

FISHERIES MANAGEMENT DIVISION EVALUATION, 12/6/2022

PUBLIC HEARING: Proposal to amend Chapter 4 VAC 20-1270-10 et seq., "Pertaining to Atlantic Menhaden", to modify purse seine area and time restrictions.

ISSUES: The Virginia menhaden fishery has reported an average of four (4) fish spills per year between 2018 and 2021 (N=16). The majority of those spills (and quantity of fish) are from the purse seine reduction and purse seine bait sectors (N=14). During these four years (2018-2021) the reported purse seine net spills ranged from 5,000 fish (3,350 lbs.) to 300,000 fish (201,000 lbs.), with an average of 113,141 fish per event (75,804 lbs.). The spills consist primarily of menhaden and represent 0.06% of the overall annual state menhaden quota during that four-year period. Depending on the wind and tides, dead fish may wash ashore littering local shorelines.

Several spills in July 2022 resulted in a number of dead menhaden and other species washing ashore at Silver Beach and Kiptopeke State Park, closing the beaches for recreational purposes. Public concern from recreational anglers and other stakeholders has been heard by the Commission, the Secretary of Natural Resources, and the Governor's Office. The proposed regulatory amendments have been developed with the intent to limit future spill incidents while reducing user conflict and strengthening the stewardship of shared natural resources and water areas amongst all user groups.

BACKGROUND: Purse seines, whether the resulting product is for reduction or bait, catch 98.42% of Virginia's menhaden allocation from the Atlantic States Marine Fisheries Commission, and as such, results in the bulk of the state's commercial menhaden fishing effort. These nets are deployed by 40-foot "purse" boats that encircle a small portion of a menhaden school then close the bottom of the net to form the purse. Large mother vessels (165 - 185 feet in length) will then use pumps to transfer the fish from the purse to the vessel hold. These mother vessels have very limited maneuverability when pumping fish onboard. Spills occur when vessels drift into shallower waters while pumping fish, and the net tears on underwater obstructions. The fish mortality rate associated with these spills is unknown, and will vary depending on water temperature, number of fish, and how tight (or "dry") the net is when the spill occurs. Dead fish will typically float to the surface in one to three days depending on water temperature. The industry reports spill events to VMRC and both parties monitor the spill. Omega Protein deploys an environmental clean-up contractor when they are responsible for a spill that may wash up on shorelines and beaches.

The spills that occurred in 2022 have greatly increased the public awareness of Virginia's purse seine fisheries. An unreported menhaden spill occurred the first week of July with a limited number of dead fish washing up on Silver Beach over Independence Day weekend. On the afternoon of July 5, Omega Protein notified VMRC that one of their Ocean Harvesters vessels had a net tear two-thirds of a mile from Silver Beach, and given the wind conditions, fish would wash ashore. Omega Protein deployed their environmental clean-up contractor (HEPACO) on July 7 and they removed 4,895 menhaden (3,280 lbs.) from the beach. Omega Protein officials estimate the entire spill to be 19,582 fish (13,120 lbs.)

Omega Protein officials notified VMRC again on July 25 that while pumping out a net one nautical mile east of the cement ships at Kiptopeke State Park, the vessel captain noticed a number of large red drum in the net and ordered the net released to attempt to save as many fish as possible. By the next morning (July 26), Omega Protein officials notified the Commission that dead red drum and menhaden were washing up on Kiptopeke State Park Beach. All Ocean Harvesters vessels assisted with clean-up efforts on the water, and Omega Protein's contractor (HEPACO) cleaned up the beach. Commission staff were able to sample 25 red drum from those collected from the vessels. The sizes ranged from 42.83 to 53.94 inches (average = 48.19 inches), weighing between 31.84 and 56.15 lbs. (average = 45.56 lbs.). The dead fish reported by Omega Protein for this spill resulted in 10,000 menhaden (6,700 lbs.) and an estimated 264 red drum (12,000 lbs.). This latest spill created further public concerns resulting in several individuals and organizations to attend Commission meetings on August 23, September 27, and October 25 requesting Governor Youngkin and the VMRC prohibit the purse seine reduction fleet from fishing in the Bay for several reasons, including to prevent the loss of both menhaden, valuable spawning sized gamefish, and loss of tourism revenue to local municipalities as a result of these spills. These incidents heightened the concerns of the general public, recreational anglers, conservationists, and local municipalities. Several state senators and delegates have also asked for VMRC and the Governor to consider taking action.

