL: All right, so this is a Technical Addendum to deal with, basically an accounting issue that we need to deal with. Questions. You have the, not that long, Addendum I. It’s a Technical Addendum I to Addendum I to the Amendment 3 of the Plan. It’s in your supplemental materials. Questions, discussions. Yes, Kris.

MR. KRIS KUHN: I don’t have a question, necessarily. But to move things along I would be willing to make a motion.

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CHAIR BELL: Okay, that would be fine.

**MR. KUHN: I move to approve the Technical Addendum I to Addendum I and have the measures become effective for the 2023 fishing year.**

CHAIR BELL: All right, second by Nichola Meserve. Discussion. Again, specifically for 2023 right here. Okay, so any further discussion, any questions? Everybody understand how this is going to work? You all must be hungry. Okay yes, Toni.

MS. KERNS: Just a quick clarification. All states would be able to accept this change in the quota for this year. That is really the question we are asking.

CHAIR BELL: Yes, will this work for all of you all. I don’t see any problems with that. Okay, so I’ll just read it to the record. Move to approve Technical Addendum I to Addendum I and have the measures become effective for the 2023 fishing year. Motion by Mr. Kuhn, second by Ms. Meserve.

**We’ve had discussion. Any further discussion? Any objection to the motion? I see no hands so the motion is approved by consensus with no objection.** Thank you. You all must be hungry. Those were the two items. Did you want to mention? Go ahead. James has got a reminder here.

MR. BOYLE: Yes, just one quick note. As a reminder to the Board, I sent out recently a memo for nominations to the Stock Assessment Subcommittee for the 2025 Menhaden Benchmark Assessment. Those nominations are due by February 10, and then we’ll get those approvals sorted after that. Thank you.

CHAIR BELL: We’ve got a few minutes, did great. We had a little technical difficulty, perhaps, in the public comment. But now I think we actually have an individual on that will hopefully work. We can now have three minutes of public comment. That’s Tom Lilly. I don’t know if Phil is still with us or not, but if Tom is onboard and would like to comment, three minutes would be okay.

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MS. KERNS: Tom, you just need to unmute yourself. Tom Lilly, you are still self-muted, so you just need to press that microphone button to unmute yourself to give your public comment.

CHAIR BELL: Okay, well we do have written comment from Tom and written comment from Phil. It's fairly extensive, so I would encourage you to read that. Sorry for the technical issue there. All right, yes Tom, can you get unmuted?

MS. KERNS: Tom, you click the microphone button to turn it from red to green.

MR. TOM LILLY: Can you hear me?

MS. KERNS: Now I can hear you.

CHAIR BELL: Yes, we've got you.

**PUBLIC COMMENT**

MR. LILLY: Good morning, delegates, and thank you for accommodating a brief public comment here. I'm asking you delegates this morning to start a process to consider the ecological, social and economic consequences of moving the purse seine fishing, menhaden purse seine fishing from Virginia waters into the U.S. Atlantic Zone, or leaving it as it is.

Your ERP studies said that when menhaden are overharvested, striped bass suffer the most and first. Isn't it gross overharvesting in Chesapeake Bay occurring when you have the following situation? In Maryland, four straight years of the worst young of the year production in history. In other words, a failure of the striped bass spawning stock.

You're not really going to feel this until, you know a few years to come, when all the older fish are killed off and we don't have anything to replace them. In Virginia, the NOAA data shows the consequences of the overharvesting very clearly. Striped bass charters are down 60 percent. Striped bass trips by anglers are reduced 430,000 trips a year, 430,000

less trips by Virginians alone; families, friends and children.

Almost a half a million in trips lost. Striped bass angler spending is down 150 million dollars a year in Virginia, according to the latest numbers. That is 150 million dollars a year that Virginia small businesses are losing, because of your inaction in not preventing the overharvesting of menhaden. There have been 2,000 jobs lost in just the striped bass fishery alone in Virginia.

I ask you, isn't this the time to start the process to consider the benefits and impacts of moving the purse seine fishing into the U.S. Atlantic? If these figures aren't enough to convince you to do that and to do it now, then I have to ask the rhetorical question. What in the heck are you waiting for? Please take action right now, today, to start this process. There are a million Marylanders and another million Virginians hoping that you do this. Thank you.

CHAIR BELL: All right, thank you, Tom.

MR. LILLY: Yes, thank you for getting me on. Thank you very much.

CHAIR BELL: No problem. Is Phil still with us or not? Okay, so we have nobody else. All right, that concludes the agenda.

**OTHER BUSINESS**

**REQUEST UPDATE OF ATLANTIC MENHADEN  
FISHERY ACTIVITIES IN VIRGINIA**

CHAIR BELL: Under Other Business I have just one thought I would like to run by the Board. You know we've heard public comment, we just heard some. We've heard through meeting after meeting, you know kind of about the fishery of Virginia and that sort of thing. I just thought maybe it would be instructive for the Board. A lot of us may not be familiar with what all is going on in Virginia. Virginia has obviously been doing things and having Commission meetings and things.

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Maybe for the next meeting, we could ask Pat Geer of Virginia, to maybe at the time just provide us with a little synopsis of what all they've had going on down there with how they've been kind of engaged in the fishery, just from their perspective of what's going on, because I couldn't really tell you exactly what is going on in Virginia.

I think that could be something we just by consensus just ask the staff to work with Virginia, maybe provide us, assuming Virginia is okay with that, just maybe provide us some idea of what all is going on down there, just give us an update. Pat, is that something that might work?

MR. GEER: Yes, we would be glad to do it. I don't think it will be a little synopsis though, it's been very time consuming. But yes, we would be very happy to do it.

CHAIR BELL: Yes, I just think that would be helpful. It would be helpful for me, just to kind of get a picture of everything, and that would be for the next meeting. If you have any objection to that, I don't think there would be. Okay, well can we just ask direction to staff to kind of work with Virginia and receive that. Then it would be ready for the next meeting. Then we can kind of have a snapshot of what is going on in Virginia. Okay, cool.

**ADJOURNMENT**

CHAIR BELL: If there are no other items to come before the Menhaden Board, we are wow! We will adjourn the Menhaden Board early.

(Whereupon the meeting adjourned at 11:51 a.m.  
on Wednesday, February 1, 2023)



# COMMONWEALTH of VIRGINIA

*Marine Resources Commission*  
380 Fenwick Road  
Building 96  
Fort Monroe, VA 23651

Travis A. Voyles  
Secretary of Natural and Historic  
Resources

Jamie L. Green  
Commissioner

April 11, 2023

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

Mr. Beal,

Thank you for giving Virginia a chance to elaborate on recent events regarding the Atlantic Menhaden fishery in our state. The Virginia Marine Resources Commission (MRC) has jurisdiction over all commercial fishing and all marine fish, marine shellfish, marine organisms, and habitat from the Commonwealth's territorial sea to the fall line of all tidal rivers and streams (Code of Virginia § 28.2-101). Menhaden was the exception, being managed through the General Assembly (§§ 28.2-400 – 411) until 2020. This had made it difficult for the MRC to respond to certain Atlantic State Marine Fisheries Commission's mandated management actions. In particular, the General Assembly never adopted the Bay Cap of 51,000 mt in Amendment 3 of the Atlantic Menhaden Fishery Management Plan (November 2017), even after consecutive attempts during the 2018 and 2019 sessions. The reduction fleet exceeded the Bay Cap in 2019 by nearly 30% and was found out of compliance by ASMFC (October 2019). The Secretary of Commerce concurred with ASMFC's non-compliance finding (Dec 2019) and gave Virginia until June 16, 2020, to correct the non-compliance issue or face a moratorium on all state menhaden fisheries (reduction and bait). During the 2020 session, the Virginia General Assembly proposed numerous menhaden bills with [SB791](#) and [HB1448](#) ultimately signed by Governor Northam, effectively transferring all management authority of menhaden to the VMRC. The bills also required the creation of a Menhaden Management Advisory Committee (MMAC) to "*provide guidance to the MRC on the sustainable management of the menhaden resource and harvest of the bait and reduction fisheries in the waters of the Commonwealth, including the Chesapeake Bay.*"

A timeline of all of Virginia's actions and events since the approval of Amendment 3 are described in Attachment 1. This memo will outline Virginia's activities regarding its menhaden fisheries since MRC received management authority in March of 2020.

*An Agency of the Natural and Historic Resources Secretariat*

[www.mrc.virginia.gov](http://www.mrc.virginia.gov)

Telephone (757) 247-2200 Information and Emergency Hotline 1-800-541-4646

## **Menhaden Management Advisory Committee**

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 at least two public meetings per year since April 2020 to discuss and address various concerns. Members proposals to date have included: 1) Moving the demarcation line for the Bay from the Chesapeake Bay Bridge Tunnel to the COLREGS line; 2) Address Commercial/Recreational user conflicts in the state waters adjacent to Virginia Beach; 3) Address Commercial safety zone around the Chesapeake Bay Bridge Tunnel; 4) Hold the commercial menhaden industry responsible for fish spills as part of their quota; 5) Prohibit purse seine fishing – 1 mile from shore May 15 through September 15 to avoid spills affecting public beaches; and 6) Examine the allocation percentages between the three commercial sectors (purse seine reduction, purse seine bait, and non-purse seine bait) in the menhaden fishery. The first five proposals did not receive enough support from the membership for further consideration. However, a workgroup was formed to discuss and develop solutions regarding proposal number 6. By regulation, the annual allocation Virginia receives from ASMFC is further separated among the three sectors: purse seine reduction – 90.04%, purse seine bait – 8.38%, and non-purse bait – 1.58%, based on historical landings. The bait sectors had been meeting their allocated quota earlier each year – creating bait shortages (particularly for crab pots and chum) from Delaware to Florida. Regulatory changes that would allow transfers between the purse-seine sectors, and with cooperation between the purse-seine sectors, would allow external jurisdictions’ to transfer quota to Virginia with the understanding that the purse-seine reduction sector would transfer their portions of that external transfer specifically to the purse-seine bait sector to alleviate these shortages. The regulation was adopted on a temporary basis in 2022 and made permanent in February 2023.

## **Petition to the Governor**

In June of 2022, local and national fishing and environmental organizations joined with the Theodore Roosevelt Conservation Partnership (TRCP) to ask Governor Youngkin to “*move Omega Protein's boats out of the Bay until the science demonstrates that industrial menhaden fishing can be done without negatively affecting the broader Bay ecosystem.*” (Attachment 2). That petition was provided to Commissioner Green at the MRC’s October 25, 2022, Board meeting (to forward to Governor Youngkin) and included 9194 names (50.4% of which were VA residents based on zip codes). A similar petition signed by over 2000 residents of the Eastern Shore was also provided to Commissioner Green at that time.

## **Fish Spills:**

Spills from the purse seine fisheries typically occurs when the net snags on a bottom obstruction. Once the menhaden school is surrounded and the purse boats start pulling in the lead line, their mobility is extremely limited, and they are strongly influenced by the wind and currents. The same is true when the mother ship starts pumping the catch into the hold. Vessels sometimes drift into shallower waters, snag on the bottom, tear the net, and the catch is released. Since 2018, there have been 17 confirm fish spills associated with the purse seine fisheries (3.4 per year, 1.16 spills for every 1000 net sets) ranging in size from 5,000 to 300,000 fish. They account for 0.06% of Virginia’s total menhaden quota. Prevailing winds and currents conditions may wash fish ashore depending on the location. Three spills occurred in July 2022 with fish washing ashore from each



incident in the same general area on the bayside of Eastern Shore. A non-reported spill began washing up on Silver Beach, VA on July 3rd and 4<sup>th</sup>, and was followed up by another spill on July 5<sup>th</sup>, with 19,582 menhaden washing up on the same stretch of beach. On July 25<sup>th</sup>, a purse seine vessel released their nets when they noticed red drum during pump out, resulting in 264 dead red drum and 10,000 menhaden washing ashore just to the south at Kiptopeke State Park. The red drum sampled by MRC averaged 48” TL with a weigh of 45.6 lbs. The purse seine reduction fleet took responsibility for these latter two spills and deployed contractors to clean the beaches and nearby waterways. The three spills resulted in a public backlash that involved media, county officials, legislators, and the Governor’s office.

### **Public Interactions**

There has been an increased number of public interactions regarding menhaden over the past 18 months. These interactions include increased public participation and comment during MRC’s monthly Board meetings, Freedom of Information Act (FOIA) requests, and correspondence with local and state representatives. Many of these interactions have consistently been with just a few individuals and/or organizations – some of which have placed an unprecedented burden on staff time. Examples include FOIA requests (7 in the past 15 months) needing to be addressed within a certain time, individuals sending staff hundreds of pages of information to include in monthly Commissioner meeting packets, individuals requesting and provided time on the agenda to present proposals during advisory committee meetings – only to not show up for those meetings. Some individuals have been disrespectful of the Commissioner, associate commissioners, and the regulatory process during meetings, while others have been warned and/or removed by our Law Enforcement due to their inappropriate behavior at monthly Board meetings.

