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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 to use a vessel to transport menhaden that exceeds 90 feet overall length as shown on the vessel’s current USCG documentation or State registration.

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 no later than noon the day after 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 exclusive vessel that deploys the net to fish for, take and possess menhaden.

I. Carrier vessel: a vessel that is not rigged to fish and is transporting to shore menhaden that was caught by a harvester vessel.

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

      Following the opening of the state allocation fishery, and prior to the closure of the state allocation fishery, it is unlawful to fish for or land menhaden except between 12:01 AM on Monday to 11:59 PM on Tuesday and 12:01 AM on Thursday to 11:59 PM on Friday each week. It is unlawful to fish for, take, or possess more than 120,000 lbs per harvester vessel per calendar day and it is
unlawful to fish for, take or possess more than 160,000 lbs per harvester vessel per week. It is unlawful to make a transfer at sea except to a carrier vessel licensed to carry under 12. M.R.S. §6502-B. It is unlawful to transfer at sea to more than two carrier vessels per calendar day. 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. However, daily and weekly landing limits still apply.

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 on Monday to 11:59 PM on Tuesday and 12:01 AM on Thursday to 11:59 PM on Friday each week. It is unlawful to fish for, take, or possess more than 120,000 lbs per harvester vessel per calendar day and it is unlawful to fish for, take or possess more than 160,000 lbs per harvester vessel per week. It is unlawful to make a transfer at sea except to a carrier vessel licensed to carry under 12. M.R.S. §6502-B. It is unlawful to transfer at sea to more than two carrier vessels per calendar day. 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. However, daily and weekly landing limits still apply.
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 lbs. per vessel per day. 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.

**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.

Harvesters may take menhaden as incidental catch when targeting another species using the following gear types: pound nets, drift gill nets, trawls, fishing weirs, fyke nets and floating fish traps.

**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.
4. **Carrier Vessels**

   A. It is unlawful for a carrier vessel to possess, transport, or land more than 120,000 lbs of menhaden per day (12:01 AM to 11:59 PM). It is unlawful for a carrier vessel to transport or land more than 160,000 lbs of menhaden per week (12:01 AM Monday to 11:59 PM Friday).

   B. It is unlawful for a carrier vessel to possess fish that it did not catch during the Incidental and Small Scale fishery.

   C. It is unlawful for a carrier vessel to make a transfer at sea to another 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 1,000 lbs or 3 barrels per harvester and per vessel, per day.

   (2) It is unlawful to make more than 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 hook and line or hand cast net, 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.