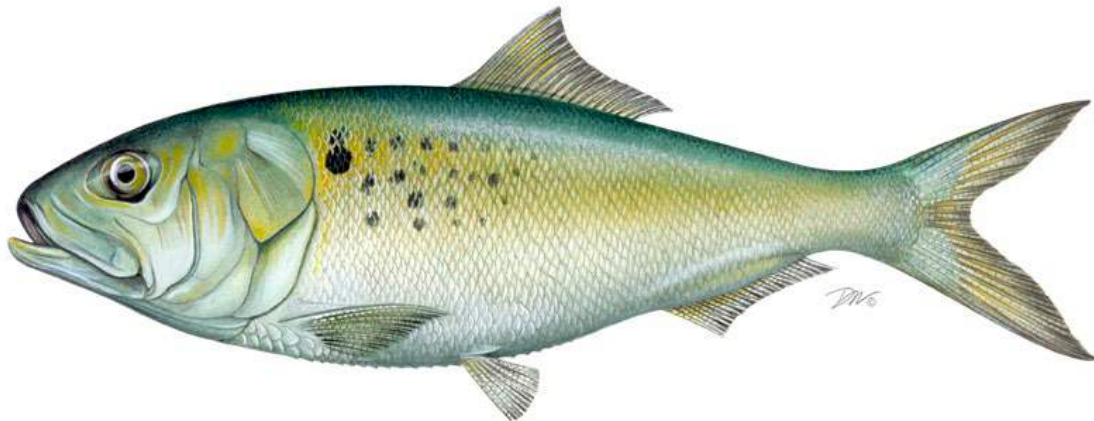


# Atlantic States Marine Fisheries Commission

## ADDENDUM I TO AMENDMENT 3 OF THE ATLANTIC MENHADEN INTERSTATE FISHERY MANAGEMENT PLAN

*Commercial Allocations, Episodic Event Set Aside Program,  
and Incidental Catch/Small-Scale Fisheries*



*Sustainable and Cooperative Management of Atlantic Coastal Fisheries*

November 2022  
Revised by Technical Addendum I  
February 2023

## **1. INTRODUCTION**

The Atlantic States Marine Fisheries Commission (ASMFC) is responsible for managing Atlantic menhaden (*Brevoortia tyrannus*) in state waters (0–3 miles from shore) under the authority of the Atlantic Coastal Fisheries Cooperative Management Act, and has done so through an interstate fishery management plan (FMP) since 1981. The states of Maine through Florida have a declared interest in the fishery and are responsible for implementing management measures consistent with the Interstate FMP. Management authority in the exclusive economic zone (3–200 miles from shore) lies with NOAA Fisheries. For the purposes of this Addendum, the term “state” or “states” also includes the Potomac River Fisheries Commission (PRFC).

At its August 2021 meeting, the ASMFC’s Atlantic Menhaden Management Board (Board) approved the following motion:

*Move to initiate an addendum to consider changes to commercial allocation, the episodic events set aside, and the small-scale/incidental catch provision. The purpose of this action is to address the issues outlined in the Atlantic Menhaden work group memo and the PDT should use the strategies provided in the work group memo as a starting point.*

The Addendum adjusts state commercial allocations to better align with availability and changes the incidental catch and small-scale fisheries (IC/SSF) provision to reduce landings from recent levels.

## **2. OVERVIEW**

### **2.1 Statement of the Problem**

Since the implementation of Amendment 3 (2017), dynamics in the commercial menhaden fishery have changed, most notably the rise of landings in the Gulf of Maine and an increase in quota transfers to the New England region. There has also been an increase in landings under the IC/SSF provision and an annual reliance by some states on the episodic event set aside (EESA) program. To sufficiently address the issues posed by these changes, the Addendum considered three separate but related components of the management program: 1) commercial allocation, 2) the IC/SSF provision, and 3) the EESA program.

#### **2.1.1 Commercial Allocations**

Amendment 3 allocations have resulted in the total allowable catch (TAC) not being fully used coastwide, while some states do not have enough quota to maintain current fisheries. Quota transfers alone are not enough to ameliorate this issue. Some states have become reliant on the EESA and IC/SSF provision to maintain their fishery while other states regularly do not land their allocation.

### **2.1.2 Episodic Event Set Aside (EESA) Program**

Over 90% of the EESA has been used in all years since 2016. With the increase in Atlantic menhaden availability to the Northeast, the program has become a secondary regional quota for several states to continue fishery operations in state waters. The dependency on the EESA highlights the mismatch of Atlantic menhaden distribution and availability to current commercial allocations.