### **Governor’s Response**

MRC staff began working with the Governor’s office in August to develop a response to the petitions requesting the removal of the purse seine reduction fleet from the Bay and the fish spills that occurred on Eastern Shore. The final response did not completely prohibit the reduction fleet from the Bay but instead tried to address safety concerns and fish spills impacts on local communities. A series of buffers were recommended. A one nautical mile coastal buffer along both the west and east sides of the Bay and Virginia Beach were proposed. The premise was to push the purse seine vessels further from shore into deeper water where tearing nets on bottom snags was less likely. The increased distance from shore could potentially reduce the chances of a spill washing ashore. Based on historical Bay purse seine effort from the Captains Daily Fishing Reports (CDFR) (2016-2020), 6.41% of the purse seine Bay effort would be displaced by this recommendation. When the Virginia Beach area was included it resulted in 2.63% of the total purse effort in state waters being displaced. These buffers did not prohibit purse seines in the Bay, they simply redirected that effort beyond one nautical mile from shore. Additionally, a 0.5 nm caution buffer was suggested on either side of the Chesapeake Bay Bridge Tunnel to reduce user conflict in heavily trafficked areas and promote overall safety in proximity of the CBBT structure. Only 0.38% of total purse seine effort (2016-2022) occurred within this buffer.

A complete prohibition on menhaden purse seine fishing was also proposed around summer holidays. If there was no purse seine effort in the Bay just prior to holidays, there would be no spills potentially impacting coastal communities. A closure of 17 days (8.43% of the 2023 Bay season) was proposed: four days prior to and including both Memorial and Labor Day and July 1-

7. It was estimated that 6.09% of the historic Bay effort would need to be displaced into the ocean with this recommendation.

These proposals were presented to the MMAC and supported by several Virginia's sportfishing organizations as a step in the right direction. However, after hearing the proposal and several hours of public comment at the December 6, 2022 Commission meeting, the Board instead voted 5-4 to support the development of a memorandum of understanding with the industry agreeing to not fish in the Bay the Saturday to Monday Memorial and Labor Day weekends, Saturday and Sunday between Memorial Day and labor Day, ½ nm on either side of the CBBT, and to work collaboratively with the Governor's office and General Assembly members to address geographic buffers along the densely populated areas of the Eastern Shore of Virginia, in the Chesapeake Bay and the Virginia Beach region.

### **Recent Legislation -2023**

Three menhaden bills were introduced during the 2023 Virginia General Assembly session. [HB1381](#) (Anderson) would eliminate time restrictions on regulations. Presently, [§ 28.2-201](#) of the Code of Virginia only allows MRC to adopt regulations for the management of menhaden between October 1 and December 31 unless regulatory action is necessary to address an emergency situation or to ensure compliance with the ASMFC Fishery Management Plan for Atlantic Menhaden. No other species under MRC's authority has a similar restriction. The bill was tabled in committee. [HB1383](#) (Anderson) was also tabled. It proposed a 2-yr moratorium on menhaden reduction fishing in state waters of the Commonwealth while a report is prepared relating to the environmental impact of menhaden reduction fishing in the waters of the Commonwealth. Senator Lewis introduced [SB1388](#), which initially directed the Virginia Institute of Marine Science (VIMS) to study 10 focus areas related to menhaden in the Chesapeake Bay and provide a report on the findings to the Chairmen of the Senate Committee on Agriculture, Conservation and Natural Resources and the House Committee on Agriculture, Chesapeake and Natural Resources no later than December 1, 2024. Significant modifications to the bill were made in committee, approved by both the House and Senate, and approved by the Governor on March 22, 2023. The modifications tasked 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 same committees by September 1, 2023.

### **Memorandum of Understanding**

Staff have been working with industry to address fish spills near sensitive areas and have prepared a draft document which is scheduled to be signed by all parties (reduction representatives, bait representatives, and MRC) by the end of April. If the MOU is signed by all parties, there will be several new temporal and spatial restrictions on menhaden purses seines in the Chesapeake Bay. This MOU has been developed with the goal to limit future spill incidents and to create a transparent and efficient spill response protocol. It intends to reduce user conflict and strengthen the stewardship of Virginia's shared aquatic resources amongst all user groups in the Commonwealth. The signatory's objectives are to collaboratively discuss, examine, and evaluate previous spills and the corresponding responses with the goal of ensuring that future response coordination is efficient and effective. 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, restrictions will create buffers along densely

populated shorelines to ensure spills are more likely to be cleaned up before reaching shore. The Governor's office and MRC have stated firmly to the industry that compliance with this agreement is imperative and response to any violations may result in stricter regulatory actions.

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  
Senator Monty Mason, Legislative 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

## Attachment 1

### Timeline of Recent Events Related to Virginia Menhaden Fisheries

#### 2017

November 2017: ASMFC approves Amendment 3 to the Atlantic Menhaden FMP reducing the Bay Cap from 87,216 mt to 51,000 mt.

#### 2018

Jan 10 – Mar 10: Four bills were introduced to the Virginia General Assembly addressing menhaden (HB822, HB1610H1, HB1610, and SB214). None make it out of committee.

#### 2019

Jan 9 – Feb 24: Three bills were introduced during the Virginia General Assembly addressing menhaden (HB1769, SB1046, and SB1049). None make it out of committee.

February 2019: The ASMFC Atlantic Menhaden Board decides to not find Virginia out of compliance for not adopting the Bay Cap under Amendment 3 of the Atlantic Menhaden FMP unless the Bay Cap is exceeded.

September 2019: The Virginia menhaden purse seine reduction fleet exceeds the Bay Cap by nearly 30%. MRC notified ASMFC.

October 2019: The ASMFC Atlantic Menhaden and Interstate Fisheries Management Policy Boards both vote unanimously to find Virginia out of compliance for not adopting the terms of Amendment 3.

December 2019: The Secretary of Commerce concurred with this non-compliance finding and ordered a moratorium of the Virginia menhaden fisheries effective June 17, 2020.

#### 2020

March 12, 2020: SB791 and HB1448 are approved, transferring Atlantic menhaden management authority to VMRC, repealing a number of menhaden sections of Administrative Code, and establishes the Menhaden Management Advisory Committee (MMAC). The Committee shall consist of not more than 12 nonlegislative citizen members who shall be residents of the Commonwealth with knowledge of the menhaden resource, to be appointed by the Commissioner, including one representative of the menhaden reduction fishery, one representative of the menhaden bait fishery, one representative of a labor organization involved in the menhaden fishery, one recreational angler, one member of a Virginia-based conservation organization, one representative of the sportfishing industry, and the Virginia appointee to the Atlantic Menhaden Technical Committee of the Atlantic States Marine Fisheries Commission.

April 20, 2020: First meeting of the Menhaden Management Advisory Panel (held virtually due to COVID-19). Bylaws are approved and regulatory language for Chapter 4 VAC 20-1270-10 et seq., "Pertaining to Menhaden" is discussed and endorsed related to the transfer of regulatory authority of the species from the General Assembly to the VMRC.

April 28, 2020: The MRC Commission voted unanimously to approve amendments to Chapter 4 VAC 20-1270-10 et seq., "Pertaining to Atlantic Menhaden," for the VMRC to accept management authority from the Virginia's General Assembly, to comply the ASMFC's Atlantic Menhaden Fishery Management Plan, and to avoid a statewide moratorium of the fishery effective June 17, 2020. The Bay Cap is reduced 29% for 2020 (36,196 mt) to account for the overages in 2019.

May 12, 2020: Secretary of Commerce Ross informs Virginia that the Commonwealth's menhaden fisheries are now in compliance with Amendment 3 of the Atlantic Menhaden Fishery Management Plan.

Nov 17, 2020: The Menhaden Management Advisory Panel meets and establishes a meeting schedule of at least twice per year – once prior to the season opening in the spring and in November. The committee selects Dr. Rob Latour as the chair and Shanna Madsen as the vice chair. Policies and procedures are adopted on how and when members can bring forward items to the committee. Members will submit ideas at least 30 days prior to the meeting and staff will work with members to collect the necessary information to present to the Committee for consideration. Items brought forward at this meeting include:

1. Move the demarcation line from the Chesapeake Bay Bridge Tunnel to the COLREGS Line. No action is taken.

## **2021**

March 31, 2021: The MMAC meets and considers the following:

1. Address Commercial/Recreational user conflicts in the state waters adjacent to Virginia Beach – Already an informal agreement. No action taken.
2. Address Commercial safety zone around the Chesapeake Bay Bridge Tunnel. No action taken.

Nov 9, 2021: The MMAC meets and considers the following:

1. Proposal to hold the commercial menhaden industry responsible for fish spills as part of their quota. No action is taken.
2. Proposed restriction on purse seine fishing – 1 mile from shore May 15 – Sep 15 to avoid spills affecting public beaches. No action is taken.
3. Examine the allocation percentages between the three commercial sectors (purse seine reduction, purse seine bait, and non-purse seine bait) in the menhaden fishery.

A workgroup was formed to discuss the matter and come back to the full committee with recommendations.

## **2022**

January 5, 2022: Governor-elect, Glenn Youngkin announces Glenn Wheeler (Former head of the EPA) as his Secretary of Natural Resources.

January 15, 2022. Glenn Youngkin is sworn in as the new governor of the Commonwealth of Virginia. Steve Bowman, Commissioner of VMRC retires.

January 20, 2022. Justin Worrell (Deputy Chief of VMRC's Habitat Management Division) is named acting Commissioner of VMRC.

February 8, 2022: The Virginia Senate tables SNR Wheeler's confirmation vote 19-21 and he steps down from his position effective March 15. Deputy Secretary Travis Voyles becomes Acting Secretary of Natural Resources.

February 22, 2022: The VMRC votes unanimously to approve amendments Chapter 4 VAC 20-1270-10 et seq., "Pertaining to Atlantic Menhaden", to establish the 2022 Total Allowable Catch to the Interstate Fishery Management Plan for Atlantic Menhaden and to establish all associated fishery sector allocations in response.

March 9, 2022. Menhaden Allocation Workgroup Meeting to discuss allocations between the sectors, internal, and external transfers.

April 1, 2022: Staff provide acting Secretary of Natural Resources, Travis Voyles, a synopsis on menhaden science and management.

April 11, 2022: Menhaden Allocation Workgroup Meeting to finalize procedures and regulatory changes.

May 18, 2022: MMAC meeting. Staff provide the recommendations of the Allocation Workgroup for consideration. The committee endorses the proposal.

June 14, 2022: The Virginia Saltwater Sportfishing Association in partnership with the Theodore Roosevelt Conservation partnership, state, and national fishing organizations and NGO's began a letter campaign to Governor Glenn Youngkin to move the menhaden reduction fishery out of the Chesapeake Bay.

June 27, 2022: Governor Youngkin appoints Jamie Green to be Commissioner of VMRC.

June 28, 2022: The VMRC board approved amendments to Chapter 4 VAC 20-1270-10 et seq., "Pertaining to Atlantic Menhaden", to establish a temporary reciprocal quota transfer system between the purse seine menhaden reduction sector and the purse seine menhaden bait sector during the 2022 fishing year. This will allow the purse seine sectors to transfer quota if needed

as well as move quota transfers from other jurisdictions to specific sectors (ie., purse seine bait).

July 4, 2022: Menhaden are reported washing ashore at Silver Beach in Northampton County. The fish most likely originate from a spill earlier in the week that was not reported.

July 5, 2022: Omega Protein notifies MRC that the F/V Fleeton had a net tear at 11:00 am, 0.75 nm east of Silver Beach. Given the wind and currents they are confident fish will be washing ashore and they have notified their contractors. An estimate 19,582 menhaden are removed from the beaches by Omega Protein's contractor HEPACO. Media, residents, local and state officials all express concerns with a second spill within a week as well as the dead fish remaining in a dumpster onsite for several days due to local landfill restrictions.

July 25, 2022: Omega Protein notifies MRC that the F/V Fleeton observed a number of red drum in their net while pumping fish to the hold 1 nm East of Kiptopeke State Park. The captain released the net in hopes the red drum survive. Omega Protein called up their contractors and remain on site to clean up both red drum and menhaden from the water and beach for two days. Estimates of the spill include 10,000 menhaden (6700 lbs) and 264 red drum (12,000 lbs) ranging in size from 42.8" to 53.9" and weighing between 31.8 to 56.2 lbs.

July thru September: Members of the general public begin attending the Commission's monthly meetings to voice their concerns over menhaden. During the general public comment period for each meeting one person spoke in July, 9 in August, and 15 in September. Requests from individuals included a legal response regarding fish spills, banning purse seines from the Bay, and concerns on how fish spills economically impact local beach communities.

August 2022: MRC begins consulting with the Secretary of Natural Resources and the Governor's office regarding menhaden issues to develop a response.

Sept 12, 2022: MMAC meeting to discuss and endorse Chapter 4 VAC 20-1270-10 et seq, "Pertaining to Menhaden" regarding internal purse seine sector transfers. The committee endorses the proposal.