The probability of a net tear and fish spill from the menhaden purse seine fisheries is very low (0.11% or 1.11 spills for every 1,000 net sets). However, when those spills result in dead fish washing up on public beaches during the summer season, or include managed and protected gamefish as bycatch, then there is heightened awareness and concern. The proposed modifications to Chapter 4 VAC 20-1270-10 et seq., "Pertaining to Atlantic Menhaden" are made with the intent to reduce future incidents such as these while limiting user conflict in congested areas.

Prohibit purse seine fishing a defined distance from shore: Distance from shore has some relationship with depth. By restricting the fleet a set distance from the shore, in to deeper waters, they are less likely to snag on bottom obstructions and tear their nets. Location of the spill, wind, and tides all play a major factor on where dead fish will ultimately be transported. Prohibiting purse seine vessels from operating within a set distance from shore in state waters will keep fishing operations in deeper waters and reduced the possibilities of dead fish from any future spills from reaching the shore. Table 1 shows the percent of fishing effort (number of net sets) that would have been displaced by a 1.0 nm buffer when applied to the previous five years of fishing effort in the Bay and Virginia Beach as well as total effort. Figure 1 shows the location of those buffers.

Table 1. The percent of fishing effort (net sets) displaced by 1.0 nm shoreline buffer in the Chesapeake Bay.

Data source: Captain’s Daily Fishing Reports (CDFRs).

Year	Pct of Bay Effort	Pct of Total Effort
2016*	4.38%	1.87%
2017*	7.49%	1.93%
2018	9.07%	3.10%
2019	6.11%	3.33%
2020	6.64%	2.79%
2021**	1.94%	1.10%
2022**	6.55%	5.82%
Total	6.41%	2.63%

*: Reduction Fleet data only.

** : Bait Fleet data only.

Chesapeake Bay Bridge Tunnel Buffer Zone: The Chesapeake Bay Bridge Tunnel (CBBT) spans 17.6 miles across the Bay mouth, connecting Virginia Beach to Eastern Shore. The four-lane crossing consists of a series of low-level trestles interrupted by two approximately one-mile-long tunnels beneath Thimble Shoal and Chesapeake navigation channels. Four manmade islands are located at each end of the two tunnels. There are also two high-level bridges navigating North Channel on Eastern Shore. The structure creates habitat that supports marine species targeted by both recreational and commercial fishermen. Vessel activity is relatively high in this area with military, commerce, recreational and commercial vessels routinely traversing the three channels. There have been complaints by both recreational and commercial fishers regarding user conflicts in this area. Reports from both groups have occurred concerning individuals refusing to move, and others fishing right on top of another vessel. There is presently a caution area 0.5 nautical miles on both sides of the bridge

structure (Figure 1). This caution area is clearly marked as purple lines on all navigation charts and is described in Note H of the National Oceanographic and Atmospheric Administration (NOAA) Nautical Chart number 12222 (rev. 8/24/2022) as a caution area,

“The Chesapeake Bay Bridge Tunnel Complex has on several occasions suffered damage from vessels due to adverse weather conditions. Currents in excess of three knots can be expected in the area. Mariners transiting this area are urged to be particularly alert in regards to the weather situation... Maneuvering in close proximity of the bridge-tunnel complex is discouraged.”

The purse seine commercial fishing fleet has reported limited effort in this area between 2016 and 2020 (0.40% of total effort). The purse seine bait sector has no reported effort in this area over this same time. However, most of the reduction effort occurs in July/August (55.4%) and October/November (30.4%) – both periods of very high recreational fishing effort. There are a number of Commission gear and species regulations established with temporal and/or spatial restrictions associated with the CBBT (gill nets, fish and eel pots, hook-and-line with a purpose to “*promote the general welfare of the seafood industry by avoiding gear conflicts proximate to the Chesapeake Bay Bridge-Tunnel*” (Chapter 4 VAC 20-80-10 et. seq.). The proposed regulatory amendments seek to reduce user and gear conflicts in this high-traffic area.

