

**Virginia Marine Resources Commission**  
**Menhaden Management Advisory Committee (MMAC)**  
Conducted via electronic means using WebEx  
Wednesday, March 31, 2021 – 4:00 P.M.

**ATTENDANCE**

Members Present

Dr. Rob Latour (Chair)  
Shanna Madsen (Vice Chair)  
Steve Atkinson  
Monty Deihl  
AJ Erskine  
Daniel Knott  
Mike Leonard  
Chris Moore  
Ken Schultz (call-in only)

VMRC Staff Present

Pat Geer  
Adam Kenyon  
Olivia Phillips  
Somers Smott  
Lewis Gillingham  
Alexa Kretsch  
Jill Ramsey  
Ellen Bolen

Members Absent

Mark Federici

Others Present

Kevin Lesser  
Mike Waine  
Peter Himchak  
Shaun Gehan  
Thomas Moore  
Carl Rice  
Forest Brann  
Jimmy Kellum  
John Deihl  
Charles Williams  
Robert Crockett  
Taylor Deihl  
Ben Landry  
Brandy Stargell

Minutes were prepared by Olivia Phillips.

**I. MMAC Announcements – P. Geer**

Due to the COVID-19 office closure, this meeting was conducted via electronic communication means (WebEx). The meeting was called to order by Chairman, Dr. Rob Latour at 4:05 P.M. Dr. Latour acknowledged that discussing the Menhaden resource can be contentious, and thus encouraged evidence-based arguments and positive, open, and respectful discourse.

**II. Approval of minutes from the from November 17, 2020**

The motion to approve the minutes from the November 17, 2020 meeting was made by Mr. Steve Atkinson, seconded by Mr. Chris Moore. The minutes were approved by consent.

### **III. New Business:**

#### **A. Menhaden Life History, Biology, Ecology**

Dr. Latour began with a presentation on the life history, biology, and ecology characteristics of Atlantic menhaden that have been published in recent scientific literature. Size data, tagging studies, and genetic studies have shown that Atlantic menhaden are comprised of a single stock that occupies North Florida to the Gulf of Maine. Although MMAC is focused on menhaden in Virginia, scientific evidence indicates that there is one coastwide stock, and there is no support for a Chesapeake Bay-specific population. Atlantic menhaden exhibit seasonal migrations that occur north and inshore during the spring with some movement south and offshore during the fall. Menhaden in the northern part of the stock's range are more resident throughout the year than menhaden in the southern portion of the stock's range. Menhaden exhibit variable growth over time, largely due to environmental forcing and density-dependence, and recent studies have observed a declining trend in mean maximum size of menhaden. In reference to recruitment, larval abundances have increased in recent years, but larval survival has decreased over time. The decreased larval survival observed is likely due to changing environmental conditions. The natural mortality (M) value used in the stock assessment is very high for young fish because of the species' status as a forage fish. Landings in the reduction fleet have decreased recently, while landings for the bait fleet have increased. There are no major coastwide patterns in survey indices over time. And finally, the single-species assessment suggests a healthy stock status, but uncertainties remain in understanding the stock dynamics.

Following Dr. Latour's presentation, Deputy Chief Shanna Madsen (TC representative) began a presentation on the history of Atlantic menhaden management. The first coastwide FMP for Atlantic menhaden was approved in 1981, at which time the FMP did not specify any management actions. In 1992, an objective to improve data collection and promote fishery awareness was included, but the FMP still did not include management actions. In 2001, Amendment I was implemented, which had more management objectives, but no regulations. Addendum 1 implemented biological reference points (BRP), with language that allowed for modification of the BRPs through future addenda, as knowledge of the stock increased. In 2005, Addendum 2 instituted a harvest cap on the reduction fishery in the Chesapeake Bay, based on landings from 2000 to 2004, in response to concern of localized depletion of the resource within the Chesapeake Bay. Addendum 2 also outlined a series of research priorities to examine the validity of local depletion within the Chesapeake Bay. The Bay cap was put in place as a conservative measure to limit depletion if it was in fact happening, until the scientific questions could be evaluated. In 2006, Addendum 3 revised the Bay cap based on landings from 2001 to 2005, and the Bay cap was put in place for 2006 to 2010. During this time a rollover stipulation was put in place for 13 thousand metric tons. In 2009, Addendum 4 was established, and extended the Bay cap. In 2013, Amendment II was approved in response to the 2012 stock assessment which indicated that overfishing was occurring. Amendment II maintained the reference points, but established a coastwide Total Allowable Catch (TAC), which represented a 20% reduction in average landings from 2009 to 2011. Amendment II also established state allocations, which were also based on average landings from 2009 to 2011. At this time, more reporting requirements were implemented to monitor the quota, to determine overage payback, and allow quota transfers between different jurisdictions. Virginia currently holds the majority of the coastwide quota, followed by New Jersey. Amendment II also established a 6000 pound