October 25, 2022: At the monthly Commission meeting two petitions are provided requesting Governor Youngkin "*move Omega Protein's boats out of the Bay until the science demonstrates that industrial menhaden fishing can be done without negatively affecting the broader Bay ecosystem.*" (Attachment 2). The first petition is a national effort headed by Theodore Roosevelt Conservation Partnership (TRCP), local and national fishing and environmental organizations and included 9194 names (50.4% were VA residents based on zip codes, with 69 duplicates - 43 from VA). The second petition is exclusively Eastern Shore, VA residents and contains over 2000 names. Nine individuals speak regarding menhaden issues.

November 28, 2022: The Menhaden Management Advisory Committee meets to hear the Governor's proposal for addressing menhaden fish spills in the Bay by creating temporal and spatial restrictions. These actions include:

- 1) A 1 nm buffer around the shoreline of the entire VA portion of the Bay and Virginia Beach
- 2) A ½ nm buffer on either side of the CBBT to reduce user conflicts.
- 3) Prohibiting purse seine fishing in the Bay during summer holidays: Thursday prior to, and including Memorial Day, July 1 through July 7, and the Thursday prior to and including Labor. This would close the Bay to purse seine fishing a total of 17 days. The MMAC could not reach consensus on this proposal and felt they needed more time to evaluate.

The agenda allowed for 20 minutes of public comment specifically to address proposals and concerns of two individuals. Neither individual shows up for the meeting and neither provide notification of their absence in advance.

Dec 6, 2022: Public Hearing to modify purse seine area and time restrictions. Over 350 in attendance. VMRC Staff provide the Governor's proposed actions. Dr. Latour of VIMS (and Chair of the MMAC) address the Board and explain the difficulties assessment scientists have had assessing menhaden populations. Four hours of public comment from over 100 individuals proceeds. The Board did not make a motion on the presented action but instead, offered a motion to develop a MOU between the industry, Governor, and General Assembly to address geographic buffer along the densely populated areas of the Eastern Shore of Virginia, in the Chesapeake Bay and the Virginia Beach region. The industry proposed to not fish in the Bay: 1) on July 4<sup>th</sup> and any federal recognized holiday of that week; and 2) all Saturdays and Sundays between Memorial Day and Labor Day. The industry agrees to no fish within ½ nm on either side of the CBBT to minimize user conflicts. The Board adopts this measure 5-4.

## **2023**

Jan 11, 2023: SB1388 is introduced. The initial bill requires VIMS to study the ecology, fishery impacts, and economic importance of menhaden populations in the waters of the Commonwealth. Ten focus areas are to be considered and findings reported back to the Senate Committee on Agriculture, Conservation and Natural Resources and the House Committee on Agriculture, Chesapeake and Natural Resources by December 1, 2014. The ten focus areas are: 1) current season movements of menhaden; 2) the forage needs of current populations of piscivorous fish, birds, and marine mammals where menhaden are known to inhabit; 3) the effects of climate change on menhaden recruitment and juvenile and adult abundance; 4) the evaluation of habitat changes in the Chesapeake Bay, including algal assemblages and the duration and volume of hypoxia; 5) the economic importance of menhaden to the Commonwealth's coastal communities and businesses, including the blue crab fishery and recreational fisheries; 6) the economic impact of fish spills on coastal communities along Virginia's Eastern Shore; 7) the by-catch of nontarget species by purse seine nets; 8) the evaluation of a potential tagging program for menhaden using the existing Chesapeake Bay acoustic array; 9) development of a statistically rigorous fishery observer program for



menhaden fisheries that can document catch and by-catch data along with interactions with marine mammals, sea turtles, and seabirds; and 10) review the final report of the Atlantic States Marine Fisheries Commission titled "Evaluating Alternative Designs for a Combined Aerial-hydroacoustic Survey of Atlantic Menhaden Biomass in Chesapeake Bay" and make recommendations on its utility for the Virginia portion of the Chesapeake Bay with estimates for the necessary funding to implement such an effort. The bill is modified significantly by several committees with the amendments approved by the Governor on March 22 requiring VIMS to develop plans to study the ecology, fishery impacts, and economic importance of menhaden populations in the Commonwealth and include potential methodologies, timelines, and costs by September 1, 2023.

Jan 18: HB1383 which prohibits menhaden reduction fishing in any territorial sea or inland waters of the Commonwealth for two years and requires a report relating to the environmental impact of menhaden reduction fishing in the territorial sea and inland waters of the Commonwealth be submitted to the General Assembly by July 1, 2024 is tabled by the House Agriculture, Chesapeake and Natural Resources Committee (22-Y 0-N). HB1381 which removes the restriction preventing the Marine Resources Commission from adopting regulations for the management of menhaden outside of the time period between October 1 and December 31 is also tabled by the Agriculture, Chesapeake and Natural Resources Committee (22-Y 0-N).

January to the present: Staff work with industry on developing the Memorandum of Understanding which will include working with VMRC to develop a joint transparent spill response and communications plan to include reporting, logging, and response protocols to reported spills and mutually agreed upon temporal and spatial restrictions on all menhaden purse seine gear in the Virginia portion of the Chesapeake Bay and adjacent coastal waters. The MOU is anticipated to be signed by all parties (reduction, bait, and MRC) by the end of April.

June 14, 2022

Governor Glenn Youngkin  
Office of the Governor  
P.O. Box 1475  
Richmond, VA 23218

Dear Governor Youngkin,

As members of the recreational fishing and boating community, we ask that you move menhaden reduction fishing out of the Chesapeake Bay until science demonstrates that high volume reduction fishing for menhaden can be allowed without negatively affecting the broader Bay ecosystem.

America's anglers and boaters consistently play an integral role in the stewardship of our shared natural resources by directly funding conservation and habitat restoration efforts through licensing fees and excise taxes set up through the Sport Fish Restoration and Boating Trust Fund on fishing equipment and boat fuel. In 2021 alone, \$399 million was apportioned to the states to fund fishery conservation programs.<sup>1</sup> This resulted in \$6.26 million in funds for conservation programs specifically in Virginia, funded solely by anglers and boaters.

Our recreational fishing coalition of national and Virginia-based groups is clearly dedicated to maintaining the health of the Chesapeake Bay, the region's economy, and the broader marine ecosystem in the Atlantic. A major source of our conservation ethic is the fact that saltwater recreational fishing is an economic powerhouse, especially for Virginia where fishing is enjoyed by 600,000 anglers annually, contributing \$465 million to the Commonwealth's economy and supporting 6,504 jobs.<sup>2</sup> The jobs created by these fisheries are the lifeblood of our coastal communities as more than 90 percent of the sportfishing and boating industry is made up of small businesses.

Atlantic menhaden play a vital role in maintaining the sportfishing economy and the Chesapeake Bay ecosystem by serving as the base of the food chain for many recreationally important species. Specifically, menhaden are critical to the diets of gamefish like striped bass, bluefish, weakfish, and more, that feed Americans and keep them coming to Virginia waters and spending money in our coastal communities. For example, the striped bass fishery is the largest marine recreational fishery in the U.S., driving \$166 million in recreational fishing activity in Virginia alone. However, the economic value of striped bass fishing to Virginia has declined by over 50 percent in the past decade.<sup>3</sup>

<sup>1</sup> Certificate of Apportionment For Dingell-Johnson Sport Fish Restoration, available at: [https://www.fws.gov/sites/default/files/documents/SFR%20FY22%20Certificate%20of%20Final%20Apportionment%202022Feb3\\_508.pdf](https://www.fws.gov/sites/default/files/documents/SFR%20FY22%20Certificate%20of%20Final%20Apportionment%202022Feb3_508.pdf)

<sup>2</sup> Fisheries Economics of the United States, 2021, available at: [https://media.fisheries.noaa.gov/2021-11/FEUS-2018-final-508\\_0.pdf](https://media.fisheries.noaa.gov/2021-11/FEUS-2018-final-508_0.pdf)

<sup>3</sup> The Economic Contributions of Recreational and Commercial Striped Bass Fishing, 2019, available at: <https://mcgrawconservation.org/wp-content/uploads/McGraw-Striped-Bass-Report-FINAL.pdf>

<sup>4</sup> Evaluating Ecosystem-Based Reference Points for Atlantic Menhaden, 2017, available at: <https://www.tandfonline.com/doi/full/10.1080/19425120.2017.1360420>

<sup>5</sup> ASMFC news release, 2019, available at: [http://www.asmfc.org/uploads/file/5dfbd30bpr40SecretarialSupport\\_Menhaden\\_VANoncompliance.pdf](http://www.asmfc.org/uploads/file/5dfbd30bpr40SecretarialSupport_Menhaden_VANoncompliance.pdf)

Part of the decline in the striped bass population is explained by fishing mortality being too high, and in 2014 and 2020 our coalition supported significant reductions on the striped bass fishery to address that decline. However, according to a scientific model, menhaden reduction fishing also contributes to a nearly 30 percent decline in striped bass numbers coast wide.<sup>4</sup> The scientific linkage between menhaden as prey and striped bass as a main predator is undeniable. Therefore, the industrial menhaden fishery in the Chesapeake plays a role in the ability of striped bass to rebuild to healthy population levels. By removing more than 100 million pounds of menhaden every year from the Chesapeake Bay, the most important striped bass nursery on the East Coast, reduction fishing in Virginia is undermining the sportfishing economy and small businesses throughout the Commonwealth.

The detrimental impact of menhaden reduction fishing on the ecosystem is so pronounced that it is prohibited in every state along the East Coast except Virginia. However, each year, over 100 million pounds of menhaden are being removed from the Chesapeake Bay and "reduced" to fish meal and oil for pet food and salmon feed by a foreign-owned company—Cooke Inc. Locally known as Omega Protein, the corporation is exporting this keystone fish to other countries as a global commodity, despite repeated signs of the negative impact it is causing to the environment and other industries dependent on a healthy marine ecosystem. In fact, the Atlantic States Marine Fisheries Commission (ASMFC) found Virginia out of compliance with the Interstate Fishery Management Plan for Atlantic menhaden in 2019, after Omega Protein exceeded the Chesapeake Bay harvest cap by 33 million pounds.<sup>5</sup>

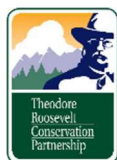
Over the past decade, recreational fishing and boating organizations, coastal businesses, and hundreds of thousands of individual anglers and conservationists have called on decisionmakers to leave enough menhaden in the water to feed the wildlife that support vibrant recreational fishing, boating and other industries that boost Virginia's coastal economy. Governor Youngkin, we urge you to use your authority to move menhaden reduction fishing out of the Bay until science demonstrates that menhaden fishing can be allowed without negatively affecting the broader Bay ecosystem. Importantly, you could put this stopgap in place and still allow Omega Protein to fish in Virginia's ocean waters.

Moving menhaden reduction fishing out of the Bay will help to protect the health of the ecosystem and help grow Virginia's outdoor recreational economy, which benefits all Virginians.

Thank you for your consideration.

**Whit Fosburgh**

President & CEO



Theodore Roosevelt Conservation Partnership

**Glenn Hughes**

President



American Sportfishing Association

**Frank Hugelmeyer**

President

National Marine Manufacturers Association



**Jim McDuffie**

President & CEO

Bonefish & Tarpon Trust



**Matt Gruhn**

President

Marine Retailers Association of the Americas



**Greg Jacoski**

Executive Director

Guy Harvey Ocean Foundation



**Patrick Murray**

President

Coastal Conservation Association



**Ellen Peel**

President

The Billfish Foundation



**Brett Fitzgerald**

Executive Director

Angler Action Foundation



**Jared Mott**

Conservation Director

Izaak Walton League of America



**Jason Schratwieser**

President

International Game Fish Association



**Ernie Padgette**

President

Virginia Division of the Izaak Walton League of America



### Virginia Angling Clubs

**Steve Atkinson**

President

Virginia Saltwater Sportfishing Association



**Captain Mike Ostrander**

President

Virginia Anglers Club



**Chris Schneider**

President

Virginia Beach Angler's Club



**Joe Stephenson**

President

Great Bridge Fisherman's Association



**Henry Troutner**

Vice President

Norfolk Anglers Club



**Samuel A. Graham**

President

Central Virginia Sport Fishing Association



**Ed Pacheco**

President

Virginia Coastal Fly Anglers



**Dean Carroll**

President

Eastern Shore Anglers Club



**Steve Jones Jr.**

President

Tidewater Anglers Club



**Danny Forehand**

President

Peninsula Salt Water Sport Fisherman's Association



## TERMS OF REFERENCE

### For the 2025 ASMFC Atlantic Menhaden Ecological Reference Point Benchmark Stock Assessment and Peer-Review

#### *Terms of Reference for Ecological Reference Point Assessment*

1. Review and evaluate the fishery-dependent and fishery-independent data used in the Atlantic menhaden single-species assessment and the single-species assessments of the other major predator and prey species included in the ERP models, and justify inclusion, elimination, or modification of those data sets.
2. Characterize precision and accuracy of additional fishery-dependent and fishery-independent data sets, including diet data, used in the ecological reference point models.
  - a. Provide descriptions of each data source (e.g., geographic location, sampling methodology, potential explanation for outlying or anomalous data)
  - b. Describe calculation and potential standardization of abundance indices.
  - c. Discuss trends and associated estimates of uncertainty (e.g., standard errors)
  - d. Justify inclusion or elimination of available data sources.
  - e. Discuss the effects of data strengths and weaknesses (e.g., temporal and spatial scale, gear selectivities, ageing accuracy, sample size) on model inputs and outputs.
3. Develop models used to estimate population parameters (e.g., F, biomass, abundance) of Atlantic menhaden that take into account Atlantic menhaden's role as a forage fish and analyze model performance.
  - a. Briefly describe history of model usage, its theory and framework, and document associated peer-reviewed literature. If using a new model, test using simulated data.
  - b. Justify choice of ecological factors (e.g., predator species, other prey species, environmental factors) as appropriate for each model
  - c. Describe stability of model (e.g., ability to find a stable solution, invert Hessian)
  - d. Justify choice of CVs, effective sample sizes, or likelihood weighting schemes as appropriate for each model.
  - e. Perform sensitivity analyses, model diagnostics, and retrospective analyses as appropriate for each model.
  - f. Clearly and thoroughly explain model strengths and limitations, including each model's capacity to account for environmental changes
4. Develop methods to determine reference points and total allowable catch for Atlantic menhaden that account for Atlantic menhaden's role as a forage fish.
5. State assumptions made for all population and reference point models and explain the likely effects of assumption violations on synthesis of input data and model outputs.
6. Characterize uncertainty of model estimates and reference points.
7. Evaluate stock status for Atlantic menhaden from recommended model(s) as related to the respective reference points (if available).
8. Compare trends in population parameters and reference points among proposed modeling

