

Virginia Marine Resources Commission
Menhaden Management Advisory Committee (MMAC)
380 Fenwick Road, Fort Monroe, VA

Special meeting by electronic means:
YouTube Live Stream <https://www.youtube.com/user/vamarineresources/live>
Confidential (MMAC Only) Conference Call Line: **866-845-1266**

VMRC Commission Room,
Monday, April 20, 2020 – 4:00 P.M.

ATTENDANCE

Members Present

Steve Atkinson
Monty Diehl
AJ Erskine
Mark Federici
Daniel Knott
Dr. Rob Latour
Mike Leonard
Shanna Madsen
Chris Moore
Ken Schultz

Members Absent

VMRC Staff Present

Pat Geer
Shanna Madsen
Somers Smott
Olivia Phillips
Jennifer Farmer
Jill Ramsey
Alexa Kretsch
Ethan Simpson
Lewis Gillingham

Others Present

Mike Avery
3 un-named members of the public

Minutes were prepared by Olivia Phillips

I. Protocol for an electronic meeting – P. Geer

Chief Pat Geer called the first meeting of the Menhaden Management Advisory Committee (MMAC) to order at 4:00PM. He explained that, as a result of the COVID-19 pandemic and Governor Northam's Executive Order 55, the meeting had to occur electronically. Further, he explained that the MMAC members were participating in the meeting over a secure conference line, the public was participating over a second, public conference line, and everyone could view the presentation on the YouTube livestream or through files located on MRC's website.

II. MMAC Introductions and Roll Call – P. Geer

Chief Geer called each member's name, and listened for confirmation of their presence. All members were present on the secure conference line. A quorum of members were available.

III. New Business:

A. MMAC Objectives – P. Geer

Chief Geer explained that this group is a result of Senate Bill 791 and House Bill 1448, which required such a group to provide guidance to the Marine Resources Commission on the sustainable management of the menhaden resources and harvest of the bait and reduction fisheries in the waters of the Commonwealth. He further specified that representation must include, but not be limited to, members of 1) the menhaden reduction fishery; 2) the menhaden bait fishery; 3) a labor organization involved in the menhaden fishery; 4) a recreational angler; 5) a Virginia-based conservation organization; 6) the sportfishing industry; and 7) the Virginia appointee to the Atlantic Menhaden Technical Committee of the Atlantic States Marine Fisheries Commission (ASMFC). The current MMAC also includes three at-large members, which are selected at the Commissioner's discretion.

B. MMAC Bylaw Adoption – P. Geer

Chief Geer explained that all VMRC advisory committees are setting bylaws which lay out commonly understood practices for the committees. The bylaws introduce two year terms, after which members can re-apply as well as a yearly cap of three unexcused absences. Chief Geer emphasized that proxies were not allowed because each member was selected by the Commissioner to represent their respective user-groups, and are thus expected to attend meetings themselves. Chief Geer also explained that MMAC will likely meet twice a year, once at the beginning of the Menhaden season in the spring and once in the fall. In addition, he suggested that MMAC meet after the COVID-19 limitations expire, so the members can meet in person and elect a Chairperson. Mr. Schultz asked if his revision would be considered at a future date, and Chief Geer said that they could be discussed at a future meeting as they would be different from the consistent bylaws adopted by the VMRC's other Advisory Committees.

Mr. Diehl made a motion to approve MMAC bylaws. Mr. Atkinson seconded, and the motion passed unanimously.

C. Proposed Menhaden regulation – P. Geer

Chief Geer explained the proposed changes to 4 VAC 20-1270-10 et seq., "Pertaining to Atlantic Menhaden", pausing for questions from the committee after each section. After section 30, Mr. Diehl asked Chief Geer to clarify the timing of quota transfers to other states. Chief Pat explained that VMRC does not consider transfers of quota to other states until the end of our Menhaden season. At this time Dr. Latour indicated that the sector allocations used a terminal year of 2011 and suggested that more current data is available and could be used to update the allocations. Deputy Chief Madsen gave Dr. Latour a brief history of the allocations and Mr. Diehl agreed that allocations were implemented after Amendment 2 and were based on catches prior to the Amendment 2 quota reductions. Chief Geer told Dr. Latour that the data used for sector allocations could be discussed at a future MMAC meeting. Mr. Moore asked why the regulation specifies Virginia's total allowable catch (TAC) by percentage. Chief Geer explained that the percentage was included to increase transparency, and to provide a point of reference within the regulation. Deputy Chief Madsen concurred and stated that VMRC has started to include quota percentages in other regulations, as well. Chief Geer clarified that the poundage was left in this regulation because staff felt it was important to revisit the menhaden regulation on an annual basis.

