

*Atlantic States Marine Fisheries Commission*

**ADDENDUM IV TO AMENDMENT 1 TO THE  
ATLANTIC MENHADEN FISHERY  
MANAGEMENT PLAN**  
*Chesapeake Bay Reduction Harvest Cap Extension*



*ASMFC Vision Statement:  
Healthy, self-sustaining populations for all Atlantic coast fish species or successful  
restoration well in progress by the year 2015*

**November 2009**

## **1.0 STATEMENT OF THE PROBLEM**

In 2006, the Atlantic Menhaden Management Board (Board) approved Addendum III to Amendment 1 to the Interstate Fishery Management Plan (FMP) for Atlantic Menhaden. Addendum III established the current annual cap of 109,020 metric tons on reduction fishery harvests from Chesapeake Bay as a precautionary measure while research was conducted to address the question of menhaden abundance in the Bay. The current cap has been in place since 2006 and extends through 2010.

At the request of Virginia, the Board initiated Addendum IV to accommodate the Commonwealth's legislative process as well as ensure that the current management program is extended while menhaden research efforts continue. Virginia's legislature, which meets January through March each year, is responsible for regulating the menhaden reduction fishery in state waters. With Addendum IV in place, Virginia state administrators can work with the legislature in early 2010 to amend Virginia law to extend the harvest cap without the current cap expiring.

## **2.0 BACKGROUND**

The Board approved Addendum III in response to concern that localized depletion of menhaden may be occurring in Chesapeake Bay. The 2006 stock assessment update indicates that menhaden are not overfished and overfishing is not occurring on a coastwide basis; status of the resource within Chesapeake Bay is unknown.

The annual Bay harvest cap under Addendum III is precautionary and not based on a scientifically quantified harvest threshold, fishery health index, or fishery population level study. Due to data limitations, it is unknown if exceeding the 109,020 metric-ton cap will negatively affect the health of the menhaden population. The cap is designed to prevent the Chesapeake Bay reduction fishery harvest of Atlantic menhaden from expanding while scientific studies are being conducted to explore the potential for localized depletion in the Chesapeake Bay.

Through Addendum II, the Board initiated a research program to determine the status of menhaden in the Bay and assess whether localized depletion is occurring. It identifies the following research priorities: (1) determine menhaden abundance in the Chesapeake Bay; (2) determine estimates of menhaden removal by predators; (3) evaluate the rate of exchange of menhaden between the Bay and coastal systems; and (4) conduct larval studies to determine recruitment to the Bay. In support of these activities, the NOAA Chesapeake Bay Office, Atlantic States Marine Fisheries Commission (ASMFC), Maryland, Virginia, and other partners maintain a collaborative research program for Atlantic menhaden.

## **3.0 COMMERCIAL FISHERIES MANAGEMENT MEASURES**

Addendum IV extends the management measures contained in Addendum III for an additional three years through 2013.

### **3.1 Atlantic Menhaden Harvest Cap**

The annual total allowable harvest from the Chesapeake Bay by the reduction fishery is limited to no more than 109,020 metric tons (the average landings from 2001-2005). Harvest for reduction purposes shall be prohibited within the Chesapeake Bay when 100% of the cap is

harvested from Chesapeake Bay. This cap is in place for the fishing seasons starting in 2011 and going through 2013. Over-harvest in any given year will be deducted from the next year's allowable harvest.

### **Annual Credit for Harvest Underages**

The annual Chesapeake Bay harvest cap under Addendum IV is not based on a scientifically quantified harvest threshold, fishery health index, or fishery population level study. Due to data limitations, it is unknown if exceeding the 109,020 metric-ton limit will negatively affect the health of the menhaden population. The cap is designed to prevent the Chesapeake Bay reduction fishery harvest of Atlantic menhaden from expanding while the necessary scientific studies are being conducted to explore the potential for localized depletion in the Chesapeake Bay.

Assuming a cap of 109,020 metric tons had been in place over the 2001-2005 reference period, the maximum underage that would have occurred during that time period is 13,720 metric tons. The maximum rollover of unlanded fish is 13,720 metric tons. Adding that underage to the 109,020 metric ton cap results in a cap of 122,740 metric tons.