### **2.1.3 Incidental Catch and Small-Scale Fisheries (IC/SSF)**

The IC/SSF provision was intended to provide continued access for low-volume landings of menhaden once a state's directed fisheries quota was met and reduce regulatory discards. In recent years, menhaden availability at the northern part of its range has resulted in directed fishery quotas being met earlier in the year. Additionally, the coastwide landings under this category have exceeded a number of states directed fishery quotas and ranged from 1-4% of the annual TAC. Landings under this provision have only caused the overall TAC to be exceeded in a single year, 2021 (by 0.56%), but without changes, landings could remain at high levels or increase, potentially leading to more frequent exceedance of the TAC. Finally, the language in Amendment 3 has led to different interpretations of when landings fall under this provision (*i.e.*, once a state's sector allocation is met or only once the full state allocation is met) and should be clarified.

## **2.2 Background**

### **2.2.1 Allocation**

Under Amendment 3, each state is allocated a 0.5% minimum quota and the remainder of the TAC is allocated based on a three-year average of landings from 2009-2011. On an annual basis, states have the option to relinquish part of or all of their fixed minimum quota by December 1<sup>st</sup> of the preceding fishing year. Any quota relinquished by a state is redistributed to other states that have not relinquished their quota, based on landings data from 2009-2011. Any overage of quota allocation is determined based on final allocations (inclusive of transfers), and the overage amount is subtracted from that state's quota allocation in the subsequent year on a pound-for-pound basis.

Amendment 2 (2012) also based state allocations on the three-year average of landings from 2009-2011; however, there was no fixed minimum. Table 1 shows a comparison of state quotas under Amendments 2 and 3, and highlights the influence of the 0.5% fixed minimum on states' allocations.

**Table 1.** A comparison of state allocations under menhaden Amendment 2 and Amendment 3. Both Amendments used a 2009-2011 allocation timeframe; Amendment 3 included a 0.5% fixed minimum. While under Amendment 2, Pennsylvania was not a part of the Board and did not have an allocation, therefore is noted with a “-”.

<b>State</b>	<b>Amendment 2 Allocation (%)</b>	<b>Amendment 3 Allocation (%)</b>
Maine	0.04%	0.52%
New Hampshire	0%	0.50%
Massachusetts	0.84%	1.27%
Rhode Island	0.02%	0.52%
Connecticut	0.02%	0.52%
New York	0.06%	0.69%
New Jersey	11.19%	10.87%
Pennsylvania	-	0.50%
Delaware	0.01%	0.51%
Maryland	1.37%	1.89%
PRFC	0.62%	1.07%
Virginia	85.32%	78.66%
North Carolina	0.49%	0.96%
South Carolina	0%	0.50%
Georgia	0%	0.50%
Florida	0.02%	0.52%

From 2018 to 2020, total landings (directed, IC/SSF, and EESA) increased among the New England states of Maine, New Hampshire, and Massachusetts (Table 2). Maine and Massachusetts have both increased their percentage of coastwide total landings in recent years, with Maine’s percentage increasing every year from 2016-2020 and Massachusetts from 2016-2021. A number of states have maintained directed fisheries while their landings have represented less than 0.2% of coastwide total landings (Connecticut, Delaware, North Carolina, and Florida). In 2021, Massachusetts, Rhode Island, Connecticut, Maryland, and PRFC increased their percentage of coastwide total landings, relative to the previous year. Virginia’s percentage of the coastwide landings decreased greatly in 2020 relative to 2019 because the state’s largest fishery and processing plant was shut down for several weeks due to the COVID-19 pandemic.

**Table 2.** State total landings as a percentage of coastwide (CW) landings, 2016-2021. Total landings include directed bait, reduction, IC/SSF, and EESA landings. Amendment 3 allocations for directed bait and reduction landings were implemented beginning in 2018. To protect confidentiality, information for New Hampshire, Pennsylvania, South Carolina, and Georgia have been removed. **These are proportions of the coastwide landings; they do not represent allocations.**

