

NOTICE OF AGENCY EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 41 Modified 2022 State Allocation Harvest Schedule

CONCISE SUMMARY:

Under the Interstate Fishery Management Plan (ISFMP) for Atlantic menhaden, Maine is allocated 0.52% of the coastwide Total Allowable Catch (TAC). For the 2022 fishing year, this base allocation for the state directed fishery is 2,194,080 pounds. In previous seasons, Maine has reduced harvest opportunity through either landing days or trip limits to minimize the risk of incurring an overage within the state directed fishery. With the anticipation of additional effort for the 2020 fishing season, it is necessary to reduce open harvest days for the state directed fishery to only Mondays and Thursdays to ensure effective monitoring of the State's available quota.

The Commissioner has determined that it is necessary to take emergency action to reduce the daily landing limit to prevent unusual damage to the menhaden resource by exceeding available quota. The Commissioner hereby adopts this emergency regulation as authorized by 12 M.R.S. §6171(3)(A).

EFFECTIVE DATE: May 31, 2022

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DEPARTMENT OF MARINE RESOURCES

CHAPTER 41

41.30 Commercial Menhaden Fishery Management Program

1. State Allocation Fishery

B. Effort restrictions

It is unlawful to harvest menhaden prior to the opening of the state allocation fishery on Monday, ~~June 14, 2021 at 12:01 AM~~ June 13, 2022 at 12:01 AM. Following the opening of the state allocation fishery on Monday, June 13, 2022 at 12:01 AM and prior to the closure of the state allocation fishery, it is unlawful to fish for or land menhaden except between 12:01 AM to 11:59 PM on Mondays, ~~Tuesdays, and Thursdays and Fridays~~ Tuesdays, and Thursdays each week. It is unlawful to fish for, take or possess more than 23,800 pounds or 68 barrels per harvester vessel per week. It is unlawful for a harvester vessel to sell, give or transfer menhaden they have taken to any other vessel while at sea. It is unlawful to receive menhaden from a harvester vessel while at sea. It is unlawful to complete more than one landing per calendar day. For the purpose of enforcing these limitations, the Department shall use the definitions provided in 41.25.

Exception: Fishing weirs, stop seines, and pound nets are not subject to the harvest schedule detailed above and may land fish seven days a week. However, weekly landing limits still apply.

41.40 Noncommercial Menhaden Fishing

The following limitations apply to individuals holding a noncommercial menhaden license issued under 12 MRS §6502-C.

A. Season

The holder of a noncommercial menhaden license may fish for, take or possess menhaden from May 1 to December 31.

B. Effort Restrictions

- (1) It is unlawful to fish for, take, possess or land more than 1,050 pounds or 3 barrels per harvester and per vessel, per day.
- (2) It is unlawful to make more than one landing per calendar day.
- (3) It is unlawful to transfer menhaden they have taken to any other vessel.
- (4) It is unlawful to receive menhaden from a harvester vessel while at sea.

Basis Statement

Under the Interstate Fishery Management Plan (ISFMP) for Atlantic menhaden, Maine is allocated 0.52% of the coastwide Total Allowable Catch (TAC). For the 2022 fishing year, this base allocation for the state directed fishery is 2,194,080 pounds. In previous seasons, Maine has reduced harvest opportunity through either landing days or trip limits to minimize the risk of incurring an overage within the state directed fishery. With the anticipation of additional effort for the 2020 fishing season, it is necessary to reduce open harvest days for the state directed fishery to only Mondays and Thursdays to ensure effective monitoring of the State's available quota. The weekly limit remains at 23,800 pounds (or 68 barrels). Reporting is still required on the same day as fish are landed to ensure that DMR has the most accurate accounting of the catch as possible. All harvesting and landing of menhaden are restricted to Maine territorial waters and any vessel is restricted to one landing only per calendar day.

The Commissioner has determined that it is necessary to take emergency action to reduce the daily landing limit to prevent unusual damage to the menhaden resource by exceeding available quota. The Commissioner hereby adopts this emergency regulation as authorized by 12 M.R.S. §6171(3)(A).

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE: Chapter 41 Modified 2022 State Allocation Harvest Schedule

STATUTORY AUTHORITY: **12 M.R.S. §6171 (3)(A)**

DATE AND PLACE OF PUBLIC HEARING: NA

COMMENT DEADLINE: NA

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [*see* §8057-A(1)(A)&(C)]

Under the Interstate Fishery Management Plan (ISFMP) for Atlantic menhaden, Maine is allocated 0.52% of the coastwide Total Allowable Catch (TAC). For the 2022 fishing year, this base allocation for the state directed fishery is 2,194,080 pounds. In previous seasons, Maine has reduced harvest opportunity through either landing days or trip limits to minimize the risk of incurring an overage within the state directed fishery. With the anticipation of additional effort for the 2020 fishing season, it is necessary to reduce open harvest days for the state directed fishery to only Mondays and Thursdays to ensure effective monitoring of the State's available quota. The weekly limit remains at 23,800 pounds (or 68 barrels). Reporting is still required on the same day as fish are landed to ensure that DMR has the most accurate accounting of the catch as possible. All harvesting and landing of menhaden are restricted to Maine territorial waters and any vessel is restricted to one landing only per calendar day. The Commissioner has determined that it is necessary to take emergency action to reduce the daily landing limit to prevent unusual damage to the menhaden resource by exceeding available quota.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? ___ YES ___ X NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [*see* §8057-A(1)(B)&(D)]: This rule reduces the open harvest schedule for the state allocated fishery from four days to two days, but maintains the weekly catch limits available to harvest vessels.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [*see* §§8057-A(1)(E) & 8063-B]

DMR has considered the quota that it receives from ASMFC, the anticipated level of effort for the fishery and observations of fishery operations by Maine Marine Patrol.

ESTIMATED FISCAL IMPACT OF THE RULE: [*see* §8057-A(1)(C)] No fiscal impact anticipated.

FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

[*see* §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: [*see* §8057-A(2)(B)]

BENEFITS OF THE RULE: [*see* §8057-A(2)(C)]

Note: If necessary, additional pages may be used.