In years when annual menhaden harvest in the Chesapeake Bay for reduction purposes is below the 109,020 metric-ton cap, the underage amount shall be credited to the following year's allowable harvest. Under no circumstances can allowable harvest in any given year from 2011 through 2013 exceed 122,740 metric tons. Such credit can only be applied to the following calendar year's harvest cap and cannot be reserved for future years or spread over multiple years.

Further, if no more than the underage amount in one year is credited to the next year's allowable harvest, the annual average harvest for 2011 through 2013 cannot exceed 109,020 metric tons.

## **4.0 COMPLIANCE**

Full implementation of the provisions of this Addendum is necessary for the management program to be equitable, efficient and effective. States are expected to implement these measures faithfully under state laws. Although the ASMFC does not have authority to directly compel state implementation of these measures, it will continually monitor the effectiveness of state implementation and determine whether states are in compliance with the provisions of this FMP. Additional details of the procedures can be found in the ASMFC Interstate Fisheries Management Program Charter.

### **4.1 Mandatory Compliance Elements for the States**

Any state with reduction processing capabilities will be determined to be out of compliance with the provisions of this addendum, according to the terms of the ISFMP Charter if:

- its regulatory and management programs to implement the "Commercial Fisheries Management Measures" as detailed above have not been approved by the Atlantic Menhaden Management Board; or
- it fails to meet any schedule required by the "Compliance Schedule", or any addendum prepared under adaptive management; or

- it has failed to implement a change to its program when determined necessary by the Atlantic Menhaden Management Board; or
- it makes a change to its regulations required under the “Commercial Fisheries Management Measures” or any addendum prepared under adaptive management, without prior approval of the Atlantic Menhaden Management Board.

#### **4.1.1 Mandatory Elements of State Programs**

To be considered in compliance with this addendum, all states must include harvest controls on Atlantic menhaden fisheries consistent with the requirements of the “Commercial Fisheries Management Measures” detailed above.

##### ***4.1.1.1 Regulatory Requirements***

Each state with reduction processing capabilities must submit its required Atlantic menhaden regulatory program to the Commission through the ASMFC staff for approval by the Atlantic Menhaden Management Board. During the period from submission, until the Management Board makes a decision on a state’s program, a state may not adopt a less protective management program than contained in this addendum or contained in current state law. The following lists the specific compliance criteria that a state must implement in order to be in compliance with Addendum IV.

- The annual total allowable harvest from the Chesapeake Bay by the reduction fishery is limited to no more than 109,020 metric tons. Harvest for reduction purposes shall be prohibited within the Chesapeake Bay when 100% of the cap is harvested from Chesapeake Bay. This cap is in place for the fishing seasons starting in 2011 and going through 2013. Over-harvest in any given year will be deducted from the next year’s allowable harvest.
- In years when annual menhaden harvest in the Chesapeake Bay for reduction purposes is below the 109,020 metric-ton cap, the underage amount shall be credited to the following year’s allowable harvest. Under no circumstances can allowable harvest in any given year from 2011 through 2013 exceed 122,740 metric tons. Such credit can only be applied to the following calendar year’s harvest cap and cannot be reserved for future years or spread over multiple years.

Once approved by the Atlantic Menhaden Management Board, states are required to obtain prior approval from the Board of any changes to their management program for which a compliance requirement is in effect.

#### **4.2 Compliance Schedule**

States must implement Addendum IV under the following schedule:

April 1, 2010: States with reduction processing capabilities must submit programs to implement Addendum IV for approval by the Atlantic Menhaden Management Board. Programs must be implemented upon approval by the Atlantic Menhaden Management Board.

July 1, 2010:

States with reduction processing capabilities must implement Addendum IV. States may begin implementing management programs prior to this deadline if approved by the Management Board. Harvest of Atlantic menhaden from the Chesapeake Bay for reduction purposes prior to this implementation date must be counted towards the 2011 cap.