State	% of 2016 CW Landings	% of 2017 CW Landings	% of 2018 CW Landings	% of 2019 CW Landings	% of 2020 CW Landings	% of 2021 CW Landings
Maine	1.50%	2.31%	3.48%	4.91%	6.33%	5.28%
New Hampshire				0.99%	1.02%	
Massachusetts	0.76%	0.96%	1.37%	1.51%	2.17%	2.30%
Rhode Island	0.00%	0.45%	0.17%	0.01%	0.05%	0.83%
Connecticut	0.02%	0.05%	0.20%	0.03%	0.03%	0.04%
New York	0.37%	0.40%	0.11%	0.21%	1.09%	0.77%
New Jersey	11.47%	12.15%	11.97%	10.96%	12.22%	10.60%
Pennsylvania						
Delaware	0.02%	0.02%	0.04%	0.02%	0.04%	0.01%
Maryland	1.40%	0.76%	0.74%	0.73%	0.64%	0.65%
PRFC	0.63%	0.55%	0.79%	0.51%	0.54%	0.59%
Virginia	83.66%	82.08%	80.85%	79.93%	75.66%	77.65%
North Carolina	0.10%	0.20%	0.17%	0.12%	0.15%	0.10%
South Carolina						
Georgia						
Florida	0.07%	0.07%	0.06%	0.05%	0.06%	0.03%
<b>Total</b>	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

Since implementation of Amendment 3, the number of quota transfers has increased over time with 7, 17, 15, and 16 quota transfers occurring in 2018, 2019, 2020, and 2021, respectively. However, not every state transferred quota consistently; only Maine, Connecticut, Maryland, and Florida either gave or received quota every year from 2018-2021. Maine, New Hampshire, Massachusetts, and New Jersey had a net increase in quota through transfers in all four years. The net increase in quota by state over the four years ranged from 275,000 to 22.86 million pounds (Table 3). While the transfer of quota away from a state does not necessarily represent a decrease in abundance of menhaden, the transfer of quota to the New England states has coincided with increasing availability of menhaden regionally and the need for bait fish as the availability of Atlantic herring has decreased.

**Table 3.** Quota transfers in pounds by state for 2013-2021.

State	2013	2014	2015	2016	2017	2018	2019	2020	2021	2018-2021 Net Total	2018-2021 Average
ME				1,800,000	195,180	5,400,000	6,573,592	5,450,000	5,437,698	22,861,290	5,715,323
NH							3,373,592	2,300,000	2,686,318	8,359,910	2,786,637
MA	-500,000	-260,000	-508,685	-35,986			1,300,000	2,350,000	2,492,791	6,142,791	2,047,597
RI	15,000	50,000	33,685	35,986			-400,000	-1,800,000	1,240,675	-959,325	-319,775
CT						-500,000	-2,400,000	-2,000,000	-2,000,000	-6,900,000	-1,725,000
NY	1,000,000	210,000	475,000	492,823	300,000	-1,000,000	-1,900,000	500,000		-2,400,000	-800,000
NJ									275,000	275,000	275,000
PA								-500,000	-1,086,318	-1,586,318	-793,159
DE						-150,000		-100,000		-250,000	-125,000
MD						-1,500,000	-1,000,000	-1,350,000	-1,000,000	-4,850,000	-1,212,500
PRFC									-900,000	-900,000	-900,000
VA				-1,500,000		-1,000,000	-1,000,000			-2,000,000	-1,000,000
NC	-575,000			-877,823	-495,180		-600,000	-1,800,000	-2,000,000	-4,400,000	-1,466,667
SC							-2,347,184	-1,650,000	-1,775,000	-5,772,184	-1,924,061
GA									-1,971,164	-1,971,164	-1,971,164
FL	60,000			85,000		-1,250,000	-1,600,000	-1,400,000	-1,400,000	-5,650,000	-1,412,500

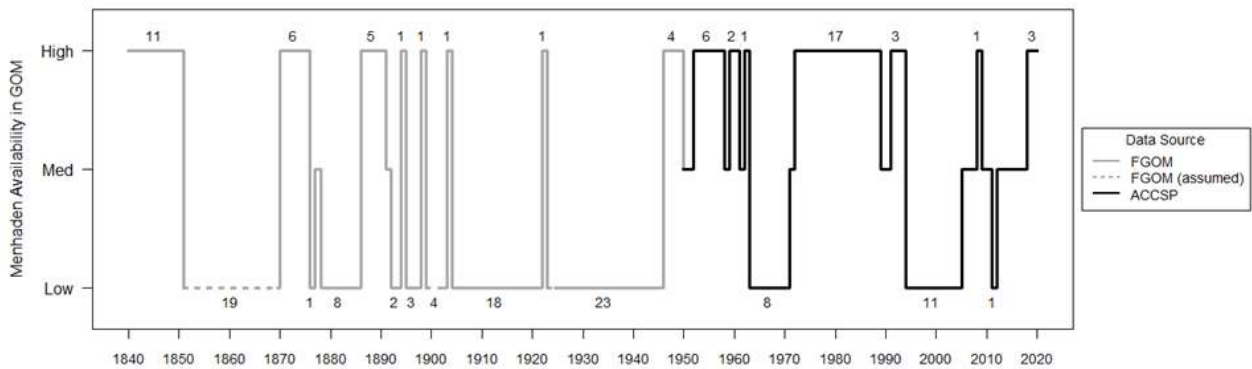
### **2.2.2 Episodic Event Set Aside Program**