Prohibit purse seine fishing in the Chesapeake Bay during summer

holidays: Recreational activities on the water and beaches peaks during summer holidays: Memorial Day, Independence Day, and Labor Day. A fish spill during those times will affect the public’s enjoyment of the Commonwealth’s natural resources and may even close public beaches if dead fish wash ashore. The impacts to local businesses and municipalities relying on summer tourist dollars during these holidays can be significant. Preventing the possibility of a spill during these holidays is important local economies and the rights of residents and visitors to enjoy the Commonwealth’s natural resources. Prohibiting purse seines in the Bay the four days prior to both Memorial Day and Labor Day, and July 1-7 will reduce the impacts of spills to the shorelines during summer holidays, but still allow the fishery to operate east of the Chesapeake Bay Bridge Tunnel. Of those 17 days, six are weekends when the fleet rarely is fishing. Between 2016 and 2020, 5.71% of the Bay purse seine reduction fishing effort occurred during the proposed 17 holiday closure days: Memorial Day, (N=5 days, 3.15%.); July 1-7, (N=7 days, 1.74%); and Labor Day, (N=5 days, 0.83%). The bait purse seine sector had a higher percentage of their Bay effort occurring during these closed days at 10.79% (Table 2).

SUMMARY:

These proposed amendments to Chapter 4 VAC 20-1270-10 et seq., "Pertaining to Atlantic Menhaden", are to prohibit the harvest of menhaden by purse seine under the following temporal and spatial circumstances:

- 1) In any waters of the Commonwealth's Chesapeake Bay and the City of Virginia Beach within one nautical mile from the mean low water line.
- 2) One-half nautical mile on either side of the Chesapeake Bay Bridge Tunnel;
- 3) In the Commonwealth's waters of the Chesapeake Bay the Thursday prior to, and through Memorial Day; July 1 through July 7; and the Thursday prior to, and through Labor Day.

Table 2. Fishing effort (net sets) associated with summer holidays (Memorial Day-5 days, Independence Day-7 days, and Labor Day-5 days) for the Purse Seine Reduction Sector (2016-2020) and the Purse Seine Bait Sector (2018-Aug 2022).

Purse Seine Reduction Sector Holiday Restrictions in the Bay

Year	Memorial Day		Independence Day		Labor Day		All Holidays	
	Th-Mo (5 days)		Jul 1-7 (7 days)		Th-Mo (5 days)		17 Days	
	Sets	Pct Effort	Sets	Pct Effort	Sets	Pct Effort	Sets	Pct Effort
2016	74	5.50%	1	0.07%	12	0.89%	87	6.46%
2017	0	0.00%	48	7.19%	0	0.00%	48	7.19%
2018	14	1.44%	39	4.02%	14	1.44%	67	6.61%
2019	85	5.38%	6	0.38%	10	0.63%	101	6.24%
2020	1	0.10%	2	0.21%	10	1.03%	13	1.23%
2021								
2022								
Total	174	3.15%	96	1.74%	46	0.83%	316	5.29%

Purse Seine Bait Sector Holiday Restrictions in the Bay

Year	Memorial Day		Independence Day		Labor Day		All Holidays	
	Th-Mo (5 days)		Jul 1-7 (7 days)		Th-Mo (5 days)		17 Days	
	Sets	Pct Effort	Sets	Pct Effort	Sets	Pct Effort	Sets	Pct Effort
2016								
2017								
2018	1	2.22%	3	6.67%	0	0.00%	4	8.89%
2019	6	15.00%	0	0.00%	4	10.00%	10	25.00%
2020	5	5.62%	8	8.99%	0	0.00%	13	14.61%
2021	6	5.83%	1	0.97%	0	0.00%	7	6.80%
2022	4	2.38%	10	5.95%	0	0.00%	14	8.33%
Total	22	4.94%	22	4.94%	4	0.90%	48	10.79%

Reduction and Bait Purse Seine Sectors Combined Holiday Restrictions in the Bay

Year	Memorial Day		Independence Day		Labor Day		All Holidays	
	Th-Mo (5 days)		Jul 1-7 (7 days)		Th-Mo (5 days)		17 Days	
	Sets	Pct Effort	Sets	Pct Effort	Sets	Pct Effort	Sets	Pct Effort
2016*	74	5.50%	1	0.07%	12	0.89%	87	6.46%
2017*	0	0.00%	48	7.19%	0	0.00%	48	7.19%
2018	15	1.48%	42	4.14%	14	1.38%	71	7.00%
2019	91	5.62%	6	0.37%	14	0.86%	111	6.86%
2020	6	0.57%	10	0.95%	10	0.95%	26	2.46%
2021**	6	5.83%	1	0.97%	0	0.00%	7	6.80%
2022**	4	2.38%	10	5.95%	0	0.00%	14	8.33%
Total	196	3.28%	118	1.97%	50	0.84%	364	6.09%

