

Atlantic States Marine Fisheries Commission



ASMFC Vision Statement:

Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015.

ADDENDUM III **TO AMENDMENT 1 TO THE** **INTERSTATE FISHERY MANAGEMENT PLAN FOR** **ATLANTIC MENHADEN**

November 2006

STATEMENT OF THE PROBLEM

In August 2005, the Atlantic Menhaden Management Board (Board) approved Addendum II to Amendment 1 to the Interstate Fishery Management Plan (FMP) for Atlantic Menhaden. Addendum II established a five-year annual cap on reduction fishery landings in the Chesapeake Bay based on the mean landings over the last five years. Since it was approved the final landings total for 2005 has been compiled. This addendum uses data from the most recent five years (2001-2005) to establish the cap for the harvest of menhaden from the Chesapeake Bay by the reduction fishery. The harvest cap is in place for 2006 through 2010.

On July 31, 2006, Atlantic Menhaden Management Board Chair, A.C. Carpenter, and ASMFC Executive Director, John V. O'Shea were notified by Governor Timothy Kaine of the Commonwealth of Virginia of the state's intent to implement an annual menhaden harvest cap of 109,020 metric tons in Chesapeake Bay for reduction purposes. The planned cap was set at the average annual harvest for the Bay reduction fishery from 2001 through 2005 and would be in place for 2006 through 2010.

Virginia's proposed implementation of a harvest cap for reduction fisheries in Chesapeake Bay was consistent with the methodology included in Addendum II, however landings data from the most recent five years (2001 – 2005) were used to calculate the cap level. Its plan also contained other components including the ability to adjust the cap on an annual basis due to harvest overages or underages. The plan included a maximum underage that can be carried over to the subsequent year. A Memorandum of Understanding on cooperative research between the Commonwealth of Virginia and Omega Protein has been developed, and includes an agreement to work cooperatively for future federal funding for additional research.

BACKGROUND

Addendum II, approved in August 2005, established a five-year annual cap on reduction fishery landings in the Chesapeake Bay based on the mean landings over the last five years (2000-2004). The cap was to be implemented beginning in 2006.

Addendum II was approved in response to concern regarding the possibility of localized depletion of menhaden in the Bay. The 2003 peer-reviewed stock assessment and 2006 assessment update indicate that menhaden are not overfished and overfishing is not occurring on a coastwide basis, however, its bay-wide status is unknown. Due to this uncertainty, the Management Board approved a precautionary cap to limit the expansion of menhaden reduction landings from Chesapeake Bay. Addendum II established the annual cap at no more than the average landings from 2000-2004 for the Bay reduction fishery. This cap was to be in place for fishing seasons starting in 2006 and going through 2010.

At the same time, the Addendum 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 Commission and the NOAA Chesapeake Bay Office have initiated collaborative research program for Atlantic menhaden.

Addendum III was initiated in response to a proposal submitted by the Commonwealth of Virginia that essentially mirrors the intent and provisions of Addendum II but incorporates 2005 landings data and allows for the transfer of under-harvest to the following year's harvest.

COMMERCIAL FISHERIES MANAGEMENT MEASURES

This section replaces Section 3.3 of Addendum II to Amendment 1 to the Interstate Fisheries Management Plan for Atlantic Menhaden.

Atlantic Menhaden Harvest Cap

At the time Addendum II was approved in October 2005, the harvest cap was based on a five-year average of harvest data from 2000 through 2004. Since then harvest data for 2005 has become available. Using the methodology in Addendum II and the most recent harvest data (2001-2005), the five-year average of reduction harvest in the Chesapeake Bay is 109,020 metric tons. The data was provided by Omega Protein and verified by the National Marine Fisheries Service.

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 2006 and going through 2010. Over-harvest in any given year will be deducted from the next year's allowable harvest.

Annual Credit for Harvest Underages

The current annual Chesapeake 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 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 2006 through 2010 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 2006 through 2010 cannot exceed 109,020 metric tons.

RESEARCH

Addendum II established a research program for the Chesapeake Bay. It focused on four research priorities recommended by the Atlantic Menhaden Technical Committee to examine the possibility of localized depletion of Atlantic menhaden in the Bay. The research program is moving forward under the direction of NOAA Chesapeake Bay Office, the Atlantic States Marine Fisheries Commission, Maryland, and Virginia.

Omega Protein and the Commonwealth of Virginia have entered into a Memorandum of Understanding to participate in research necessary to study the possibility of localized depletion. The agreement details research projects and Omega Protein's role. The research is expected to provide more information to the Management Board for its management decisions after this addendum expires. Omega Protein and the Commonwealth of Virginia will work together to secure additional federal funding for menhaden research.

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 Atlantic States Marine Fisheries Commission 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 fishery management plan. Additional details of the procedures can be found in the Commission's Interstate Fisheries Management Program Charter.

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.

5.1.1 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.

5.1.1.1 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 III.

- 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 2006 and going through 2010. 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 2006 through 2010 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.

Compliance Schedule

States must implement Addendum III to the following schedule:

January 1, 2007: States with reduction processing capabilities must submit programs to implement Addendum III for approval by the Atlantic Menhaden Management Board. Programs must be implemented upon approval by the Atlantic Menhaden Management Board.

July 1, 2007:

States with reduction processing capabilities must implement Addendum III. States may begin implementing management programs prior to this deadline if approved by the Management Board. Any harvest of Atlantic menhaden from the Chesapeake Bay for reduction purposes prior to this implementation date must be counted towards the 2006 cap.