The EESA program was first implemented under Amendment 2 and clarified under Technical Addendum I later that year. Amendment 3 made no additional changes to the program. Annually, 1% of the TAC is set aside for episodic events, which are defined as any instance in which a qualified state has reached its quota allocation prior to September 1<sup>st</sup> and the state can prove the presence of unusually large amounts of menhaden in its state waters. To demonstrate a large amount of menhaden in state waters, a state can use surveys (e.g., aerial, seine) to indicate high biomass; landings information; or information highlighting the potential for fish kills, associated human health concerns, and that harvest would reduce or eliminate the fish kill. The goal of the program is to add flexibility in managing menhaden by allowing harvest during an episodic event, reduce discards, and prevent fish kills. States eligible to participate in the EESA program are limited to Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York. When a state declares into the EESA, it is required to implement daily trip level harvester reporting and submit weekly reports to the ASMFC; restrict harvest and landings to state waters; and implement a maximum daily trip limit no greater than 120,000 pounds per vessel.

From 2013 through July 2022, the EESA has been used by Maine (six years), Rhode Island (five years), Massachusetts (two years), and New York (two years). Up to three states have participated at the same time. The starting date of states declaring into the program has ranged from mid-May to mid-August, with New York and Rhode Island opting in earlier than Maine and Massachusetts. Over 90% of the set-aside has been used in all years since 2016. In 2018 and 2019, Maine was the only state to declare into the EESA program and landed approximately 4.6 and 4.4 million pounds, respectively. In 2021, Maine, Massachusetts, and Rhode Island declared into the EESA program and combined the three states landed approximately 4.9 million pounds. Multiple states have implemented harvest control measures beyond the FMP’s 120,000-pound

trip limit, including: lower daily landings limits, weekly limits, limited landing days, and biomass thresholds for when the commercial fishery can operate.

The increasing reliance on the EESA program by some states has coincided with the decline in Atlantic herring and the increased availability of Atlantic menhaden in the Gulf of Maine. For more than a hundred years, there is evidence that periodic abundance of menhaden in the Gulf of Maine may last from one to 20 years then disappear for one to 20 years (Figure 1). In order to use the EESA and minimize disruptions to fishing activities, some states have sought creative ways at keeping their directed fishery open. In 2021, a number of states requested quota transfers as a group while fishing in the EESA, allowing for multiple quota transfers to be processed while the states continued to participate in the EESA program, in an effort to enable their directed fishery to resume after exiting the EESA with minimal interruption.



**Figure 1.** Reconstructed history of availability of Atlantic menhaden to the Gulf of Maine. The number of consecutive years in either a “High” or “Low” availability state are labeled. Data sources: *Fishes of the Gulf of Maine* (Bigelow and Schroeder 2002) and the Atlantic Coastal Cooperative Statistics Program (ACCSP).

### 2.2.3 Incidental Catch and Small-Scale Fisheries

A bycatch allowance was first implemented under Amendment 2, modified under Addendum I to Amendment 2 (2016), and modified again under Amendment 3. As outlined in Amendment 3, under the IC/SSF provision, after a state’s allocation is met, small-scale directed and non-directed gear types may continue to land up to 6,000 pounds of menhaden per trip per day. The following gear types are identified in Amendment 3 as eligible to participate:

*Small-scale gears:* cast nets, traps (excluding floating fish traps), pots, haul seines, fyke nets, hook and line, bag nets, hoop nets, hand lines, trammel nets, bait nets, and purse seines which are smaller than 150 fathoms long and eight fathoms deep.

*Non-directed gears:* pound nets, anchored/stake gillnets, drift gill net, trawls, fishing weirs, fyke nets, and floating fish traps.

Since Amendment 2, not all states transition from a directed fishery to an incidental catch or small-scale fishery under the same conditions. Both New Jersey and Virginia subdivide their quotas among sectors and have done so since state quotas were implemented in 2013. Virginia allocates its annual quota to three sectors: the reduction sector, the purse seine bait sector, and the non-purse seine bait sector. New Jersey allocates the majority of its annual quota to the purse-seine fishery, and the remaining quota is allocated to all other gear types. Once the non-purse seine bait sector or “other gears” fishery has harvested its portion of the state’s allocation, that fishery moves into an IC/SSF regardless of whether the entire state’s quota has been harvested. This has resulted in Virginia and New Jersey reporting IC/SSF landings when they have not harvested their overall quota allocation for a given year. Since the inception of the IC/SSF provision, both states have reported landings following the closure of Virginia’s non-purse seine bait fishery and New Jersey’s “other gears” fishery as IC/SSF.