bycatch allowance that allowed states to continue to harvest menhaden as bycatch once their quota had been reached, without counting against the state's quota. Amendment II also established an episodic events set aside program, which allowed states with little or no quota to use the resource when they were in the area. Atlantic menhaden are currently managed under Amendment III, which kept the single species BRPs (until menhaden-specific Ecology Reference Points are available), changed the TAC allocations, established a baseline quota of 0.5% for all states (based on average landings from 2009 to 2011), and maintains that 1% of the TAC is set aside for the episodic event program. The bycatch provision was slightly changed under Amendment III, such that it defines the small scale fisheries and allows for incidental catch within those fisheries. Amendment III maintains a 6000 pound bycatch limit, but allows for harvesters from the same vessel to land up to 12,000 pounds because there are two people working. Amendment III also removed the rollover provision, and reduced the Bay cap to 51,000 pounds because of underperformance of the Bay catch. Amendment III also established that overages must be paid back in the next calendar year.

Deputy Chief Madsen then explained current management and potential upcoming management. Addendum 2 first established the Bay cap and the research program designed to evaluate the potential for localized depletion within the Chesapeake Bay. The program went on for a number of years, and in 2009 the Center of Independent Experts (CIE) evaluated the results of all projects within the program and was unable to conclude that there was or was not localized depletion of Atlantic menhaden within the Chesapeake Bay. One reviewer stated that localized depletion was unlikely, and if it were occurring would only take place over a small scale in a short period of time. All three reviewers stressed that that the research priority should be to determine predatory needs within the Chesapeake Bay. In 2020, the Board established Ecological Reference Points (ERP), but continues to set the TAC using projections from the single-species model. At the Winter 2021 Board Meeting, the Board tasked the TC with a series of different questions regarding a spatially explicit regional model that will specifically answer questions regarding the Bay Cap. The TC will produce a memo for the Board to review at the ASMFC meeting week in May. During the May meeting week, the Board will also decide whether or not they want to initiate a management document that will evaluate a new state-by-state allocation.

Following Chief Deputy Madsen's presentation, Chairman Latour opened the floor for questions from the committee. Mr. Chris Moore asked for Virginia-specific fishery independent datasets for the committee's consideration. Dr. Latour indicated that those data could be made available, but explained that the goal of his presentation was to emphasize the coastwide nature of the stock. He asked Mr. Moore to submit a data request and specific questions to be discussed at a future committee meeting. Mr. AJ Erskine also showed interest in Virginia-specific data, citing the committee's position as advisers for the Commonwealth of Virginia, specifically. He also asked for clarification how management of menhaden has changed in Virginia now that VMRC has sole jurisdiction within the state. Deputy Chief Madsen explained that parts of code were stricken, but those exact pieces were written into VMRC regulation. Mr. Erskine asked if the Bay-wide stock is managed through ASMFC, and Deputy Chief Madsen confirmed this stating that management changes come down through ASMFC. She clarified that, although ASMFC determines the coastwide quota allocation, the Virginia share of the coastwide quota is allocated through VMRC regulation. That is, Virginia can adjust sector specific allocations within the state. Mr. Moore asked if all sectors were catching their allocated quota. Deputy Chief Shanna explained that all sectors within the state catch close to their quota. She further explained that

although the bycatch allowance was not used last year, it has been used within the small-scale non-purse seine bait sector in recent years. Mr. Mike Leonard asked if the bycatch allowance is reported, and how that affects Virginia's quota. Deputy Chief Madsen explained that it is most definitely reported, but it does not count against the state's quota. She also clarified that, although the combined total of the bycatch allowance could sound like a lot, it is not a significant amount in comparison to the rest of the quota.

