

**VIRGINIA PURSE SEINE MENHADEN FISHERY
MEMORANDUM OF UNDERSTANDING (MOU)**

Between

VIRGINIA MARINE RESOURCES COMMISSION (VMRC)

And

PURSE SEINE REDUCTION SECTOR OF THE COMMONWEALTH OF VIRGINIA (Omega Protein, Inc.)

And

PURSE SEINE BAIT SECTOR OF THE COMMONWEALTH OF VIRGINIA (James C. Kellum and Frederick Rogers III)

Henceforth jointly named PURSE SEINE MENHADEN FISHERIES

For

**MEASURES TO MINIMIZE AND MITIGATE FISH SPILLS IN THE PURSE SEINE
MENHADEN FISHERIES OF THE COMMONWEALTH OF VIRGINIA**

SUBJECT:

Cooperative Measures to Minimize and Mitigate Spills in the Purse Seine Menhaden Fisheries of the Commonwealth of Virginia.

BACKGROUND:

The Virginia menhaden fishery has reported an average of four fish spills per year between 2018 and 2021 (N=16). Many 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 consisted primarily of menhaden and represent 0.06% of the overall annual state menhaden quota during that four-year period.

Several spills in July 2022 resulted in 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 and Historic Resources, and the Governor's Office.

On December 6th, 2022, the Commission was asked to consider proposed modifications to Chapter 4 VAC 20-1270-10 et seq., "Pertaining to Atlantic Menhaden" that established additional purse seine area and time restrictions. Those regulatory amendments were proposed with the intent to reduce future spill incidents while limiting user conflict in congested areas. The Commission proposed a Memorandum of Understanding (MOU) with the same intent as those proposed regulatory amendments and this MOU shall commit the undersigned Parties to meeting that intent.

GOAL, OBJECTIVES, AND UNDERSTANDING:

This MOU has been developed with the goal to limit future spill incidents and to create a transparent and efficient spill response protocol. It will reduce user conflict and strengthen the stewardship of Virginia's shared aquatic resources amongst all user groups in the Commonwealth. The signatory's objectives are to

collaboratively discuss, examine, and evaluate previous spills and the corresponding responses with the goal of ensuring that future response coordination is efficient and effective. The intent of the time and area restrictions outlined in this MOU are to reduce the possibility of fish spills during weekends and holidays when stakeholders are using public beaches. In the event of spills, restrictions will create buffers along densely populated shorelines to ensure spills are more likely to be cleaned up before reaching shore.

This MOU does not assume or assign fault to any commercial fishing vessel or industry for a fish spill. Timely and effective mitigation depends on cooperative efforts from the industry to inform VMRC of responsibility. It is the understanding of the undersigned Parties that the responsibilities below shall meet these objectives.

RESPONSIBILITIES:

The Purse Seine Menhaden Fisheries shall not:

1. Fish in the state territorial waters inside of the Chesapeake Bay on the Saturday, Sunday, and Monday prior to and during the Federal holidays of Memorial Day and Labor Day.
2. Fish in the state territorial waters inside of the Chesapeake Bay on the calendar date July 4th and the federally observed holiday of that week.
3. Fish in the state territorial waters inside of the Chesapeake Bay on all Saturdays and Sundays between Memorial Day and Labor Day.
4. Deploy or set a net within one-half nautical mile on either side of the Chesapeake Bay Bridge Tunnel.
5. Deploy or set a net within one nautical mile of mean low water along the Eastern shore of the Chesapeake Bay from Powell's Bluff on the Occohannock Creek southerly to the Chesapeake Bay Bridge Tunnel.
6. Deploy or set a net within one nautical mile of mean low water from James T Wilson Fishing Pier southerly along the Hampton Roads Bay Bridge Tunnel to the Sandbridge Fishing Pier.

The Purse Seine Menhaden Fisheries shall:

1. Work collaboratively with VMRC staff to outline expected spill report protocol and evaluate previous spills to ensure the most effective measures for clean-up response.
2. Conduct regular purse seine vessel captain and spotter plane captain meetings to promote effective spill prevention tactics to include considerations of sea and wind conditions, fish school and set size, and high-risk areas.
3. Work with VMRC to develop a joint transparent spill response and communications plan to include reporting, logging, and response protocols to reported spills. (Appendix A)
4. Provide VMRC with Omega Protein, Inc.'s internal spill response plan.
5. Conduct a spill simulation exercise with VMRC to test spill response and communications.
6. Work collaboratively with VMRC and the Virginia Institute of Marine Science to identify all internal and external data needed to further inform timely and effective mitigation efforts.


The Virginia Marine Resources Commission shall:

1. Commit to meetings with the Purse Seine Menhaden Fisheries to discuss, examine, and evaluate previous spill responses to inform future spill coordination and to reduce the potential for spills in the future.

2. Develop an internal transparent spill response and communications plan to include reporting, logging, and response efforts to reported spills.
3. Conduct stakeholder meetings throughout Virginia to solicit feedback on response tactics and community needs.

This MOU recites the intentions of the parties to collaborate and compromise in these particular ways. It does not represent a waiver of sovereign immunity nor does it relieve any party from responsibilities enumerated in the Code of Virginia and the Administrative Code of the Marine Resources Commission. If any non-governmental parties breach the terms and conditions of this MOU, they may be called to appear before the Commission for further discussion and response.

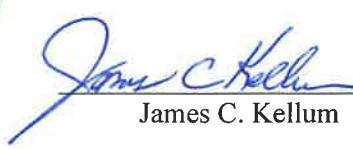
This MOU takes effect on the last date signed and is in effect until 5 years after the last date signed. SIGNATURES BELOW INDICATE ACCEPTANCE AND AGREEMENT WITH THE TERMS AND CONDITIONS OF THIS MEMORANDUM OF UNDERSTANDING.



Commissioner, Virginia Marine Resources Commission
Date 09/20/2023



Ocean Harvesters
Date 4/29/2023



James C. Kellum
Date 4/29/2023

Frederick Rogers III
Date / /

APPENDIX A

Spill response plan will include:

- Spill contingency plan with detailed response protocols that addresses controlling, containing, and recovering fish spills that may be harmful to navigable waters and surrounding shorelines.
 - Definition of authorities, responsibilities and duties of all entities and responsible contacts involved (purse seine fisheries including reduction and bait sectors and VMRC).
 - Procedures for early detection and timely notification of a spill.
 - Development of forms and/or checklists to outline spill information required.
 - Internal communications procedure during a spill.
 - Assurance that full spill clean-up resource capability is known and can be committed following a spill.
 - Expected containment and clean-up procedures.
 - Disposal plan in accordance with local state and Federal regulations.
- Consistent and responsive press releases and public information dissemination plan.