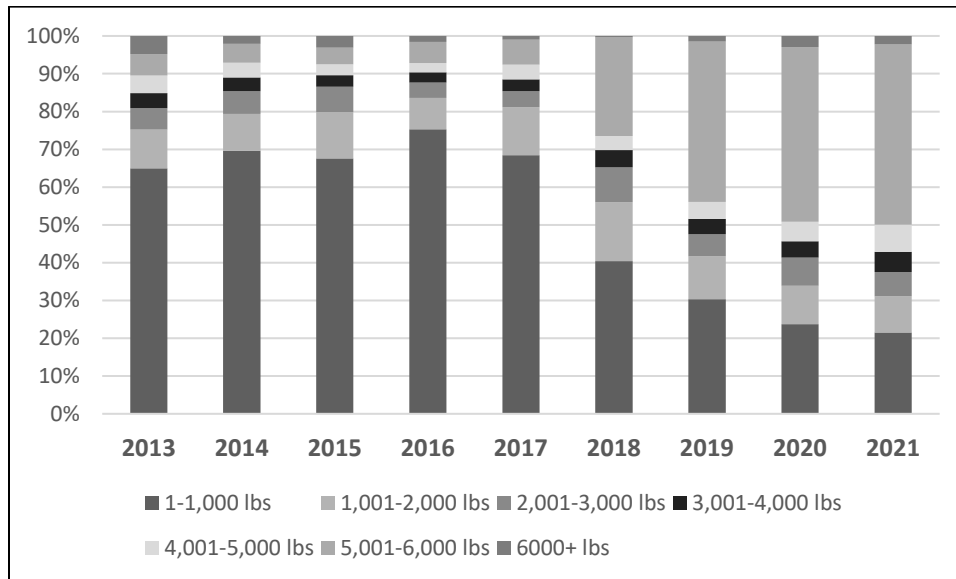
Prior to 2016, several states’ IC/SSF landings are considered confidential, therefore, only information from 2016-2021 is included in Table 4. From 2016-2021, 11 different states have had IC/SSF landings, with the most number of states (eight) reporting IC/SSF in a year occurring in 2016 and the fewest (one) occurring in 2019. The annual coastwide total IC/SSF landings ranged from approximately 2.1 million pounds to 13.9 million pounds. The highest amount occurred in 2020, when Maine landed the majority at 13.6 million pounds, representing 53% of Maine’s total landings that year. From 2016-2017 and 2018-2019, landings in this category increased by over 200%, with Maine being the only state with IC/SSF landings in 2019. From 2018-2020, the TAC remained constant at 216,000 mt while IC/SSF landings as a percentage of the annual TAC rose from less than 1% (2018) to nearly 3% (2020).

**Table 4.** IC/SSF landings in pounds from 2016-2021. Only states with these landings in this time period are included in the table. C = confidential (Some states are listed as confidential to protect the confidentiality of other states). Source: state compliance reports

State	2016	2017	2018	2019	2020	2021
Maine		5,373,940	2,995,145	10,750,929	13,605,497	12,508,195
Massachusetts					49,350	172,335
Rhode Island	39,540	135,748				C
Connecticut		126,986				C
New York	281,017	807,392			282,169	425,212
New Jersey	195,523		204,240		20,190	C
Delaware	20,823	29,285				
Maryland	995,698					
PRFC	105,669	670,447				
Virginia	325,692		110,281			
Florida	111,165	263,643				
Total	2,075,127	7,407,441	3,309,666	10,750,929	13,957,206	13,186,879
<b>Percent Change</b>		257%	-55%	225%	30%	-6%

Since 2013, a majority of landings under this provision occur on trips that land either 1,000 pounds or less (52%), or greater than 5,000 pounds but less than 6,000 pounds (20%). However, landings per trip have increased in recent years (in 2021, 21% of trips < 1,000 pounds; 50% of trips >5,000 pounds; Figure 2). From 2017 to 2021, the majority of these landings have been caught by purse seine (83%, average for the time series). The share of IC/SSF landings using purse seine gear has increased from 57% in 2017 to approximately 88% from 2019 to 2021 (Table 5).