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approaches, including the results of the single-species benchmark assessment. If outcomes differ, discuss potential causes of observed discrepancies.

9. If a minority report has been filed, explain majority reasoning against adopting approach suggested in that report. The minority report should explain reasoning against adopting approach suggested by the majority.
10. Develop detailed short and long-term prioritized lists of recommendations for future research, data collection, and assessment methodology. Highlight improvements to be made by next benchmark review.
11. Recommend timing of next benchmark assessment and intermediate updates, if necessary relative to biology and current management of the species.

### ***Terms of Reference for Ecological Reference Point External Peer Review***

1. Evaluate the justification for the inclusion, elimination, or modification of data from the Atlantic menhaden single-species assessment and the single-species assessments of the other major predator and prey species included in the ERP models.
2. Evaluate the thoroughness of data collection and the presentation and treatment of additional fishery-dependent and fishery-independent data sets in the assessment, including but not limited to:
  - a. Presentation of data source variance (e.g., standard errors).
  - b. Justification for inclusion or elimination of available data sources,
  - c. Consideration of data strengths and weaknesses (e.g., temporal and spatial scale, gear selectivities, aging accuracy, sample size),
  - d. Calculation and/or standardization of abundance indices.
3. Evaluate the methods and models used to estimate Atlantic menhaden population parameters (e.g.,  $F$ , biomass, abundance) that take into account Atlantic menhaden's role as a forage fish, including but not limited to:
  - a. Evaluate the choice and justification of the recommended model(s). Was the most appropriate model (or model averaging approach) chosen given available data and life history of the species?
  - b. If multiple models were considered, evaluate the analysts' explanation of any differences in results.
  - c. Evaluate model parameterization and specification as appropriate for each model (e.g., choice of CVs, effective sample sizes, likelihood weighting schemes, calculation/specification of  $M$ , stock-recruitment relationship, choice of time-varying parameters, choice of ecological factors).
4. Evaluate the methods used to estimate reference points and total allowable catch.
5. Evaluate the diagnostic analyses performed as appropriate to each model, including but not limited to:
  - d. Sensitivity analyses to determine model stability and potential consequences of major model assumptions
  - e. Retrospective analysis

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6. Evaluate the methods used to characterize uncertainty in estimated parameters. Ensure that the implications of uncertainty in technical conclusions are clearly stated.
7. If a minority report has been filed, review minority opinion and any associated analyses. If possible, make recommendation on current or future use of alternative assessment approach presented in minority report.
8. Recommend best estimates of stock biomass, abundance, exploitation, and stock status of Atlantic menhaden from the assessment for use in management, if possible, or specify alternative estimation methods.
9. Review the research, data collection, and assessment methodology recommendations provided by the TC and make any additional recommendations warranted. Clearly prioritize the activities needed to inform and maintain the current assessment, and provide recommendations to improve the reliability of future assessments.
10. Recommend timing of the next benchmark assessment and updates, if necessary, relative to the life history and current management of the species.
11. Prepare a peer review panel terms of reference and advisory report summarizing the panel's evaluation of the stock assessment and addressing each peer review term of reference. Develop a list of tasks to be completed following the workshop. Complete and submit the report within 4 weeks of workshop conclusion.



## Tina Berger

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**From:** Tom Lilly <foragematters@aol.com>  
**Sent:** Thursday, April 6, 2023 9:50 AM  
**To:** Tina Berger; Robert Beal; James Boyle; Mel Bell  
**Subject:** [External] Fwd: Revised Comment for Menhaden Board May 1st  
**Attachments:** YOY DNR.pdf; Watts-Northam.pdf; Caucus- Noah B..pdf; PHIL PAPER.pdf; ERP Press.pdf; Canary story.pdf; Richmond news article.pdf

Tina This is a revised comment for the Menhaden Board meeting May 1st  
.....Please advise receipt. ( for omitted scans please contact sender) Thanks

Our striped bass spawning stock in Chesapeake Bay has been in a crisis of reproductive failure for four years.(n.1) Our bay ospreys have suffered a similar fate (2.) The long awaited ERP conclusions state unequivocally the cause and effect between menhaden overharvesting and striped bass problems. They conclude striped bass were the most "sensitive" species to menhaden harvests and call the striped bass stock the "canary in the coal mine" (3.) yet the menhaden board did the unthinkable and increased the VA quota by 22,000 tons and left the so called " bay cap" as is.

I believe the menhaden board is aware that the collapse of the striped bass fishery in the bay over the last 10 years is the fulfillment of all the "negative consequences" your own consultant Dr Jacques Maguire predicted in 2009. He said to prevent these "consequences" the Commission had to act to zone the factory fishing away from the conflict with bay wildlife and fishermen.(n.4) But menhaden board still has not acted. They still can fix this by just moving that one foreign fishing company out of Chesapeake bay or better yet just three miles further into the US Atlantic zone. Your Director has described bay fish and wildlife as needing " Protective" action because they are in such poor condition (n.4) Every Atlantic state, including Maryland (except Virginia) has acted to protect its wildlife and fishermen by outlawing factory fishing in their state, leaving only Virginia and Maryland to suffer the consequences of the intense factory fishing in Virginia.

The negative effects in Maryland include a 48% decline in charter trips, a 70% decline in striped bass fishing, a 90% decline in bluefish and a 95% decline in trout. This is impacting 10,700 jobs in MD directly related to striped bass fishing. (n.5) The poor fishing is affecting the fun and results of the eight million days Marylanders fish in salt water a year ( 2016 ), about 480,000 days by children. Kids all over the bay are missing out because their parents have quit fishing. (n.6)

In Virginia declines in striped bass fishing have caused a loss of 1200 striped bass related jobs, a decline of \$150 million in striped bass angler spending a year at Virginia small businesses and a shocking reduction in fishing for striped bass by 650,000 days a year (36,000 days fewer fishing by children) and striped bass landings have fallen 80% (n. 7)

For the last two years there have been efforts by individuals and organizations in Virginia and Maryland directed to the Virginia Legislature, the VMRC and then Governor Northam and now Governor Youngkin asking for action on the net snag/bycatch problem and for the factory fishing to be moved out of Chesapeake bay or out of Virginia into the US Atlantic zone. Governor Northam received a letter from Dr Bryan Watts about wide spread osprey nesting failures in the bay due to menhaden overharvesting. (n.2) Steve Bowman and the VMRC received a letter from the Maryland Legislative Sportsmen's Caucus with scientific opinion that the factory fishing should be moved into the US Atlantic zone and why. ( n.9) Governor Youngkin received a petition with over 10,000 signatures and a letter from Theodore Roosevelt Partnership endorsed by eleven other groups including ASA, CCA, NMMA, MRAA ,AAF, IGFA, Bonefish/tarpon Trust, Guy Harvey Foundation ,Izaak Walton League and the VSSA and ten other state wide fishing groups. By representation these groups represent over a million voters in Maryland, 400,000 saltwater fishermen in Maryland and Virginia, about 400 marine fishing /businesses in each state and about 500 marinas are involved

There have also been efforts by Marylanders to have the Commission take action to protect Maryland by moving the factory fishing into the Atlantic Ocean which would prevent the factory fishing from catching thousands of menhaden schools just as they were trying to migrate to Maryland to feed our wildlife. This would prevent the bycatch of an unknown number of spawning striped bass and redfish etc. ( see Richmond Times op ed) These efforts have been supported by MD charter captains, the Sportsmen's caucus, Shore Rivers organizations 3,000 members, MD Sierra Club's 70,000 members and ten state wide fishing clubs that represent at least 400,000 saltwater fisherman The NMMA that signed the TRCP petition has hundreds of marine related business in Maryland that are dependent on fishing success. Maryland fishermen, children and grandchildren spent over eight million days saltwater fishing a year according. to the last NOAA data. The fishing success has declined by at least 60%, much more in many areas.

Based on this can you advise if the Virginia MRC is going to report on whether the Virginia Governor and the VMRC have replied to these requests for action by millions of people, at least 500,000 saltwater anglers, thousands of businesses, charter captains and many respected conservation organizations ?

There is another thing here. We know who supports moving the factory fishing out of the bay or into the US Atlantic and why, but we do not know who is against it and why. Please ask the VMRC to report to the board how many people and organizations in Virginia and Maryland they are aware of that are against moving the industrial fishing into the ocean. The VMRC and the ASMFC menhaden board have several obvious qualitative options to control the intense factory fishing. Some of these are a reduction in the bay cap, delaying the season in Virginia to allow the forage base to rebuild and prohibiting this fishing in Chesapeake Bay or requiring it only be in the US Atlantic zone.

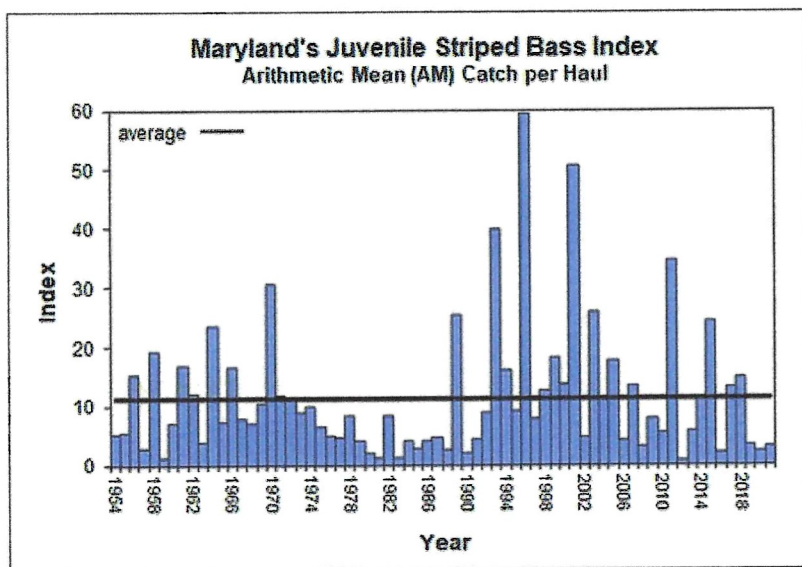
Please start a process to consider these options without more delay. Thank you Tom Lilly Whitehaven, MD

The coastal striped bass population has decreased in size, but is still capable of strong reproduction with the right environmental conditions. Variable spawning success is a well-known characteristic of the species. The index is slightly higher than 2020 but consecutive below average indices are a concern, and biologists continue to examine factors that might limit spawning success.

Atlantic Coast states enacted [responsible conservation measures](#) in recent years to reduce harvest and protect striped bass during spawning season. Maryland will work with other states in the Atlantic States Marine Fisheries Commission to develop additional measures to enhance the striped bass population through the Atlantic striped bass fishery management plan.



The Department of Natural Resources has monitored the annual reproductive success of striped bass in Maryland's portion of Chesapeake Bay since 1954. Photo by Stephen Badger, Maryland Department of Natural Resources



Other noteworthy observations of the survey were increased numbers of Atlantic menhaden in the Choptank River and healthy reproduction of American shad in the Potomac River. The survey also documented reproduction of invasive blue catfish in the upper Chesapeake Bay for the first time.