Pct Effort is the effort (sets) impacted by the restriction relative to total annual Bay effort

*: Reduction data only

** : Bait data only

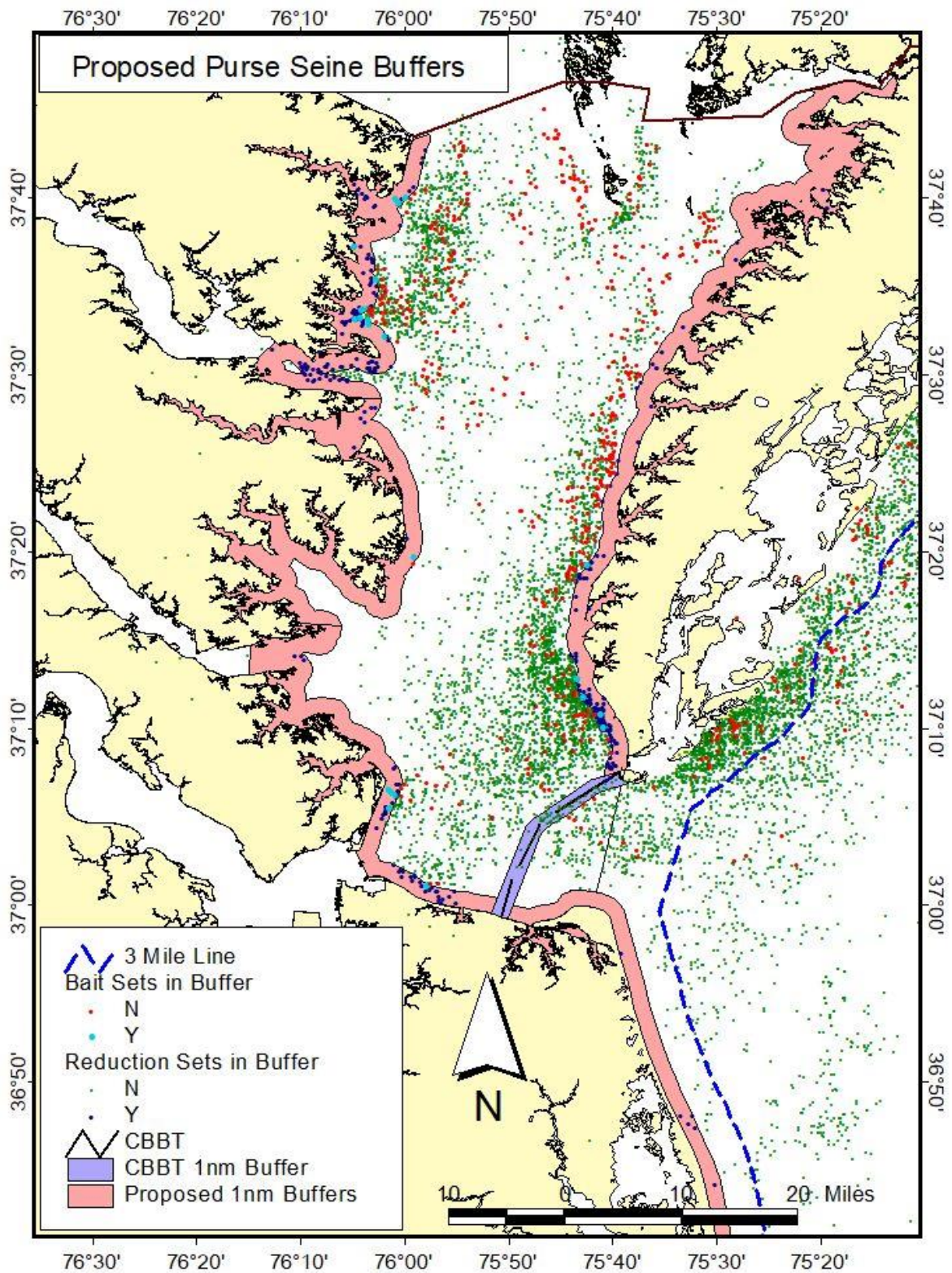


Figure 1. Proposed purse seine one nautical mile buffer restrictions in the Chesapeake Bay and Virginia Beach, along with the caution area surrounding the Chesapeake Bay Bridge Tunnel.

