

## **DEPARTMENT OF MARINE RESOURCES**

### **Chapter 41: MENHADEN**

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#### **41.05 Prohibitions**

1. It is unlawful to fish for, take, possess, or land menhaden except from Maine's territorial waters.
2. It is unlawful to fish for or take Atlantic menhaden by vessels rigged with a midwater, otter or beam trawl net in Maine territorial waters.
3. It is unlawful to use a vessel to fish for or take menhaden that exceeds 50 feet overall length as shown on the vessel's current USCG documentation or State registration.
4. It is unlawful for any vessel other than the harvester vessel that made the set to remove fish from the seine or net. If more than one vessel is used to set the seine or net, only the vessel from which the seine or net was removed may take or possess menhaden from the seine or net.

#### **41.10 Suspension of Rules**

The Commissioner has the authority to suspend all regulations in the event of a potential fish kill upon consultation with industry and Marine Patrol. Notice of rule suspension and duration shall be provided via the internet on the Department's web site and by email and/or text notice to industry members.

#### **41.20 Reporting**

##### **1. Commercial Menhaden Fishing License**

All harvesters must report daily landings to the Department via an approved electronic reporting option by 11:59 PM the day of landing. If no landings occurred on a calendar day, a negative landing report is required.

Exception: Daily reporting is not required for the Incidental Catch and Small Scale Fishery as described in 41.30(3). Weekly electronic reporting remains a requirement. Daily reports are due weekly by 11:59 pm Sunday.

##### **2. Noncommercial Menhaden Fishing License**

All harvesters must report daily landings to the Department via an approved electronic reporting option once per week no later than 11:59 pm Sunday. If no landings occur during the week (Monday 12:01 am through Sunday 11:59 pm), a negative landing report is required.

Harvesters: See Chapter 8.20(M) for reporting requirements.

Dealers: See Chapter 8.10 Landings Program for reporting requirements.

## 41.25 Definitions

- A. Hogshead: one hogshead equals 17.5 lb bushels.
- B. Bushel: one bushel equals 70 lbs of menhaden.
- C. Barrel: one barrel equals 55 liquid gallons; or, 5 bushel of menhaden.
- D. Truck: one truck equals 40,000 lbs of menhaden.
- E. Fish tote: a standard fish tote (tray), measuring 28 inches long x 16 inches wide x 11 inches deep, when level full, equals 1/3 barrel.
- F. Crate: a crate equals two and one half bushels or 175 pounds of menhaden.
- G. Landing: to come to shore, float or a dock and offload menhaden.
- H. Harvester vessel: the vessel that deploys the net to fish for, take and possess menhaden. A harvester vessel is in possession of fish once the net encircles and traps the fish.
- I. Set: To place from a harvester vessel a purse seine or a bait gillnet in the coastal waters of the state for the purpose of taking menhaden.

## 41.30 Commercial Menhaden Fishery Management Program

### 1. State Allocation Fishery

#### A. Notice

The state allocation fishery is open until such time as the Department has landings information that the quota assigned to Maine by the Atlantic States Marine Fisheries Commission has been reached or could be exceeded. At that time, the Department will notify commercial menhaden license holders by public notice in a newspaper circulated in the area affected, and on the Department's publicly accessible website, of the closing date for the state allocation fishery. It is unlawful to fish for menhaden after the closing date of the state allocation fishery, unless the Department has opened the episodic event fishery, or the incidental catch and small scale fishery.

The Commissioner may extend or reopen the State Allocation Fishery at any time with notice to commercial menhaden license holders, should a quota increase or quota transfer of menhaden be received via allocation adjustments of the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Atlantic Menhaden.

#### B. Effort restrictions

It is unlawful to harvest menhaden prior to the opening of the state allocation fishery on Monday, 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 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.

**C. Storage Requirement**

All menhaden must immediately be stored in barrels, crates or fish totes, or a combination thereof, upon harvest. All menhaden must be contained in barrels, crates or fish totes on both the harvester vessel and the dory towed by the harvester vessel, if utilized.

A dory is a boat with no mechanical means of propulsion that is towed to and from the fishing grounds by the harvester vessel.

**2. Episodic Event Fishery**

Following authorization by the Atlantic States Marine Fisheries Commission, the Department may open an episodic event fishery following the closing of the state allocation fishery.

**A. Notice**

The Department will notify commercial menhaden license holders by public notice in a newspaper circulated in the area affected, and on the Department's publicly accessible website, of the opening date for the episodic event fishery. When the Department receives notice from the Atlantic States Marine Fisheries Commission that the quota for the episodic event fishery has been reached or may be exceeded, the Department will notify commercial menhaden license holders by public notice in a newspaper circulated in the area affected, and on the Department's publicly accessible website, of the closing date for the episodic event fishery.