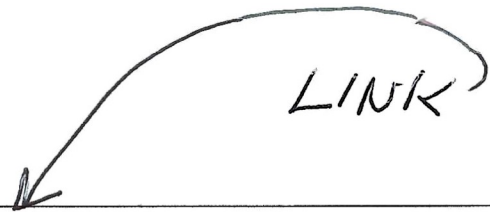
Twenty-two survey sites are located in four major spawning areas: the Choptank, Nanticoke, and Potomac rivers, and the Upper Chesapeake Bay. Biologists visit each site three times per summer, collecting fish with two sweeps of a 100-foot beach seine net. The index represents the average number of recently hatched striped bass, commonly called rockfish, captured in each sample.

The Virginia Institute of Marine Science conducts a similar survey in the southern portion of Chesapeake Bay.

Like 115 Tweet Save Share 12

**Striped Bass Young of the Year MD DNR Reference.**

From: Phil Zalesak <flypax@md.metrocast.net>  
 To: 'Tom Lilly' <foragematters@aol.com>  
 Cc: Phil Zalesak <flypax@md.metrocast.net>  
 Date: Fri, Feb 25, 2022 10:48 am



<https://news.maryland.gov/dnr/2021/10/15/chesapeake-bay-2021-young-of-year-survey-results-announced/>



# The Center for Conservation Biology

William & Mary

20 August 2020

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The Honorable Ralph Northam  
Governor, State of Virginia  
PO Box 1475  
Richmond, VA 23218

Dear Governor Northam,

The menhaden is a keystone fish within the Chesapeake Bay ecosystem. Many of our most iconic species including the bald eagle, osprey, great blue heron and brown pelican depend on menhaden stocks to sustain their breeding populations within the Bay. Other species such as common loons and northern gannets that stage within the Chesapeake also depend on menhaden to fuel their migrations. Approximately 30% of the North Atlantic gannet population comes into the Bay during the spring to feed on menhaden before flying north to breeding grounds in Newfoundland.

Deep withdraws of menhaden stocks for the reduction fishery is having an impact on consumer species. We have conducted fieldwork with osprey throughout the lower Chesapeake Bay for 50 years and data demonstrate ongoing impacts. Through three generations of graduate students (1975-2006) we have observed shifts in diet and an associated reduction in productivity. Fish delivery rates were more than three times higher in 1975 compared to 2006. Menhaden, once the dominant fish in the diet now represents less than 30%. Shifts in diet away from menhaden have been coincident with a 90% reduction in menhaden stocks (Maryland, DNR haul surveys). No other fish species available to consumers provides the energy content of menhaden. Reductions in menhaden stocks have caused osprey productivity to decline to below DDT-era rates. These rates are insufficient to support the osprey population within the main stem of the Bay.

Menhaden provide critical ecosystem services within the Chesapeake Bay. We request that the needs of the broader ecosystem be considered when setting harvest policy and that menhaden stocks be maintained at levels that support a healthy Chesapeake Bay ecosystem.

Sincerely,

Bryan D. Watts, Ph.D.  
Mitchell A. Byrd Professor of Conservation Biology  
Director, Center for Conservation Biology  
College of William and Mary

**ASMFC Atlantic Menhaden Board Adopts Ecological Reference Points**

**From:** Tina Berger <tberger@asmfc.org>

**Cc:** ALL ARLINGTON STAFF <allarlingtonstaff@asmfc.org>

**Date:** Thu, Aug 6, 2020 5:42 pm

OR IMMEDIATE RELEASE, AUGUST 6, 2020  
PRESS CONTACT, TINA BERGER, 703.842.0740

## ASMFC Atlantic Menhaden Board Adopts Ecological Reference Points

Arlington, VA – The Atlantic States Marine Fisheries Commission's Atlantic Menhaden Management Board approved the use of ecological reference points (ERPs) in the management of Atlantic menhaden. By adopting ERPs, the Board will be accounting for the species' role as an important forage fish. The 2020 Atlantic menhaden benchmark assessments, which were endorsed by an independent panel of fisheries scientists, used the Northwest Atlantic Coastal Shelf Model of Intermediate Complexity for Ecosystems (NWACS-MICE) in combination with the single-species model (Beaufort Assessment Model or BAM) to develop Atlantic menhaden ERPs by evaluating trade-offs between menhaden harvest and predator biomass.

"The Board took another important step in managing Atlantic menhaden in a broader ecosystem context," stated Board Chair Spud Woodward of Georgia. "It's the culmination of more than a decade of effort by state, federal, and academic scientists to develop ERPs that reflect menhaden's role as a key food source for several fish species. These ERPs are not a silver bullet to resolve all our fisheries management issues, and the models on which they are based will continue to evolve. However, the use of ERPs for menhaden management will enhance the success of predator management by providing a more abundant forage base for rebuilding predator fish populations. It is important for us to keep those rebuilding efforts on track through the use of proven management tools such as controls on fishing mortality."

In February and May, the Board tasked the ERP Work Group with additional analyses to explore the ERPs sensitivity to a range of ecosystem scenarios (different assumptions about fishing mortality for other key predator and prey species) and Atlantic herring biomass. These analyses suggested the original scenario (ERP target and threshold outlined below) most closely approximates short-term conditions for the ecosystem. As a result, the ERP Work Group recommended using the original scenario ERPs presented in the assessment report. Moving forward, the ERPs for Atlantic menhaden are:

**ERP target:** the maximum fishing mortality rate ( $F$ ) on Atlantic menhaden that sustains Atlantic striped bass at their biomass target when striped bass are fished at their  $F$  target

**ERP threshold:** the maximum  $F$  on Atlantic menhaden that keeps Atlantic striped bass at their biomass threshold when striped bass are fished at their  $F$  target

Atlantic striped bass was the focal species for the ERP definitions because it was the most sensitive predator fish species to Atlantic menhaden harvest in the model, so an ERP target and threshold that sustained striped bass would likely provide sufficient forage for other predators under current ecosystem conditions. For the development of the ERPs, all other focal species in the model (bluefish, weakfish, spiny dogfish, and Atlantic herring) were assumed to be fished at 2017 levels.

In addition to adopting ERPs, the Board discussed setting fishery specifications for 2021-2022. In 2017, the Board set the total allowable catch (TAC) at 216,000 metric tons for 2018-2019, and then maintained that TAC for 2020 with the expectation that it would be set in future years using ERPs. With the adoption of ERPs, the Board tasked the Atlantic Menhaden Technical Committee to run a projection analysis to provide a variety of TAC scenarios and their risk of exceeding the ERP  $F$  target to compare in setting specifications for 2021-2022. The Board will review the projection analysis at the Annual Meeting in October and then determine a TAC for 2021-2022. As stated in Amendment 3, if a TAC is not set at the Annual Meeting, the TAC from the previous year will be maintained.

For more information, please contact Kirby Rootes-Murdy, Fishery Management Plan Coordinator, at [krootes-murdy@asmfc.org](mailto:krootes-murdy@asmfc.org) or 703.842.0740.

###

PR20-15

The press release can also be found here - [http://www.asmfc.org/uploads/file/5f2c7891pr15AtlMenhadenERP\\_Adoption.pdf](http://www.asmfc.org/uploads/file/5f2c7891pr15AtlMenhadenERP_Adoption.pdf)

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*Sustainable and Cooperative Management of Atlantic Coastal Fisheries*

*Go to the MH  
management plan -  
just below founder's chart  
to story map*

# Understanding Ecological Reference Points

Everything you need to know about the development of ERPs  
for Atlantic menhaden

ASMFC Communications Team  
June 22, 2021



Striped bass was the fish predator species that had the strongest response to Atlantic menhaden biomass in the ERP models. As a result, striped bass could be used as a proxy for all of the predator species when evaluating tradeoffs and setting reference points.

Think of striped bass as the “canary in the coal mine.” Because it is the most sensitive, menhaden levels that are sufficient for striped bass are not likely to cause a decline in other species.

Its important to note that even though the tradeoff analyses and reference points focus on striped bass, the other species (bluefish, weakfish, spiny dogfish, bay anchovy) are still included in the model and analyses. For example, an increase in menhaden abundance does not just affect striped bass, it also increases bluefish abundance. This also impacts striped bass indirectly, as bluefish are competitors and predators of striped bass.

**With ecosystem models, there is more than one way to achieve the desired biomass level for a given species.**

For example, if you wanted to increase the abundance of one species, you could reduce the harvest of that species directly, increase the abundance of its prey species, or even reduce the abundance of its competitors. To illustrate these tradeoffs, the Work Group produced a series of “rainbow plots”.

Localized Depletion of Atlantic Menhaden in the Chesapeake Bay and  
Its Impact on the Maryland Economy and Environment by  
Phil Zalesak, President of [www.smrfo.org](http://www.smrfo.org)  
March 8, 2023

The Problem

Striped Bass, our official state fish, are dependent on Atlantic menhaden for survival based on the latest science as documented in reference (a). Although there are plenty of Atlantic menhaden in the Atlantic Ocean, there is an insufficient number in the Chesapeake Bay during the period of industrial reduction harvesting in the Bay.

An industrial reduction fishery located in Reedville, Virginia is harvesting over 3 / 4 of a billion Atlantic menhaden from the Chesapeake Bay and waters just outside the Bay. Over 1 / 4 of a billion fish are being harvested from the Chesapeake Bay and another 1 / 2 billion are being harvested right outside the Bay along the Coast. This has increased the mortality rate of Striped Bass in the Chesapeake Bay and impacted the recreational fishing industry in Maryland.

The Data

**Striped Bass Metrics**

Localized depletion of Atlantic menhaden occurs when there is very little migration into and out of the Chesapeake Bay and intense industrial reduction fishing is occurring at the same time. There is little migration at the entrance of the Chesapeake Bay from June until October which is the prime season for the Atlantic menhaden reduction fishery (b). See Figure 1.

The latest science has determined that there is a direct relationship between the mortality rate of Atlantic menhaden and the mortality rate of striped bass. The mortality rate of striped bass increases when the mortality rate of Atlantic menhaden increases (c).

Up until 2006 there was no harvesting quota for the Atlantic menhaden reduction fishery in the Chesapeake Bay. The first quota was 110,400 metric tons. It was then lowered to 87,216 metric tons from 2014 to 2018. Finally, the quota was lowered to 51,000 metric tons in 2018 where it remains today (d).

51,000 metric tons of Atlantic menhaden is over 112,434,600 pounds or a total **244,423,043** fish.

Currently, the reduction fishery is allocated 158,137 metric tons. 51,000 metric tons or **244,423,043** fish are being harvested from the Chesapeake Bay (e). The remaining 107,137 metric tons or **513,479,173 fish** are being harvested from just outside the Bay along the Atlantic Coast. That's a total of 348,628,592 pounds or **757,888,761** fish.

**There is no science which supports removing three quarters of a billion Atlantic menhaden from the Chesapeake Bay and its entrance.**

The **recreational harvest of Striped Bass** in the Chesapeake Bay has **decline over 60%** from a high in 2006 of over 2 million fish to a little over 750,000 in 2020. See Figure 2.



The **commercial harvest of Striped Bass** in the Chesapeake Bay has **decline over 50%** from a high of over 1 million fish in 2000 to around 500,000 fish in 2020. See Figure 3.

The purse seine nets used by the reduction fishery are 150 feet long by 50 feet deep and often scrape the bottom of the Bay floor when harvesting Atlantic menhaden. The Chesapeake Bay **reduction fishery Striped Bass bycatch** could easily be **greater than total Chesapeake Bay commercial harvest for the year** as the striped bass feeding on the menhaden can't escape when the nets are scraping the bottom.

In 2020 the **Striped Bass** commercial harvest in the Chesapeake Bay was **492,400 fish** (Figure 3). The total **Atlantic menhaden** reduction harvest was **244,423,043 fish**. If the bycatch of Striped Bass is greater than to .2 % of the total number of fish caught by the reduction industry, then the **reduction fishery is killing more Striped Bass than is being harvested by the Striped Bass commercial fishermen in the Chesapeake Bay.**

We know that striped bass pursue schools of menhaden during the reduction harvesting process. So, the striped bass bycatch is more likely to be larger than .2 %. This could account for a significant reduction in the striped Young-of-Year index for the last 4 years. See Figure 4.

#### **Striped Bass Economic Impact**

During the period of 2000 – 2019, the number of **For-Hire active vessels** went from **409 to 212** for a 48% decline, and the **number of fishing trips** went from **18,199 to 9,571** for a 47% decline. The decline in Maryland For-Hire business base is documented in Figures 5 and 6.

The GDP associated with **recreational fishing** of Striped Bass in Maryland is over **\$800 million dollars** and accounts for over **10,000 jobs**. See Figure 7.

The GDP associated with the **commercial sector** is **\$11 million dollars** and responsible for about 600 jobs based on a 2019 Southwick Associates study (h). See figure 7.

Therefore, the recreational fishing industry in Maryland is **70 times more significant from a dollar standpoint** and **17 times more significant from an employment standpoint** compared to the commercial striped bass industry.