**Figure 2.** Percent of incidental trips by size in pounds, 2013-2021. Source: state compliance reports



**Table 5.** Annual summary of total IC/SSF landings in pounds as a fraction of coastwide TAC; and the fraction of total IC/SSF landings coming from small-scale directed purse seine fishing. \*2021 Total landings include adjustments from validation but purse seine landings and percentage are based on the compliance report figures. Source: ACCSP; state compliance reports

Year	Total landings	% of TAC	landings from purse seine	% from purse seine
2013	4,376,741	1.20%	0	0%
2014	6,831,462	1.90%	0	0%
2015	5,991,612	1.50%	0	0%
2016	2,075,127	0.50%	0	0%
2017	7,407,441	1.80%	4,291,347	58%
2018	3,290,066	0.70%	2,419,194	74%
2019	10,750,929	2.40%	9,545,747	89%
2020	13,957,206	3.10%	12,332,677	88%
2021*	13,186,879	3.08%	10,850,372	88%

### **2.3 Social and Economic Impacts**

Atlantic menhaden provide social and economic value to a diverse group of stakeholders both directly to commercial and recreational menhaden fishing communities, and indirectly to those who derive value from finfish, coastal birds, or marine mammals that prey upon menhaden. Menhaden-specific ecological reference points (ERPs) were developed and implemented to account for these diverse needs. The ERPs aim to provide sufficient menhaden to support sustainable menhaden fisheries, as well as menhaden's important role as a forage fish. Ensuring a stable forage base could increase the abundance of species that prey upon menhaden, such as other finfish, coastal birds, or marine mammals. An increase in abundance of these species could, in turn, lead to positive social and economic impacts for individuals, groups, or communities which rely on these resources for consumptive (e.g., commercial or recreational harvest) or non-consumptive purposes (e.g., bird or whale watching). Individuals who hold non-use values associated with affected species may also benefit from increased abundances (e.g., existence value from knowing a particular environmental resource exists or bequest value from preserving a natural resource or cultural heritage for future generations). Estimating potential economic or social impacts to these stakeholders as a result of menhaden-specific ERPs is challenging given complex and dynamic ecological relationships as well as the lack of socioeconomic data, especially for nonmarket goods and services.

This Addendum includes several measures which could carry social and economic impacts, notably potential changes to commercial allocations, the episodic event set aside program, and the incidental catch/small-scale fisheries provisions. The impacts of these changes on an individual stakeholder group will depend not only on the direction of these changes (e.g., whether the allocation is increasing or decreasing), but also a number of other social and economic factors. The extent and distribution of positive or negative socioeconomic effects arising from changes to allocations, or other provisions, is dependent on price elasticities (responsiveness of demand to a change in price), substitute products, fishing costs, alternative employment opportunities, fishing community structure, and possibly other factors.

Identifying quota allocation methods which are fair and equitable among fishery sectors, gear types, and regions will enhance socioeconomic net benefits if changes in allocation result in higher value or more efficient use of the menhaden resource. Efficiency improving shifts in allocation, while potentially beneficial overall, could disadvantage individual stakeholders through reductions in harvests, revenues, and profits.

A 2017 socioeconomic study of the commercial bait and reduction fisheries, funded by ASMFC, contains several findings which elucidate possible social and economic impacts resulting from changes in menhaden management. While this study was conducted to inform Amendment 3, its findings may still be informative to the measures included in this Addendum. However, it is important to note that the study was focused on potential changes to the coastwide TAC, not the measures being considered in this Addendum. A study focused on, for example, allocation changes might have different results based on the different spatial scales and tradeoffs considered.

In the 2017 study, researchers interviewed and surveyed industry members to uncover salient themes, analyzed historic landings data to resolve market relationships, performed economic impact analyses to consider the effects of various TAC changes, and conducted a public opinion survey to assess attitudes toward menhaden management (see Whitehead and Harrison, 2017 for the full report). Interviews and surveys of commercial fishers and other industry members found mixed opinions on several subjects; however, many agreed that the demand for menhaden bait, oil, and meal had increased in recent years. Exogenous demand increases, if leading to increases in ex-vessel prices, could benefit menhaden bait and reduction industry members.

Analysis of historic landings data revealed that prices for menhaden were negatively related to landings levels, but that this relationship was small and insignificant in some instances. In particular, state-level analysis showed ex-vessel price was insensitive to landings. This finding suggested that reductions in the TAC might reduce commercial fishery revenues as decreases in landings are not fully compensated by higher prices. The effects of a change in the allocation of TAC among states is not clear. However, it was found that ex-vessel prices of menhaden were not uniform along the coast, with some states having higher prices than others, suggesting a change in allocation could influence fleet revenues.