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PREAMBLE

This chapter establishes management measures including an allocation system for three fishing sectors of the commercial menhaden fishery, establishes an annual total allowable commercial harvest from the Chesapeake Bay by the purse seine menhaden reduction sector, establishes a limited entry and individual transferable quota systems for the purse seine menhaden bait sector, and establishes reporting requirements for the three sectors of the commercial menhaden fishery. This chapter is promulgated pursuant to the authority contained in §§ 28.2-201, 28.2-204 and 28.2-204.1 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous Chapter 4 VAC 20-1270-10 et seq., which was promulgated ~~February 22, 2022~~ June 28, 2022 and made effective on ~~March 1, 2022~~ July 1, 2022. The effective date of this chapter is ~~July 1, 2022~~ January 1, 2023.

4 VAC 20-1270-10. Purpose.

The purpose of this chapter is to establish management measures for a sustainable Atlantic menhaden fishery and to provide fair and equitable allocation to the sectors.

4 VAC 20-1270-20. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context indicates otherwise:

“Atlantic menhaden or menhaden” means any fish of the species *Brevoortia tyrannus*.

“Bay Cap” means the annual total allowable commercial landings by volume (pounds or metric tons) from the Chesapeake Bay by the purse seine menhaden reduction sector.

“Chesapeake Bay” means the territorial waters of Virginia lying west of the Chesapeake Bay Bridge-Tunnel.

“Non-purse seine menhaden bait sector” means those vessels that do not utilize a purse seine net to harvest menhaden and land menhaden only for use as bait in other fisheries.

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“Purse seine menhaden bait sector” means those vessels that utilize a purse seine net to land menhaden only for use as bait in other fisheries.

“Purse seine menhaden reduction sector” means those vessels that utilize a purse seine net to land menhaden only at a qualified menhaden processing factory.

“Qualified menhaden processing factory” means a facility located in Virginia that has processed at least 100,000 metric tons of menhaden in each of the years 2009, 2010, and 2011.

“Stationary multi-species gear” means pound nets, anchored or staked gill nets, fishing weirs, floating fish traps, and fyke nets.

4 VAC 20-1270-30. Total allowable landings for menhaden; allocation, accountability, overages, restrictions, closures, state-to-state transfers, and transfers between sectors.

A. Total allowable commercial landings for menhaden in 2022 shall be equivalent to 334,781,533 pounds or 78.66% of the annual total allowable catch (TAC) set by the Atlantic States Marine Fisheries Commission.

B. Total amount of allowable commercial landings in subsection A of this section shall be allocated as quotas among three sectors of the menhaden fishery in proportion to each sector’s share of average landings from 2002 through 2011, as described in subdivision 1, 2, and 3 of this subsection.

1. The purse seine menhaden reduction sector shall be allocated a quota of 301,437,292 pounds or 90.04% of allowable commercial menhaden landings.
2. The purse seine menhaden bait sector shall be allocated a quota of 28,054,692 pounds or 8.38% of allowable commercial menhaden landings.
3. The non-purse seine menhaden bait sector shall be allocated a quota of 5,289,548 pounds or 1.58% of allowable commercial menhaden landings.

C. If the total allowable commercial landings specified in subsection A of this section are exceeded in any calendar year, the total allowable commercial landings for the subsequent calendar year shall be reduced by the amount of the overage. Such overage shall be deducted from the sector of the menhaden fishery that exceeded the allocation specified in subsection B of this section, with

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the exception of the non-purse seine menhaden bait sector, which shall move into the incidental catch provision outlined in subsection ~~F~~ E 3 of this section.

D. Any portion of the 1.0% of the coastwide total allowable catch set aside by the Atlantic States Marine Fisheries Commission for episodic events that is unused as of September 1 of any calendar year shall be returned to Virginia and other states according to allocation guidelines established by the Atlantic States Marine Fisheries Commission. Any such return of this portion of the coastwide total allowable catch to Virginia shall increase the total allowable commercial landings for that year.