**B. Effort restrictions**

Following the opening of an episodic event fishery and prior to the closure of the episodic event fishery, it is unlawful to fish for or land menhaden except between 12:01 AM to 11:59 PM on Tuesdays and Fridays each week. It is unlawful to fish for, take or possess more than 6,000 pounds or 17 barrels per harvester vessel per day. 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 for a harvester vessel 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, total weekly landings must not exceed 12,000 pounds per harvest vessel between Mondays 12:01 AM through Sundays 11:59 PM.

### **C. Storage Requirement**

All menhaden must immediately be stored in barrels, crates or fish totes, or a combination thereof, upon harvest. All menhaden must be contained in barrels, crates or fish totes on both the harvester vessel and the dory towed by the harvester vessel, if utilized.

A dory is a boat with no mechanical means of propulsion that is towed to and from the fishing grounds by the harvester vessel.

## **3. Incidental Catch and Small Scale Fishery**

An incidental catch and small scale fishery for menhaden may occur following the full utilization of the state allocation of menhaden or following the full utilization of both the state allocation and an episodic event fishery.

### **A. Notice**

The Department will notify commercial menhaden license holders by public notice in a newspaper circulated in the area affected, and on the Department's publicly accessible website, of the opening date for the incidental catch and small scale fishery.

### **B. Effort Restrictions**

It is unlawful to fish for, take, possess or land more than 6,000 pounds per vessel per day. It is unlawful to fish for or land menhaden except between 12:01 AM to 11:59 PM on Mondays, Wednesdays, and Fridays each week. It is unlawful for a harvester vessel to make more than one landing per calendar day. For the purpose of enforcing these limitations, the Department shall use the definitions provided in 41.25, except that it is unlawful during the incidental catch and small scale fishery 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.

Exception: Fishing weirs, stop seines, and pound nets are not subject to the harvest schedule detailed above. However, total weekly landings must not exceed 18,000 pounds per harvest vessel between Mondays 12:01 AM through Sundays 11:59 PM.

### **C. Gear Restrictions**

It is unlawful during the Incidental Catch and Small Scale Fishery to use any gear type other than the following when targeting menhaden: cast nets, 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 fathom long and 8 fathom deep. The depth of the net will be determined by taking the average size of 20 meshes and then counting the total number of meshes by depth.

**D. Storage Requirement**

All menhaden must immediately be stored in barrels, crates or fish totes, or a combination thereof, upon harvest. All menhaden must be contained in barrels, crates or fish totes on both the harvester vessel and the dory towed by the harvester vessel, if utilized.

A dory is a boat with no mechanical means of propulsion that is towed to and from the fishing grounds by the harvester vessel.

**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.

**C. Gear Restrictions**

It is unlawful to use any gear type other than the following when targeting menhaden: bait gillnets, hand seines, and cast nets.

**41.50 Recreational Fishing**

An individual may fish or take, by either speargun, harpoon, minnow trap, hand dip net or hook and line, up to 25 menhaden per day for personal use only without a license.

EFFECTIVE DATE:

May 2, 1982 – Section 41.01 with December 31, 1983 sunset provision

AMENDED

July 20, 2009 – Section 05

September 20, 2010 – Section 30

July 23, 2012 - Section 30

June 6, 2013 – Section 30 EMERGENCY (expires September 4, 2013)

July 25, 2013 – Section 30

July 31, 2016 – Section 30 EMERGENCY

August 5, 2016 – Section 30 (1) EMERGENCY (expires November 3, 2016)

August 15, 2016 – Section (30) EMERGENCY (expires November 13, 2016)

June 3, 2017 -Section 41.30 repealed and replaced (EMERGENCY)

June 8, 2017 -Chapter repealed and replaced (EMERGENCY)

July 3, 2017 - Section 41.30 (EMERGENCY)

September 30, 2017 – Section 41.30 (EMERGENCY)

April 28, 2018 – Sections 41.05, & 41.30

September 15, 2018-Section 41.03(B) EMERGENCY

March 13, 2019-Section 41.10, 41.20 and 41.30

July 14, 2019-Section 41.30(3) EMERGENCY

July 21, 2019-Section 41.30(2) EMERGENCY

November 13, 2019-Section 41.20(1)&(2)

March 15, 2020-41.15, 41.20, 41.30

June 27, 2020-41.30, Open EESA (Emergency)

July 2, 2020-41.30, EESA Reduction (Emergency)

November 9, 2020, Restructuring of entire chapter and addition of noncommercial/commercial license types.

April 27, 2021– Sections 41.05, 41.20, 41.25, 41.30, 41.40, 41.50

April 26, 2022-Section 41.30(1)(B)

May 31, 2022-Section 41.30(1)(B), Section 41.40(B)(2) (Emergency)

June 21, 2022- Section 41.30(Emergency)