In reference to Dr. Latour's presentation, Mr. Steve Atkinson asked clarifying questions about declining abundance of younger or older menhaden coinciding with fishing events. Dr. Latour explained that although all the models within the stock assessment include age-specific data, the limitation here is that we do not have a good understanding of the relationship between abundance of mature fish and resulting recruitment. Mr. Moore asked why the patterns within the fishery independent surveys were not concerning, despite the downward trend in abundance and variability over time. Dr. Latour explained that the survey results provide relative indices, which are not absolute abundance. He clarified that the data used to estimate relative indices are noisy, which yields a lot of uncertainty. He explained that there is no cause for concern based on the independent fishery surveys because the fisheries have continued along over time, and the assessment showed a healthy stock status. He also specified that the independent fisheries surveys may not be the best indicator of overall abundance because there are currently no menhaden-specific surveys.

## **B. Issues for Committee Consideration**

Mr. Atkinson referenced the proposal he prepared for this meeting regarding a commercial safety zone around the Chesapeake Bay Bridge Tunnel (CBBT). He explained that, as a recreational angler over the years, he has observed and heard of conflicts or perceived conflicts between the reduction fishing boats and recreational saltwater anglers. He indicated that most of these conflicts occur around the CBBT because there is a lot of boating traffic in the area. Mr. Atkinson explained that he feels these conflicts often go undocumented because recreational anglers do not know how to report these conflicts or who to contact. He expressed concern about safety, and asked the committee to consider recommending establishment of a one-mile, safety buffer area around the CBBT that would restrict purse seining within the area. Following Mr. Atkinson's proposal, Chairman Latour asked Mr. Monty Deihl to present the slides he prepared for the discussion. Mr. Deihl presented maps that illustrated the number and location of sets conducted by Omega's reduction fleet near the CBBT during the period of 2016 to 2019. He also showed a copy of the Captain's Daily Fishing Reports required for each set that include the lat-long coordinates for each set. He explained that the Omega Company's reduction boats rarely move into the CBBT area to prevent interaction with the CBBT itself, as well as with recreational vessels. However, he explained that when menhaden schools occur within the area, and their experienced and knowledgeable captains deem the situation safe, the company does and would like to continue fishing close to the CBBT. Further, Mr. Deihl cited that the Omega Company has never had a vessel interaction with the CBBT. Mr. Deihl also specified that there are only eight reduction fleet boats, and that they are only in the CBBT area for 40 to 45 minutes at a time. Ultimately, Mr. Deihl advocated for no restricted areas.

Mr. Atkinson asked clarifying questions about the maps Mr. Deihl provided, specifically it appeared that some of the points were on top of the bridge. Both Mr. Deihl and Chief Pat Geer

explained that the points in the map were made larger to make them easier to see so they are not to scale, and that due to the nature of data collection there is some likelihood of human error in entering coordinates. Mr. Leonard asked how accurate the coordinates are, considering the uncertainty. Deputy Chief Madsen indicated that the coordinates are validated (QA/QC) within NOAA. Dr. Latour asked the committee whether or not they would be interested in a statement from NOAA about their QA/QC procedure. The committee expressed some interest, and Deputy Chief Madsen agreed to reach out to her contact at NOAA and report back to the committee. Dr. Latour asked staff if there are any recreational or commercial regulations in place for safety in this area or others. Chief Geer confirmed that there are some regulations specific to commercial gears and how close they can be to that bridge, namely the ½ mile zone of caution. Mr. Deihl clarified that most of the gear mentioned by Chief Geer is stationary gear, which does not apply to the purse seine boats. Dr. Latour then asked if there had been any complaints in the past, and whether or not those were documented somewhere. Chief Geer indicated that there had been 11 complaints in reference to the reduction fleet and Omega Protein, but most of those complaints were about fish spills. He specified that only three complaints referenced interactions, one of which was a complaint from Omega Protein about being harassed by recreational anglers. One was a complaint from a recreational angler about interaction conflict. And another was a complaint from a commercial harvester claiming that Omega Protein had dropped gear on a pound net. Chief Geer explained that any calls that come through dispatch are thoroughly checked and dealt with. Mr. Erskine, the purse seine/bait sector representative, explained that they do fish near the CBBT, but he is unaware of any user conflicts that have occurred in the area. He explained that harvesters in this sector are extraordinarily cautious around the CBBT because they have no intention of hanging nets on the CBBT for safety of all and for the gear itself. Mr. Ken Schultz asked Mr. Deihl to quantify how the reduction fishery would be adversely affected by the proposed restricted area. Mr. Deihl indicated that from 2016 to 2019, 0.35% of their sets occurred in the caution area and 0.77% of their sets occurred within the 2 nm buffer proposed by Mr. Atkinson. He clarified that although it sounds like a small number, they would oppose a restricted area because when it is the only place to fish they would like to have the opportunity to fish in the area. Mr. Atkinson held firm in his belief that there is user conflict in the area, and cited a lack of documentation of complaints as the reason VMRC and the committee are unaware of the conflicts. Mr. Daniel Knott explained that in his experience as a commercial gill net harvester, he has received complaints, of which most are unfounded or unwarranted. He explained that people often do not understand how commercial gear works or just do not approve of commercial fishing. He provided anecdotal evidence citing recreational anglers harassing Omega Protein vessels rather than Omega Protein vessels bullying recreational anglers. Mr. Deihl confirmed that there have been events in which recreational anglers harassed Omega Protein vessels. Mr. Leonard suggested that there is not enough quantified, documented evidence to confirm the conflict on either side, and thus, he suggested providing education to recreational anglers about how to report conflict and who to contact. Mr. Atkinson agreed, and asked that the committee revisit this issue if and when enough complaints are documented.