~~E. It shall be unlawful for any person to take or catch menhaden using a purse seine net except in accordance with the seasons, areas, and gear restrictions as set forth in §§ 28.2-409 and 28.2-410 of the Code of Virginia.~~

~~F.~~ E. It shall be unlawful to harvest or land in Virginia, any menhaden after the Commissioner of the Marine Resources Commission (commissioner) projects and announces that 100% of the total allowable landings for any sector has been taken. The commissioner may reopen a fishery sector if, after all reports as described in 4VAC20-1270-60 have been received, the portion of the total allowable catch has not been harvested by that sector.

1. The commissioner shall announce the date of closure when the total allowable landings for the purse seine menhaden reduction sector is projected to be taken.
2. The commissioner shall announce the date of closure when the total allowable landings for the purse seine menhaden bait sector is projected to be taken.
3. The commissioner shall announce the date of closure when the total allowable commercial landings for the non-purse seine menhaden bait sector is projected to be taken. Once this closure is announced, any person licensed in the non-purse seine menhaden bait sector may possess and land up to 6,000 pounds of menhaden per calendar day as bycatch. Any two persons licensed in the non-purse seine menhaden bait sector may possess and land up to 12,000 pounds of menhaden bycatch when working together from the same vessel using stationary multi-species gear per the Atlantic States Marine Fisheries Commission incidental catch provision.

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~~G.~~ F. The commissioner may request a transfer of menhaden quota from any other state that is a member of the Atlantic States Marine Fisheries Commission. If Virginia receives a transfer of menhaden quota in any calendar year from another state, the total allowable commercial landings for that calendar year shall increase by the amount of transferred quota. It shall be unlawful for this quota transfer to be applied to the Bay Cap quota as described in 4VAC20-1270-35. The commissioner may transfer menhaden quota to another state only if there is unused menhaden quota at the end of the calendar year.

~~H.~~ G. For 2022, the Marine Resources Commission shall establish a reciprocal temporary transferable quota system between the purse seine menhaden reduction sector and the purse seine menhaden bait sector. Any transfer of menhaden quota between these sectors shall be limited by the following conditions:

1. A transfer of quota to the purse seine menhaden bait sector from the purse seine reduction sector shall be allocated to each qualified licensee's percentage share of the purse seine menhaden bait sector quota.
2. No transfer of quota to the purse seine menhaden bait sector shall be authorized by the Marine Resources Commission unless all qualified individuals of the purse seine menhaden bait sector and the purse seine menhaden reduction sector agree to the transfer and document the transfer on a form provided by the Marine Resources Commission, notarized by a lawful notary public, and approved by the commissioner.
3. No transfer of quota to the purse seine reduction sector shall be authorized by the Marine Resources Commission unless at least one qualified individual of the purse seine menhaden bait sector and the purse seine menhaden reduction sector agree to the transfer and document the transfer on a form provided by the Marine Resources Commission, notarized by a lawful notary public, and approved by the commissioner.
4. No transfer shall be authorized by the Marine Resources Commission unless the transferring qualified individuals of the purse seine menhaden bait sector and the purse

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seine menhaden reduction sector have submitted up-to-date records of all commercial landings of menhaden to the Marine Resources Commission prior to such transfer.

5. Quota transfers between the purse seine menhaden reduction sector and purse seine menhaden bait sector shall be effective only during the calendar year in which the transfer is approved.

4 VAC 20-1270-35. Chesapeake Bay purse seine menhaden reduction fishery.

A. The annual total allowable Bay Cap landings from the Chesapeake Bay by the purse seine menhaden reduction sector shall not exceed 51,000 metric tons (112,435,754 pounds) and shall be subject to annual adjustment for any overages as specified in subdivision 3 of this subsection.

1. It shall be unlawful for any transfers of quota from other states to be applied to the Bay Cap to reduce any overages.

2. It shall be unlawful for any amount of unlanded menhaden quota under the Bay Cap each calendar year to be rolled over or applied as credit for any subsequent calendar years.

3. Any annual menhaden landings in excess of the current calendar year's Bay Cap shall be deducted from only the subsequent calendar year's Bay Cap.

B. When it is projected that the purse seine menhaden reduction sector has met the annual menhaden Bay Cap in the Chesapeake Bay, based on mandatory daily landings reports, the commissioner shall promptly notify industry announcing the date of closure.

C. It shall be unlawful for any person to harvest menhaden by purse seine for reduction purposes from the Chesapeake Bay for the remainder of that calendar year after the commissioner has announced the date of closure.