Economic impact analyses of changes to the TAC found income and employment decreases (increases) corresponding to TAC decreases (increases), with the largest impacts concentrated in New Jersey and Virginia. For example, the analysis suggests that when totaling direct, indirect, and induced economic changes in the bait fishery, a 5% increase in the TAC from the 2017 baseline would result in 18 more jobs, a \$476,000 increase in total earnings, and a \$1.7 million increase in total economic output. Looking at the reduction sector, a 5% increase in the TAC from the 2017 baseline is estimated to increase total economic output (includes direct, indirect, and induced economic effects) by \$3.6 million in Northumberland county and add 77 full and part-time jobs. The difference in economic impacts between the bait and reduction sector is largely due to the difference in scale between the sectors, i.e., a 5% increase to reduction landings would be much higher in metric tons than a 5% increase to bait landings. In addition, it is important to note that economic impact analyses such as the one conducted in this study are a coarse assessment of potential economic impact, and they often do not take into account specific fishery and market dynamics.

Interestingly, subsequent analysis of coastal county income and employment changes in response to changes in bait landings (not reduction landings) showed little effect, casting some doubt on the conclusion that adjustments in menhaden TAC consistently lead to changes in fishery income and employment in the bait fishery. It may also be that the magnitude of impact is dependent on the size of the fishery in each state and the ability of fishermen to harvest other species. Nonetheless, it is reasonable to expect that if the TAC were to remain fixed but be allocated to states differently, those states receiving increased allocation would have positive economic impacts if the increase in allocation would lead to an increase in harvest. For those that received decreased quota, the expected impacts would depend on the expected

impacts on harvest: if the reduced allocation would reduce harvest, negative economic impacts would be expected; however, if the reduced allocation was less than or equal to the state's latent quota, i.e., would not have any expected impacts on harvest, no economic impacts would be expected.

### **3. MANAGEMENT PROGRAM**

This Addendum modifies 1) the commercial allocations and 2) the IC/SSF provisions of the management program. In order to unify the relevant measures in one document, the sections below include both the measures adopted in Addendum I and the unchanged measures from the allocation and IC/SSF provisions from Amendment 3.

In response to concerns that 2020 landings were atypical due to impacts from the COVID-19 pandemic, the full extent of which are unknown and possibly variable between states, the Board elected to exclude 2020 landings data in the commercial allocation measures of this Addendum, thereby minimizing the effects of COVID-19 on allocation.

#### **3.1 Commercial Allocation**

The following replaces Section 4.3.2 (Quota Allocation) of Amendment 3.

Allocations are adjusted to 1) align with the availability of the resource, 2) enable states to maintain current directed fisheries with minimal interruptions during the season, 3) reduce the need for quota transfers, and 4) fully use the annual TAC without overage.

To account for the various combinations of allocation methods and timeframes, the allocation process is divided into two steps. The first step outlines the method for setting the minimum allocation, and the second step outlines the approach used to allocate the remaining TAC. Management measures under each of the following steps are developed using total landings information including quota transfers, and landings under the IC/SSF provision and EESA program.

##### **Step 1:**

###### ***3.1.1 Fixed minimum allocation***

States are assigned into three tiers (0.01%, 0.25%, or 0.50%) based on total landings. Pennsylvania, is included in tier one and receives 0.01%. Tier two includes Connecticut, Delaware, North Carolina, South Carolina, Georgia, and Florida, with each state receiving 0.25%. The remaining states are in tier three and receive 0.5% of the TAC.

**Step 2:**

**3.1.2 Timeframe to base allocating the remaining TAC**

The quota allocation timeframe is based on the most recent average landings from 2018, 2019, and 2021. This timeframe reflects the most recent landings history and is more likely to align with current stock distribution, but does not reflect previous stock distribution or fishery performance.

States have the responsibility to close their directed commercial fisheries once their quota (or a percentage thereof) has been reached. Every state is required to submit their official closure notice to the Commission as a part of annual compliance reports.

States, on an annual basis, have the option to relinquish part or all of their fixed minimum quota. States must declare to the FMP Coordinator any relinquished quota by December 1<sup>st</sup> of the preceding fishing year and the amount that is being relinquished. Any quota that is relinquished by a state will be redistributed to the other jurisdictions (i.e., those which have not relinquished quota) based on landings from 2018, 2019, and 2021<sup>1</sup>. After steps 1 and 2, the new state-by-state allocations are listed in Table 6. It is important to note the allocation percentages are rounded; actual quotas are derived using unrounded values.

Table 6. Jurisdictional allocations under Addendum I.