#### **Bluefish and Weakfish Metrics**

Commercial harvest data for Bluefish and Weakfish, which are dependent on Atlantic menhaden for their survival, are shown figures 8 and 9. The **Bluefish** commercial harvest has been **devastated** and the **Weakfish** have been **depleted** in the Chesapeake Bay.

#### **Osprey Metrics**

According to Dr. Bryan Watts of the College of William and Mary reductions in menhaden stocks have caused osprey productivity to decline to below DDT-era rates. These rates are insufficient to support the osprey population within the main stem of the Bay. This is based on 50 years of research (f).

Michael Academia, a graduate assistant at the College of William and Mary, updated this data set in 2021 and documented his findings in a paper he presented at the International Raptor Research Foundation Conference. This paper was awarded the prestigious Andersen Memorial Award at that meeting. His research can be viewed via video at <https://youtu.be/IKR-DHwIZIU>

### **Conclusion**

Localized depletion of Atlantic menhaden in the Chesapeake Bay and the entrance to the Bay is devastating to the Maryland recreational fishing industry and the Chesapeake Bay marine environment

Maryland representatives to the Atlantic States Marine Fisheries Commission which manages this fishery need to demand an end to this destruction of the Chesapeake marine environment.

Your support of SJ2 is the first step in making this happen.

### **Recommendation**

End the Atlantic menhaden reduction fishery in Virginia waters and limit reduction fishing to federal waters east of the 3 nautical mile Exclusive Economic Zone.

### **Action**

Support Maryland Senate Joint Resolution 2 which requests the Atlantic States Marine Fisheries Commission consider prohibiting the commercial reduction fishing of Atlantic menhaden in the Chesapeake Bay.

### References:

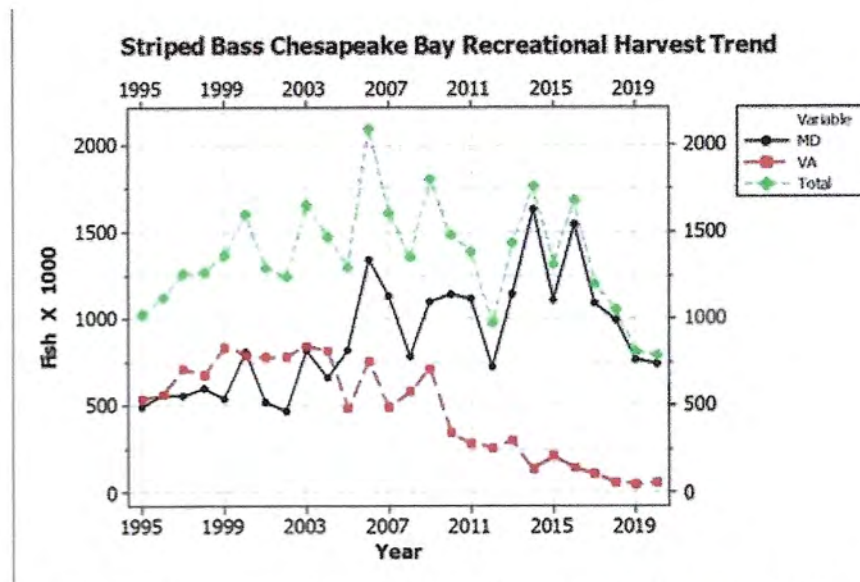
- (a) SEDAR 69 Ecological Reference Points Stock Assessment Report on Atlantic Menhaden dated January 2020, pages iii and 375
- (b) Estimation of movement and mortality of Atlantic menhaden during 1966–1969 using a Bayesian multi-state mark-recovery model Emily M. Liljestrand, Michael J. Wilberg, Amy M. Schueller, Published online 2/2019
- (c) SEDAR 69 Ecological Reference Points Stock Assessment Report, Atlantic Menhaden, January 2020, page 375
- (d) Amendment 3 to the Interstate Fishery Management Plan for Atlantic Menhaden November 2017, page v
- (e) ASMFC Press Release: Atlantic Menhaden Board Sets 2023 TAC at 233,550 MT & Approves Addendum to Address Commercial Allocations, Episodic Event Set Asides, and Incidental Catch/Small-scale Fisheries
- (f) Dr. Bryan Watts Letter to Virginia Governor Ralph Northam, 8/20/2020

### Omega Protein Purse Seine Settings and Migration



Ref: SEDAR 40 Stock Assessment Report Atlantic Menhaden, January 2015, page 10

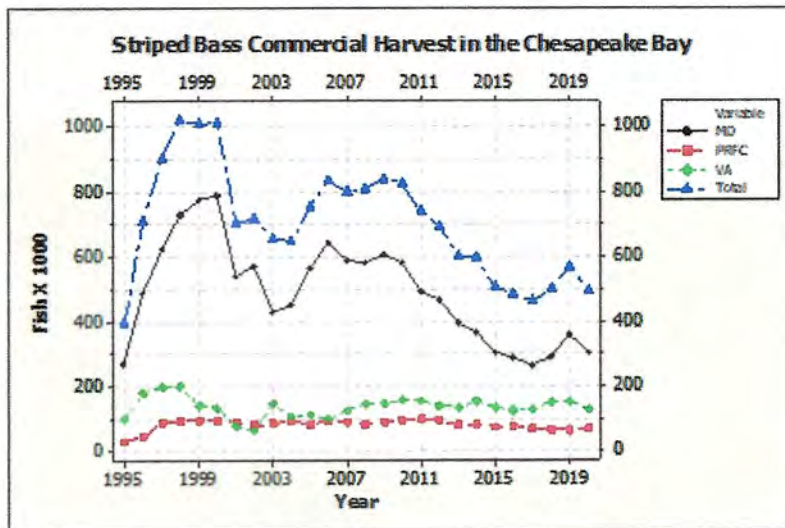
Figure 1



Draft Amendment 7 to the Interstate FMP for Atlantic Striped Bass, Table 18, page 135 - 2/2022

Figure 2

**Decline in Striped Bass Chesapeake Bay Commercial Harvest**



Draft Amendment 7 to the Interstate FMP for Atlantic Striped Bass, Table 15 page 132- 2/2022

Figure 3

**Chesapeake Bay 2022 Young-of-Year Survey Results**

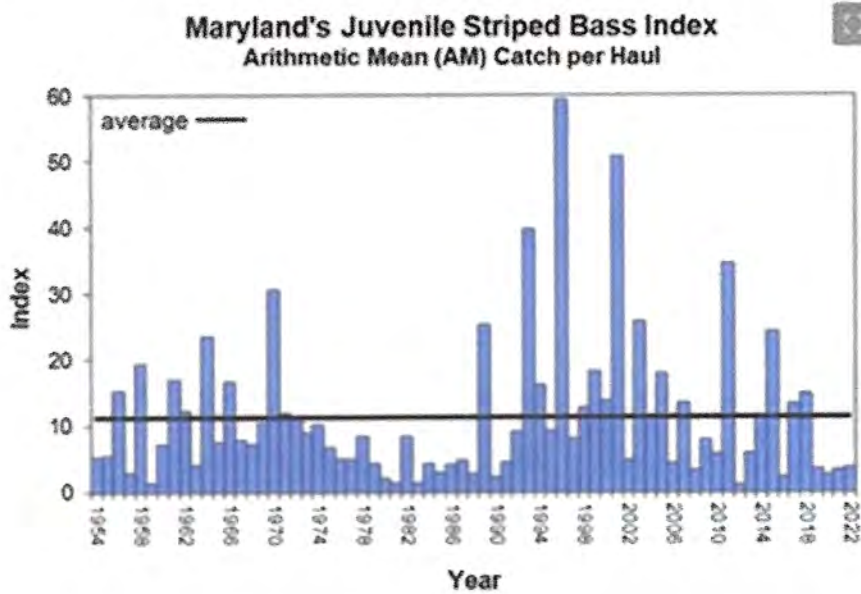
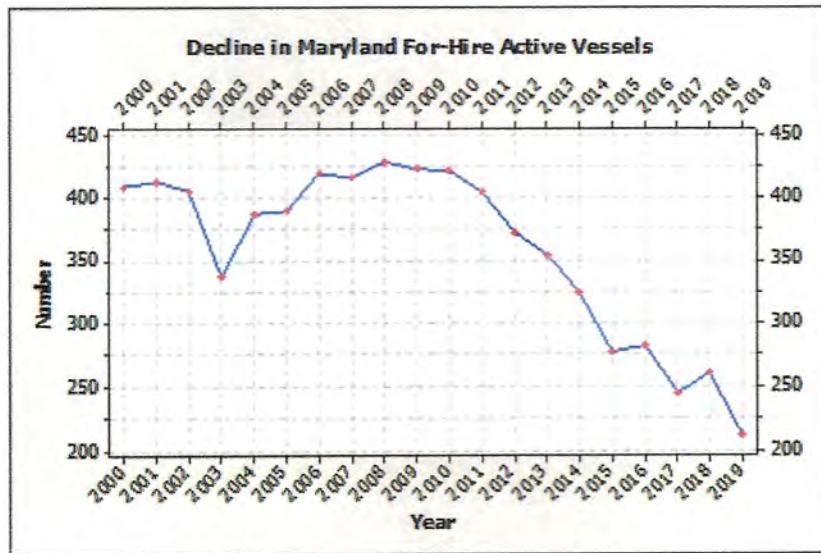


Figure 4

### Decline in Maryland For-Hire Active Vessels



MD DNR, Gina Hunt email of 2/28/2020

Figure 5

### Decline in Maryland For-Hire Fishing Trips

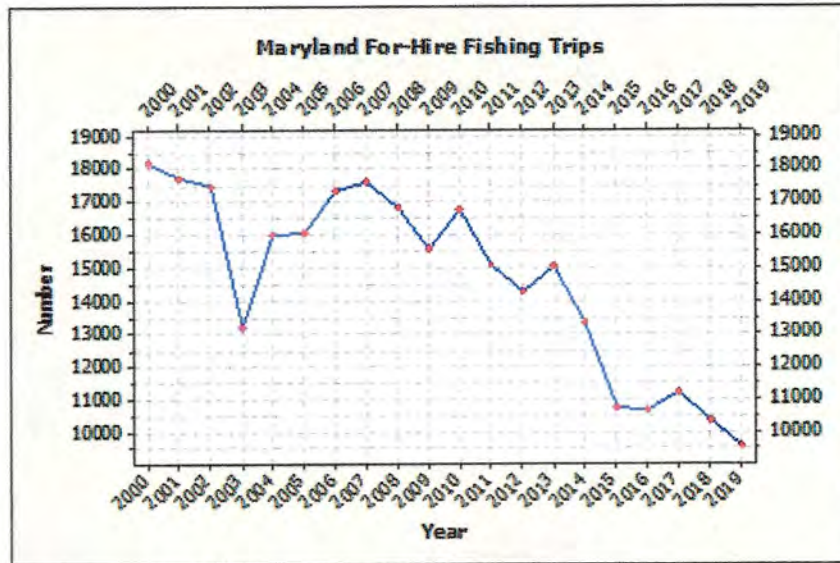


Figure 6

## Striped Bass Economic Impact to Maryland (2016)

**Commercial GDP: \$10,919,100**  
**Commercial Jobs 584**

**Recreational GPD: \$802,791,200**  
**Recreational Jobs 10,193**

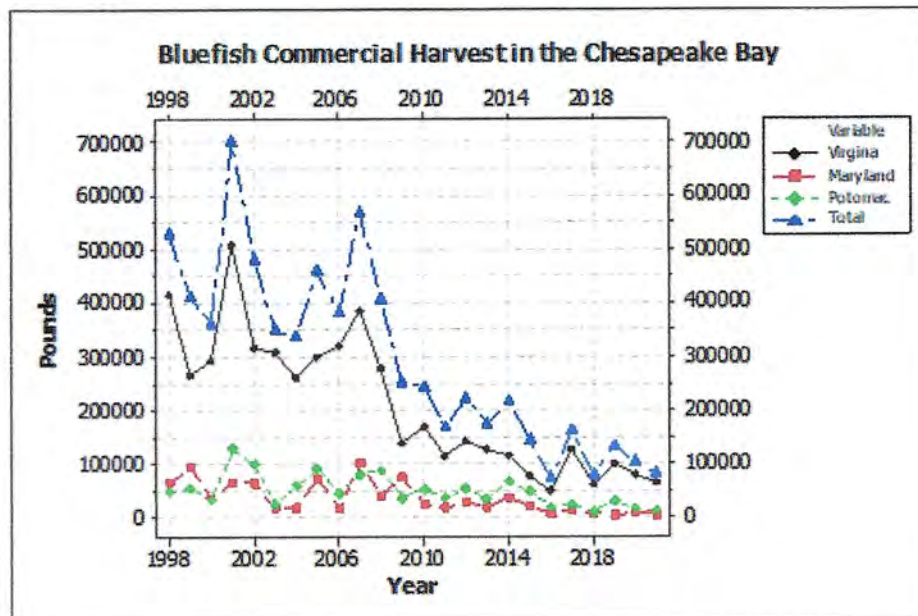
### Comparisons Between the Fisheries

Table MD-8. Comparison of commercial and recreational impacts: Maryland 2016

	Commercial Fishery	Recreational Fishery	Total	Commercial Fishery	Recreational Fishery	Total
Pounds landed (000s)	1,709.4	10,919.1	12628.5	14%	86%	100%
Jobs supported	584	10,193	10,777	5%	95%	100%
Income (\$000s)	\$12,569.6	\$496,859.8	\$509,429.7	2%	98%	100%
GDP (\$000s)	\$17,109.7	\$802,791.2	\$819,900.9	2%	98%	100%