Following the discussion of user conflicts around the CBBT, Chairman Latour asked Mr. Atkinson to present his proposal regarding commercial and recreational user conflicts near Virginia Beach. Mr. Atkinson explained that he wanted to make the committee and the public aware that there is an area off the coast of Virginia in which Omega Protein made a gentlemen's agreement with Charter boat captains. Mr. Deihl confirmed that this area exists. He explained that in 2015 a group of charter captains thought they could not catch fish while they were trolling

because of Omega Protein. In response to this issue, Mr. Deihl met with the group of 25 charter captains to understand the origin of the issue. At this meeting, the charter captains explained that they make most of their business trolling off of Virginia Beach between Memorial Day and Labor Day. The charter captains believed that the Omega Protein vessel engines scared the fish off, making it difficult for the charter captains to catch fish at the same time. They asked Mr. Deihl if Omega Protein vessels could avoid the area during that period of time, and Mr. Deihl agreed. Following this explanation of the gentlemen's agreement between Omega Protein and the charter captains, Mr. Deihl expressed disinterest in establishing this area as a restricted zone for purse seining in regulation because fishing timelines and areas change overtime, and Omega Protein may want or need to fish in that area in the future. He explained that he sees this agreement as a professional courtesy that is working well, but would not want to see it codified in regulation. Dr. Latour asked Mr. Deihl whether or not Omega Protein plans to keep this agreement moving forward, and Mr. Deihl confirmed this. Mr. Atkinson suggested that this agreement be shared with area angler clubs so that when people have questions about potential conflicts or issues they know there is a gentlemen's agreement based on professional courtesy. He further explained that this is another situation in which he would like to see anglers educated on how they can report conflict and who they should contact. Dr. Latour encouraged all the committee members to go back to the groups they represent and provide them with updates on these committee meetings. Mr. Erskine wanted to clarify whether this agreement was solely between Omega Protein and the charter captains or if it was also on behalf of the bait fishery. Mr. Deihl explained that he would not speak on behalf of other business, so the agreement was solely between Omega Protein and the charter captains.

#### **IV. Other Business**

##### **A. Discussion on Future Standard Meeting Time**

Chairman Latour opened the floor for discussion on whether or not the committee should set standard meeting days and times for future meetings. Deputy Chief Madsen asked for specific time suggestions for the March and November meetings, at which time Mr. Moore asked the committee to consider adding a summer meeting in July. He indicated that the summer meeting could include discussions of fishery independent data, TC meeting results, and any other issues that arise between now and then. After some discussion, the committee decision was to include a summer meeting in the schedule, but any meeting could be canceled if no agenda items are presented. The committee agreed to hold future meetings on the 3<sup>rd</sup> Wednesday in March, July, and November from 4 to 6 PM.

#### **V. Adjournment**

The meeting was adjourned at 6:13 P.M. by Chairman Latour.