4 VAC 20-1270-40. Purse seine menhaden bait sector; limited entry criteria; individual transferable quota system, and season.

A. To qualify for limited entry to the purse seine menhaden bait sector, the person shall:

1. Have held a purse seine license in 2011 and landed menhaden in Virginia in 2009, 2010 and 2011, while using purse seine gear to harvest menhaden in one of those three years; and,

2. Provide the commission receipts and landings reports or other requested reports as proof of landings and gear usage to demonstrate that the criteria described in subdivision 1 of this subsection have been met.

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B. The commission shall establish an individual transferable quota (ITQ) system for each purse seine menhaden bait licensee who meets the limited entry requirements in subsection A of this section. The quota for this sector will be allocated according to each qualified licensee's rounded percentage share of the average of the 2007 through 2011 menhaden landings.

C. Each licensee qualified under the ITQ system may transfer quota to another licensee's ITQ upon approval of the commissioner.

D. The season for vessels with a gross weight of less than 70 tons that use purse seine nets to take or catch menhaden for purposes other than use as fish meal or oil shall be from the first Monday in March up to, but not including, the first Monday in May.

4 VAC 20-1270-50. Non-purse seine menhaden bait sector quota allocation.

The non-purse seine menhaden bait sector's quota allocation shall be in proportion to each gear type of average landings from 2002 through 2011 and are as follows:

- 1) Cast net: 0.04% or 2,116 pounds.
- 2) Dredge: 0.06% or 3,174 pounds.
- 3) Fyke net: 0.04% or 2,116 pounds.
- 4) Gill net: 30.31% or 1,603,262 pounds.
- 5) Pound net: 67.98% or 3,595,835 pounds.
- 6) Haul seine: 0.4% or 21,158 pounds.
- 7) Trawl: 1.17% or 61,888 pounds.

4 VAC 20-1270-60. Reporting requirements by menhaden fishery sector.

A. Each licensee of any purse seine vessel who harvests menhaden shall complete a Captain's Daily Fishing Report on each non-weekend or non-holiday day that either purse seine sector is open for harvest. The Captain's Daily Fishing Report is produced by the National Marine Fisheries Service and provides preliminary estimates of harvest. Pursuant to § 28.2-204 of the Code of Virginia, those same licensees shall submit to the commission the Captain's Daily Fishing Reports in addition to summarized weekly harvest reports that include vessel name and exact weight of menhaden landed, in pounds, by Wednesday of the following week.

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1. Any menhaden landed by a limited entry purse seine menhaden bait licensee at a qualified menhaden processing factory, as indicated on the mandatory daily landings reports, shall be attributed to the purse seine menhaden reduction sector quota.

2. Once 97% of either purse seine sector's quota is projected and announced to have been taken, each licensee of that purse seine sector shall provide daily harvest totals to the commission's Interactive Voice Recording System.

B. The non-purse seine menhaden bait sector shall submit daily reports according to the schedule and reporting requirements established by 4VAC20-610.

4 VAC 20-1270-65. Purse seine area, time, and gear restrictions.

A. It shall be unlawful for any person to take or catch menhaden using a purse seine net except in accordance with the seasons, areas, and gear restrictions as set forth in §§ 28.2-409 and 28.2-410 of the Code of Virginia and this regulation.

B. It shall be unlawful for any person to set, fish, or retrieve purse seine nets in the following areas and times:

1. Any waters of the Commonwealth's Chesapeake Bay and the City of Virginia Beach within one nautical mile from the mean low water line.

2. Any waters of the Commonwealth within one-half nautical mile of the Chesapeake Bay Bridge Tunnel.

3. Any waters of the Commonwealth within the Chesapeake Bay the Thursday prior to and through Memorial Day; July 1 through July 7; and the Thursday prior to and through Labor Day.

C. Any vessel operator observed violating any of the restrictions set forth in this section may be summoned before the Commission.

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4 VAC 20-1270-70. Penalty.

As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor. A second and each subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Virginia Marine Resources Commission, pursuant to authority vested in the Commission by §28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission’s minute book, at its meeting held in Hampton, Virginia on December 6, 2022.

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION**

BY: _____

**Jamie L. Green
Commissioner**

Subscribed and sworn to before me this _____ day of _____ 2022.

Notary Public