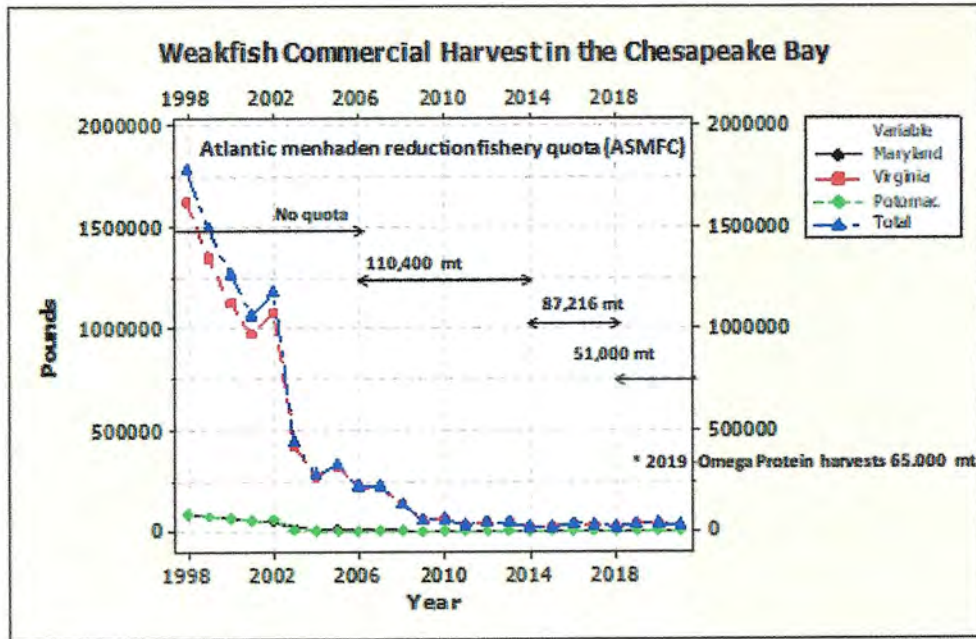
Ref: The Economic Contributions of Recreational and Commercial Striped Bass Fishing, Southwick Associates, page 26, 4/12/19

Figure 7



References: MD DNR, VMRC, PRFC

Figure 8



References: MD DNR, VMRC, PRFC, ASMFC

11

Figure 9

Senate Chair  
**JACK BAILEY**  
*Legislative District 29*  
Calvert & St. Mary's Counties

Maryland Legislative Sportsmen's Caucus  
James Senate Office Building, Room 402  
410-841-3673 or 301-858-3673  
1-800-492-7122 Ext. 3673

Senate Co-Chair  
**KATIE FRY HESTER**  
*Legislative District 9*



House Chair  
**NED CAREY**  
*Legislative District 31A*  
Anne Arundel County

Maryland Legislative Sportsmen's Caucus  
Lowe House Office Building, Room 161  
410-841-3047 or 301-858-3047  
1-800-492-7122 Ext. 3047

House Co-Chair  
**WENDEL BEITZEL**  
*Legislative District 1A*

## The Maryland Legislative Sportsmen's Caucus

*The Sportsmen's Best Friend in Annapolis*

October 21, 2021

Steven G. Bowman  
VMRC Chairman  
Building 96, 380 Fenwick Road  
Ft. Monroe, Virginia 23651

**RE: "The Most Important Fish in the Sea" – IMMEDIATE ACTION**

Mr. Bowman:

Each year the number of menhaden surviving the Virginia netting gauntlet to successfully reach Maryland's portion of the Chesapeake Bay is declining. This scientifically documented fact is detrimental to both avian and marine species dependent upon the "Most Important Fish in the Sea". This must change.

On October 15, 2021, a fishery biology professor from Salisbury University (Dr. Noah Bressman, PhD) formally addressed the dire menhaden issue in a statement to Maryland's DNR Secretary, et al. For the record, the Maryland's Legislative Sportsmen's Caucus within the Maryland General Assembly fully supports the position taken by Dr. Bressman and urges time-sensitive compliance by the Virginia Marine Resources Commission.

Here's what Dr. Bressman stated:

"Currently, the Virginia-based menhaden fishery is overfishing the stock of Atlantic Menhaden in and around the Chesapeake Bay, which is preventing this important forage fish from making its way into the bay and its tributaries. As an important prey item for many important species in the bay, such as Striped Bass and Osprey, the disappearance of most of the menhaden from the bay is contributing to the disappearance of many species that rely on menhaden.

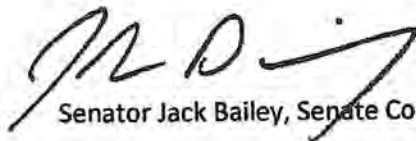
Virginia has been allotted about 75% of the entire Atlantic Coast's quota, which is a drastically disproportionate amount relative to its coastline. Additionally, much of their harvesting occurs as menhaden migrate into the bay, where they enter Maryland's waters. What this essentially means is 75% of the quota for the entire Atlantic Coast is being taken in the bay or just before they enter the bay. While this may not be causing overfishing for the entire Atlantic Coast based on quotas, because all of these fish are being taken from essentially just the bay, it is having locally drastic effects on the ecosystem.



Therefore, I strongly suggest either delaying the start of the menhaden commercial season until after a significant amount of menhaden have migrated north along the Virginia coast into the Chesapeake bay (which occurs in spring/early summer), by pushing these factory fishing efforts at least 3 miles offshore into federal waters instead of along the coastline in state waters (as the fish in the state waters are most likely to migrate along the coast into the bay), pushing the commercial menhaden fishery north of the entrance to the Chesapeake bay during their migration, and/or significantly reducing the quotas of menhaden in and around the mouth of the Chesapeake bay.

These actions are necessary to ensure the long-term health of the Chesapeake Bay ecosystem and the associated fisheries and ecotourism."

What is happening to the "Most Important Fish in the Sea" is intolerable. VMRC must stand up and do what's right.

  
Senator Jack Bailey, Senate Co-Chair

  
Delegate Ned Carey, House Co-Chair



Cc:

Members, Virginia Marine Resources Commission  
Dr. Noah Bressman, Salisbury University  
Senator Emmett Hanger, Senate Co-Chair, Virginia Legislative Sportsmen's Caucus  
Delegate James Easily Edmunds II, House Co-Chair, Virginia Legislative Sportsmen's Caucus  
Jeff Crane, President, Congressional Sportsmen's Foundation  
The Honorable Ann Jennings, Virginia Secretary of Natural Resources  
The Honorable Jeannie H. Riccio, Maryland Secretary of Natural Resources

From: Noah Bressman noahbressman@gmail.com  
Subject: Support for Action on Menhaden  
Date: Oct 15, 2021 at 10:36:49 AM  
To: jeannie.riccio@maryland.gov, bill.anderson@maryland.gov,  
lynn.fegley@maryland.gov  
Bcc: foragematters@aol.com

---

Dear Secretary Riccio and DNR Menhaden Delegates,

As a Fish Biology Professor at Salisbury University with multiple collaborations with the MD DNR, former nominee to the Mid-Atlantic Fisheries Management Council, an avid angler, science communicator, and concerned citizen of Maryland, I write to offer my support for action on menhaden in and around the Chesapeake Bay. Currently, the Virginia-based menhaden fishery is overfishing the stock of Atlantic Menhaden in and around the Chesapeake Bay, which is preventing this important forage fish from making its way into the bay and its tributaries. As an important prey item for many important species in the bay, such as Striped Bass and Osprey, the disappearance of most of the menhaden from the bay is contributing to the disappearance of the many species that rely on menhaden.

Currently, Virginia has been allotted about 75% of the entire Atlantic Coast's quota, which is a drastically disproportionate amount relative to its coastline. Additionally, much of their harvesting occurs as menhaden migrate into the bay, where they enter Maryland's waters. What this essentially means is 75% of the quota for the entire Atlantic coast is being taken in the bay or just before they enter the bay. While this may not be causing overfishing for the entire Atlantic coast based on quotas, because all of these fish are being taken from essentially just the bay, it is having locally drastic effects on the ecosystem.

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Sincerely,

Dr. Noah Bressman, PhD  
Assistant Professor of Physiology  
Salisbury University

Dr. Noah Bressman, PhD  
Assistant Professor of Physiology  
Salisbury University  
Fish Biology, Biomechanics, Functional Morphology, and Behavior  
Noahbressman.wixsite.com/noah  
He/him/his

Begin forwarded message:

**From:** Noah Bressman <noahbressman@gmail.com>  
**Date:** October 18, 2021 at 9:54:57 AM EDT  
**To:** Tina Berger <tberger@asmfc.org>  
**Subject:** Re: FW: Final Supplemental Materials for ASMFC 2021 Fall Meeting

Thanks, Tina! I want to clarify that the most important thing I recommend is that the board take action now to evaluate the options to increase menhaden in Chesapeake Bay. If action was started at Tuesday's board meeting, some or all of the measures could be in effect for the 2022 season. This can be accomplished using qualitative management methods, such as seasonal and area closures without additional research. It can also be accomplished by moving the fishing into the US federal zone as every state except Virginia has seen the necessity for doing. While I am always in support of more research for any topic (because I am a scientist), waiting for additional research on this issue that is already clear will likely lead to menhaden continuing to plummet in the bay, which will further reduce the capacity for striped bass to recover in the bay, especially after the recent report showing their abysmal recruitment over the last 3 years. A delay in action, such as a several years-long stock and recruitment reassessment of the bay before action, will lead to the problem getting worse before it gets better.

Sincerely,  
Dr. Noah Bressman, PhD  
Assistant Professor of Physiology  
Department of Biology  
Salisbury University

On Fri, Oct 15, 2021 at 2:47 PM Tina Berger <tberger@asmfc.org> wrote:

Dr. Bressman – Thank you for your public comment on Atlantic menhaden management. It was sent to the Atlantic Menhaden Board today for its consideration. – Tina

**Tina Berger**

al Ecosystems

## Leonard and David Sikorski column: Stop Omega Protein's outsized impact on the Chesapeake Bay

Leonard and David Sikorski

2022



A school of Menhaden swam off the coast of Virginia Beach.  
2004, The Associated Press

By Mike Leonard and David Sikorski

**B**y Mike Leonard and David Sikorski

For the second time in less than a month, Omega Protein — an industrial menhaden harvester — has littered the beaches along Virginia’s Eastern Shore, wasting thousands of this important forage fish in the Atlantic Ocean. This latest mishap also killed hundreds of large red drum, a popular sportfish, that became entangled in the operation’s net as bycatch.

Preliminary counts reported to the Virginia Marine Resources Commission indicate that as much as 12,000 pounds of 30- to 50-pound redfish were cleaned up on the water and along nearby beaches. Given red drum biology, it is highly likely those big, mature fish were in the Chesapeake Bay, and had targeted a menhaden school to build up energy for reproducing the next generation of this popular game fish.

Canadian-owned Omega Protein acknowledged that its contractor, Ocean Harvesters (based in Reedville), was responsible for the July 25 mishap that resulted in dead fish washing up on the beaches of Pickett’s Harbor, Kiptopeke State Park and Sunset Beach. The company also accepted responsibility for a July 5 net failure that spilled thousands of dead menhaden along Silver Beach, another popular vacation destination about 15 miles to the north.

## **People are also reading...**

- 1 Stoney urges Richmond School Board not to fire Superintendent Kamras**
- 2 Driver killed in Midlothian Turnpike crash identified**
- 3 Chesterfield police email about arrested counselor never delivered to schools**

#### 4 Virginia man has super antibodies against COVID-19

These net spills are yet another reminder: A broad coalition of local, regional and national recreational fishing and boating groups — including our organizations, the Coastal Conservation Association and the American Sportfishing Association — made a request to Gov. Glenn Youngkin. Stop the use of industrial purse seine gear in a major portion of the Chesapeake Bay “until science demonstrates” that it will not negatively affect the estuary’s ecosystem.

A purse seine is defined by the National Oceanic and Atmospheric Administration as a “large wall of netting deployed around an entire area or school of fish”. Virginia’s stoppage of the use of this gear in the bay would bring consistency with Maryland’s prohibition, enacted nearly a century ago.