Chief Geer explained section 35, pausing to emphasize that the Bay quota overage incurred during the 2019 fishing year must be paid back during the 2020 fishing year. He referenced the letter the Commissioner wrote to ASMFC inquiring about a two year payback, and discussed the response received from ASMFC that confirmed the payback must occur the year following the overage (in full).

When Chief Geer explained section 40, he mentioned that the committee could discuss section 40D in the future. Mr. Erskine and Mr. Moore expressed their appreciation for this consideration, and Mr. Moore asked for more information regarding the origin of section 40D. Mr. Diehl explained that in the 1990's most harvesters who fished with purse seines with a gross weight of less than seventy tons used smaller vessels, measuring 60-80ft. Ultimately, section 40D established a two month season for the people fishing with the smaller vessels to reduce competition with the larger reduction vessels and allow people to harvest menhaden for bait when the market was more amenable. Mr. Diehl explained that Mr. Erskine likely broached this topic because the current bait fishery uses vessels that are the same size as those in the reduction fishery. In other words, section 40D could be outdated and the committee can revisit that language to determine if it is necessary in the future.

After Chief Geer explained section 60, Mr. Diehl indicated that there was some contradictory language describing the timing of mandatory reporting for the purse seine vessels in 60A. The beginning of subsection A implies that Captain's Daily Fishing Reports are due on a daily basis, but the end of subsection A implies they are due on a weekly basis. Chief Geer agreed the language was confusing, and assured the committee that staff would clarify the language to clearly state that the Captain's Daily Fishing Reports are due weekly. Mr. Diehl also suggested the committee and VMRC staff revisit subdivision 1 of 60A. He indicated that the menhaden bait fishery is saturated, and thus, menhaden bait fishermen sell their landings to the reduction fishery. In previous Virginia code, and transcribed to the new regulatory language, those landings are ascribed to the reduction sector. Mr. Diehl suggested that a change should be made so that the landings are ascribed to the seller's sector (i.e., the bait sector) instead. Mr. Erskine did not agree with this argument and believed it would need extensive discussion in the future.

At this point the committee provided more comments and issues they hoped to discuss at future meetings. Dr. Latour requested more biological data from the bait sector, and the TC representative, Deputy Chief Madsen said she would bring that to ASMFC through the technical committee. Mr. Atkinson commented that the definition of the Chesapeake Bay should be adjusted as it relates to the bay cap. Mr. Atkinson would like the definition of the Chesapeake Bay to mean the territorial waters west of the line of demarcation between the Cape Henry and Cape Charles lighthouses. Mr. Schultz requested that the committee have access to menhaden landings data to monitor the fishery as it progresses throughout the year. Chief Geer told Mr. Schultz that, due to the confidential nature of fisheries data, this request could not be approved, but VMRC staff can provide a general idea of what percent of the quota has been caught.

Following these comments, Chief Geer opened the public conference line, and asked for any public comments. There was one public comment. Mr. Mike Avery made a public comment on behalf of the Virginia Saltwater Sportfishing Association. He requested three things be

considered in the future: 1) the definition of the Chesapeake Bay, 2) that menhaden purse seining be prohibited within a mile of public beaches, and 3) that the area of Rudee Inlet be given solely to recreational fishermen to reduce interaction between commercial and recreational sectors. He indicated that these comments have also been submitted, in written form, for the Commission's consideration. Chief Geer explained that VMRC does not have the authority to change prohibited fishing areas (still in code at §28.2-409) and the definition of the Chesapeake Bay demarcation occurs in the purse seine season section of code (§28.2-410), and suggested that the committee discuss this issue at future meetings.

Mr. Schultz made a motion to endorse the proposed changes to 4 VAC 20-1270-10 et seq., "Pertaining to Atlantic Menhaden" as written. Mr. Moore seconded the motion, and it passed unanimously.

IV. Other Business

There was no discussion of other business

V. Adjournment

The public conference line was closed at 5:17 PM, and the meeting was adjourned at 5:20 PM by Chief Geer.