<b>State</b>	<b>Allocation (%)</b>
ME	4.80%
NH	1.19%
MA	2.12%
RI	0.81%
CT	0.33%
NY	0.84%
NJ	11.00%
PA	0.01%
DE	0.27%
MD	1.17%
PRFC	1.09%
VA	75.21%
NC	0.37%
SC	0.25%
GA	0.25%
FL	0.29%
<b>TOTAL</b>	<b>100.00%</b>

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<sup>11</sup> The years used to redistribute relinquished quota were revised through the approval of Technical Addendum 1, they changed from 2009-2011 to 2018, 2019, and 2021.

## **Overage Paybacks**

The following replaces Section 4.3.2.1 (Overage Payback) of Amendment 3.

Any overage of a quota allocation is subtracted for that specific quota allocation in the second year following the overage on a pound for pound basis. Overage determination is based on final allocations, including transfers if applicable. Overages will be subtracted from the second year's quota following submission of state compliance reports. Should overages change as preliminary data is finalized, quotas will be re-adjusted accordingly.

## **3.2 EESA Program**

The Board did not modify the EESA Program through this Addendum. The provisions as outlined in Amendment 3 remain in place. The EESA remains at 1% of the total coastwide TAC. Should any quota remain unused after October 31<sup>st</sup>, annually, it reverts back into the common pool.

## **3.3 IC/SSF Provision**

The following replaces Section 4.3.5 (Incidental Catch and Small-Scale Fisheries) of Amendment 3.

These measures are designed to sufficiently constrain landings to achieve overall management goals of: 1) meeting the needs of existing fisheries, 2) reducing discards, and 3) indicating when landings can occur and if those landings are a part of the directed fishery.

After a quota allocation is met for a given jurisdiction, the fishery moves to an incidental catch fishery in which small-scale gears and non-directed gear types may land up to 6,000 pounds of menhaden per trip per day. States may choose to divide their state allocation into sector and gear type specific allocations. Once a sector/fishery/gear type specific allocation is reached for a state, that state's sector/fishery/gear type fishery can begin landing catch under the provision. Two authorized individuals, working from the same vessel fishing stationary multi-species gear, are permitted to work together and land up to 12,000 pounds from a single vessel – limited to one vessel trip per day. A trip is based on a calendar day such that no vessel may land menhaden more than once in a single calendar day. The use of multiple carrier vessels per trip to offload any bycatch exceeding 6,000 pounds of Atlantic menhaden is prohibited.

The IC/SSF provision applies to both small-scale directed gears and non-directed gears, but excludes purse seine gears. Landings from purse seine gears count against a state's directed fishery quota.

For the purposes of this management program, Small-scale directed gears shall include cast nets, traps (excluding floating fish traps), pots, haul seines, hook and line, bag nets, hoop nets, hand lines, and bait nets. Non-directed gears include pound nets, anchored/stake gillnets,

trammel nets, drift gill net, trawls, fishing weirs, fyke nets, and floating fish traps. Stationary multi-species gears are defined as pound nets, anchored/stake gill nets, fishing weirs, floating fish traps, and fyke nets.

Total landings under this provision are evaluated against the annual TAC and will be reported as a part of the annual FMP Review (Amendment 3, Section 5.3: Compliance Report). Landings are reported by states as a part of Annual Compliance Reports. If IC/SSF landings cause the TAC to be exceeded, meaning the TAC is exceeded after adding total IC/SSF landings to total landings that occur under state quotas and EESA, the trigger is tripped, and the Board must take action to modify the permitted gear types and/or the trip limit for permitted gear types in the IC/SSF provision. The Board may use Board action to make those modifications.

#### **4. COMPLIANCE SCHEDULE**

Management measures in Section 3.1 are effective January 1, 2023. All remaining measures will become effective May 1, 2023 following the review of state implementation plans at the 2023 Winter Meeting. Unless otherwise directed by the Board, allocations will be revisited no more than three years following implementation of this Addendum, as outlined in Amendment 3.

## **5. LITERATURE CITED**

ASMFC. 2012. Amendment 2 to the Atlantic Menhaden Fishery Management Plan. ASMFC, Arlington, VA 114 p.

ASMFC. 2016. Addendum I to Amendment 2 to the Atlantic Menhaden Fishery Management Plan. ASMFC, Arlington, VA 7 p.

ASMFC. 2017. Amendment 3 to the Atlantic Menhaden Fishery Management Plan. ASMFC, Arlington, VA 111 p.

Bigelow, H.B., and Schroeder, W.C. 2002. Fishes of the Gulf of Maine. 3rd ed. Edited by B.B. Collette and G. Klein-MacPhee. Smithsonian Institution Press, Washington, D.C.