These latest net spills aren’t the first time Omega Protein has proven to be a bad corporate neighbor in the Chesapeake Bay. In September 2021, the company’s nets tore on two separate incidents, forcing it to dump more than 400,000 dead menhaden into Hampton Roads waters.

In December 2019, the U.S. Department of Commerce found Virginia to be out of compliance after Omega Protein knowingly violated the Chesapeake Bay harvest cap (51,000 metric tons) on menhaden. This was a cautionary, coastwide limit agreed to by fishery managers.

Moreover, Cooke Inc., the parent company of Omega Protein, has paid nearly \$13 million in penalties for violations related to the environment, safety, government contracting and finances, according

to a report from Good Jobs First, a group focused on corporate and government accountability in economic development.

In response to the 2021 net spills, the VMRC Menhaden Management Advisory Committee considered the development of a buffer, or area closure. This would minimize the possibility of snagging large purse seine nets in nearshore shallow waters, while also providing protection for recreational species that frequent nearshore habitats.

Unfortunately, the proposal did not move forward because it was opposed by an Omega Protein representative who cited net spills as a rare, infrequent event not in need of a solution. This year's spills have shown that these occurrences are not as rare as previously thought.

All eyes are on Virginia's fisheries managers and leadership in Richmond to curb this wasteful action. The publicly held resources of the Chesapeake Bay, as well as the sportfishing, boating and tourism economy, deserve more than promises from an international fisheries juggernaut.

Mike Leonard is vice president of government affairs for the American Sportfishing Association. He also is a member of the Virginia Marine Resources Commission's Menhaden Management Advisory Committee. Follow him on Twitter: @ASAFishing

David Sikorski is executive director of Coastal Conservation Association Maryland and chair of the Maryland Sport Fisheries Advisory Commission. Contact him at: [information@ccamd.org](mailto:information@ccamd.org)

**From:** [Debbie Campbell](#)  
**To:** [James Boyle: tberger@asmfc](#)  
**Cc:** [rbeale@asmfc.org](#)  
**Subject:** [External] Comments for consideration, inclusion in the board briefing materials, and the record for the May 1 Menhaden meetingmeeting  
**Date:** Saturday, April 15, 2023 6:22:10 PM

---

Mr. Boyle and Ms. Berger,

The matter before you is one of critical importance. As a resident of both Maryland and VA my family and I suffer mightily under a scenario that is choosing the interests and greed of a foreign- owned industrial company over the sustainability of the Chesapeake, and the preservation of our right to protection of our shores, our love for fishing, and viability of locally owned small businesses .

As you know, in 2022 there was much news about the abuse of our fishery, the bay, and our rural Eastern Shore communities.

There was economic loss for my neighbors who have vacation rentals, local restaurants, and stores like Puppy Drum Market (owned by my neighbors). There was also tremendous loss of revenue to the state for fishing licenses as the stock of stripers has collapsed, not to mention loss of income for our local sporting goods stores and small motels. And, the loss of time with our families while we traveled across the bridge for meetings and compiled teams of documentation.

Then, there is the immeasurable loss of joy because of not being able to take our children and grandchildren fishing or swimming.

I've seen the menhaden, stripers, and Osprey vanish right before my eyes over the past 10 years. I've seen the schools of menhaden dwindle I've the past 10 years. Spotting even a small school from the top of the bank has become unusual. The abundance of the past is gone.

The fish kills/spills have had tourists leaving early, and others cancelling reservations. The stench was nauseating, including during our memorial service for Silver Beach loved ones we've lost over the years.

The by-catch is obscene, including the 12,000lbs of dead, mature, breeding red drum that littered Kiptopeake State Park Beach, causing the beach to be closed. Our YMCA was temporarily closed as well. Then, there were the numerous spills at Silver Beach where my neighbors and I live. It was stomach turning to see children dodging dead fish as they tried to swim, and to have me and my neighbors scooping decaying carcuses from the beach into every container we could find. Some neighbors became ill and suspected the dead fish had something to do with it. Last year (2020) was the pinnacle of the abuse our community has suffered at the hands of this lawless industry. I can point to the written exchanges between Commissioner Bowman and Mr. Diehl about exceeding the catch limit, to the unauthorized placement of a dumpster of oozing, rotting fish at our local public wharf (Willis Wharf) following a Silver Beach cleanup by HEPACO.

The thought of the stench and rot is repulsive and I couldn't bear to be on the beach or swim in the bay after the 2022 events.

Then, there are the protected aquatic grasses that are being ripped up as the nets drag the bottom. The nets dragging the bottom is proved by VMRC's own reports, not to mention simple mathematical observation of the depth of the Bay and the vertical drop of the giant nets that are designed to suspend several feet above the sea floor. That bottom scraping, arguably dredging, is another big blow to the sustainability of the Chesapeake. In my experience, no agencies or regulators have been willing to impose serious consequences for this or any other bad behavior by the reduction industry over a period of many years (also supported by the many incident reports). My neighbors and I feel like we don't stand a chance. It is a shameful way to treat residents and natural resources.

Michael Academia's prize-winning study of Ospreys provides scientific research that stripers and Osprey are victims of the industrial reduction fishing. All of this devastation and suffering is completely unnecessary and preventable by not allowing sets unless proper distance between the bottom of the net and bay floor are established and STRICTLY enforced with strong penalties in place. We all know they're setting those gigantic nets in less than 20' of water. All can be cured by moving these operations offshore in deep water (out of state waters and East of the line for the EEZ, not the silly arbitrary line that was drawn by the CBBT and acts as a funnel to catch everything coming and going during migratory/spawning times)....That will solve most of bycatch problems and keep protected and precious bay grasses from being ripped fro the bottom.

Our spawning fish are in those schools that will be targeted relentlessly starting on May 1st, and will probably be killed by the tens of thousands. Has the technical committee investigated and determined how to eliminate snags and bycatch? If not, why not? If so, what is being mandated and strictly enforced with MEANINGFUL penalties? Put



this in effect this season. ASMFC must act because VA refuses to.

I am including incident reports presented as part of a binder of research in 2022, as well as various photos and documents. Please afford me, my neighbors, and the Chesapeake the respect of studying them carefully.

Photos will be provided separately.

Depending on you!

Debbie Campbell

410-860-0893

757-442-2603

Please include this material in the briefing book and public record for the 5/1/23 meeting.

**From:** Debbie Campbell <debbiescampbell@icloud.com>

**Sent:** Saturday, April 15, 2023 10:13 PM

**To:** James Boyle <JBoyle@asmfc.org>; tberger@asmfc

**Cc:** rbeale@asmfc.org

**Subject:** [External] Re: Comments for consideration, inclusion in the board briefing materials, and the record for the May 1 Menhaden meetingmeeting

3 of 3

Please forgive that I have had to send 4 separate emails ( letter & 3 emails for attachments) to get my materials to you. I'm traveling for work and doing this from my phone. Here are the last attachments. I trust that you'll print these for the member's briefing books.

Kind regards.

Debbie



Dead drum, menhaden, and ripped up bay grass. Kiptopeake



Dead red drum. Kiptopeake



Base of steps leading to Silver Beach's community beach.



Dead, rotting dead fish at Silver Beach.

I am happy to share additional photos and videos, copies of the petition presented by Christi Medice (Silver Beach neighbor, and answer any questions you may have.

Protecting the Chesapeake Bay

## **Column: Industrial overfishing is hurting the Bay, and Va.'s economy**

By **STEVE ATKINSON**

Dec 10, 2022



SteveAtkinson

By **STEVE ATKINSON**

**V**irginia's saltwater anglers are an important economic engine for the coastal areas, contributing more than \$700 million annually to the state's economy.

Yet, they aren't always viewed that way. After a summer of industrial ships relentlessly netting menhaden fish from the Chesapeake Bay, noisy spotter planes, repeated net spills on the Eastern Shore, contaminated beaches and

up? Why is the state allowing a foreign-owned company to pillage menhaden, the most important fish in the sea, and wreak havoc on our pristine Bay shores?

Omega Protein, owned by Cooke Seafood of New Brunswick, Canada, acknowledged to the Virginia Marine Resources Commission (VMRC) in August they are now prioritizing fishing in the Bay in an effort to catch their annual Bay quota of 112 million pounds so that the quota doesn't get cut in future years. Then there are the wasteful net spills, which occur about every summer, fouling the pristine beaches of the Eastern Shore. Does all of this sound like good stewardship of our Chesapeake Bay?

---

In June, we launched a campaign to bring awareness to this problem and the damage it is causing to the Bay's fragile ecosystem. We collected 11,000 signatures on a petition calling on Gov. Glenn Youngkin to move this industrial fishery out of the Bay until science can show it is not causing harm. Many citizens attended meetings of the VMRC to ask the commission members to conduct a public hearing on moving the fishery out, emphasizing

Menhaden jumped from the water as Cockrells Creek fishermen began to raise a seine net on Sept. 3, 2019. A fleet spilled almost 5,000 menhaden on Silver Beach over the July 4 weekend and an estimated 10,000 on July 25.

2019, Jonathon Gruenke/The Virginian-Pilot

After months of petitions, letters and calls for action, the administration finally proposed a 1-mile no-netting buffer along the Bay and Virginia Beach shores to reduce the likelihood of damaging net spills, which usually occur in shallow water. They also proposed additional fishing restrictions around holiday weekends during the summer tourist season.



ges to escape with no new regulations and no accountability. This is a  
ing display of poor governance.

aden are inedible fish, reduced to fish meal and other byproducts and  
exported for animal feed. This industrial “reduction fishery” has  
ed controversy for decades and is outlawed by every other state on the  
Coast. This one company gets to harvest 75% of the entire East Coast  
aden quota in Virginia waters, leaving less and less fish for predators  
ely on them, most notably striped bass, but also other fish, mammals  
ea birds. Menhaden are not considered “overfished,” but that is a coast-  
designated and has nothing to do with conditions in the Chesapeake

owing Omega Protein to catch a third of its total quota from the Bay  
s the ocean (where operating costs are higher), Virginia in effect is  
dizing this fishery to the detriment of the Bay and local fishing  
mies. Is it a coincidence that the Eastern Shore, which was the  
nter of intense netting this summer, just experienced its worst  
ational fishing season in recent memory? Local hotels, charter captains  
ait shops are feeling the pain.

pplauded the administration for proposing to address net spills and  
user conflicts, but the regulation proposal was defeated by some of the  
nistration’s appointments to the VMRC board. Why would Virginia  
nder an opportunity to improve the Bay and coastal economy? Why

should the Eastern Shore bear the burden of repeated net spills? Is the administration controlled by a lobbying firm or do they simply not care about our Bay?

For now, the assault on the Chesapeake Bay will continue until enough citizens stand up and government officials lead.

---

**From the Archives: Mayo Island through the years**

Mayo Bridge and Island

JAM

## Bingo

Purse seine nets are designed as being used at a location above the sea floor as it won't scrape on the bottom which can cause net tears but also keeps it from disturbing the sea bottom pulling up sea grass and destroying the sea bottom as was seen on pictures of the fish kill\spills this past summer as well as many other times in the past. Another reason for having this "safety zone" above the sea bottom is that before the net is "pursed" or closed at the bottom it will allow game fish not targeted to escape through the bottom of the net as game fish normally dive straight down when they sense trouble and they will not be inside the net when it is pursed and hauled up which crushes\kills most of the fish within the net. A prime example of this occurred when the many Red Drum were killed this summer and washed up on the Eastern Shore beach dead as they had no way to escape as a 50' to 60' deep net was placed in 20' to 30' of water at the most.

This practice of having a safety zone is also indicated in the coveted Marine Stewardship Council (MSC) that Omega is so proud to have become a member of a few years ago which states **"Purse-seine fishing in open water is generally considered to be an efficient form of fishing. It has no contact with the seabed and can have low levels of bycatch (accidental catch of unwanted species)."**

See link below

<https://www.msc.org/what-we-are-doing/our-approach/fishing-methods-and-gear-types/purse->



Home



Friends



Marketplace



Feeds



Notifications



Menu

<https://www.msc.org/what-we-are-doing/our-approach/fishing-methods-and-gear-types/purse-seine>

This safety zone area below the purse seine net can be seen discussed in other locations with a google search and I have seen others but this one by MSC is in direct opposition of part of their certification and is obviously not adhered to as these 50'-60' nets are used throughout the Chesapeake Bay at depths rarely seen to allow their proper deployment.

Currently the only regulation I see on the VMRC site is per Va Code 28.2-410 which only indicates mesh size not to be less than 1 3/4". As there are no designations of actual purse seine net depth regulations I would suggest that a **gear type use restriction** be set to a depth that accommodates this "safety zone" beneath the net which is currently being ignored by the VMRC as the Va Legislature was previously in charge of regulating gear type and the VMRC has not been involved in implementing these obvious "best practices" of gear type restrictions and as a regulatory body it should address this issue.

This will result in the fishery having to make a decision as to if it is worth their time to use shorter nets that don't extend to Virginia's sea bed or to fish further out in the ocean where these 50'-60' deep nets can be properly used and catch more fish.

