

DEPARTMENT OF MARINE RESOURCES

CHAPTER 41

41.05 Territorial Waters Trawl Prohibition

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.

41.10 Recreational Fishery

An individual may fish or take by hook and line up to 25 menhaden per day for personal use only.

41.15 Small Scale Personal Use No-sale Permit

An individual licensed under §6502-A may fish for or take, by bait gillnet only, three barrels of menhaden per calendar day with a permit issued by, and under the conditions of, the Commissioner of Marine Resources for the taking of menhaden during the period of June 1 to December 31. Permit requests must be received by May 15, annually.

The holder of this permit will relinquish both the right to use any gear other than a bait gillnet when fishing for menhaden and the right to sell menhaden taken under their Commercial Pelagic and Anadromous License for the duration of the harvest season. Daily reporting of landings is required when fishing during the quota fisheries and weekly reporting is required during the small scale fishery as outlined in Chapter 8.20(Q). Any violation of this regulation shall be cause for suspension of permit.

41.20 Permits and Reporting

Menhaden Harvester Permit

All harvesters must report landings daily to the Department via an approved electronic reporting option email to menhaden.dmr@maine.gov with the following information no later than noon the day after landing that includes the following information. ~~This is in addition to monthly harvester reports required by Chapter 8.~~

- ~~• Name of harvester~~
- ~~• Name/Vessel ID~~
- ~~• Permit ID~~
- ~~• Landings number of license holder~~
- ~~• Total catch retained (including all catch transferred to any vessel who will not report it as their own catch)~~
- ~~• Name/Permit ID of Carrier, if transfer at sea occurs~~
- ~~• Total amount of herring on board~~
- ~~• Date, time and location (dealer, city, state) of offload~~
- ~~• Estimated catch to be received, by weight, to each dealer (by dealer name and landings number)~~
- ~~• VTR number~~

Exception: Daily reporting ~~via email to menhaden.dmr@maine.gov~~ is not required for the Small Scale Personal Use Non-commercial Permit or the Incidental Catch and Small Scale Fishery as described in 41.30 (4). ~~Monthly~~ Weekly electronic logbook reporting remains a requirement.

Harvesters: See Chapter 8.20(Q) and 8.20(M,R)

Dealers: See Chapter 8.10 Landings Program

41.30 Menhaden Fishery Management Program

1. 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. ~~E. "Landing": to come to shore, float or a dock and offload menhaden; or to transfer menhaden at sea to a vessel utilizing the menhaden for bait.~~
- H. ~~F. "Dory": a boat with no mechanical means of propulsion that is towed to and from the fishing grounds by the harvester catcher vessel. A dory may be used by a harvester catcher vessel to transport menhaden the harvester catcher vessel has taken.~~
- I. ~~G. "Harvester Catcher vessel": the exclusive vessel that deploys the net to catch menhaden to fish for, take and possess menhaden.~~
- J. Carrier vessel: a vessel that is not rigged to fish and is transporting to shore that was caught by a harvester vessel.

2. 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 Pelagic and Anadromous 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 Pelagic and Anadromous 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

During the state allocation fishery, it is unlawful to fish for, take, possess, or land menhaden except from Maine's territorial waters. 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 ~~44:59 PM~~ 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 vessel per calendar day and it is unlawful to fish for, take, or possess more than 160,000 lbs per vessel per week. It is unlawful to make a transfer at sea except to a 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 24-hour period (12 am to 12 am). For the purpose of enforcing these limitations, the Department shall use the definitions provided in 41.30 (1).

Exception: Fishing weirs, stop seines, and pound nets are not subject to the above regulations. However, daily and weekly landing limits still apply.

C. ~~Reporting~~

~~All Commercial Pelagic and Anadromous license holders who intend to fish for menhaden during the state allocation fishery must notify the Department of their intent to harvest through email prior to landing any menhaden. License holders who have made notice to the Department must report landings daily to the Department via email to menhaden.dmr@maine.gov no later than noon the day after landing, in addition to monthly harvester reports required by Chapter 8. If the harvester did not fish, the harvester must report that they did not fish.~~

3. 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 Pelagic and Anadromous 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 Pelagic and Anadromous 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

During the episodic event fishery, it is unlawful to fish for, take, possess, or land menhaden except from Maine's territorial waters. 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 ~~44:59 PM~~ 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 vessel per calendar day and it is unlawful to fish for, take, or possess more than 160,000 lbs per vessel per week. It is unlawful to make a transfer at sea except to a 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 24-hour period (12 am to 12 am). For the purpose of enforcing these limitations, the Department shall use the definitions provided in 41.30 (1).

Exception: Fishing weirs, stop seines, and pound nets are not subject to the above regulations. However, daily and weekly landing limits still apply.

~~C. Reporting~~

~~All Commercial Pelagic and Anadromous license holders who intend to fish for menhaden during the state allocation fishery must notify the Department of their intent to harvest through email prior to landing any menhaden. License holders who have made notice to the Department must report landings daily to the Department via email to menhaden.dmr@maine.gov no later than noon the day after landing, in addition to monthly harvester reports required by Chapter 8. If the harvester did not fish, the harvester must report that they did not fish.~~

4. 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 Pelagic and Anadromous 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

During the incidental catch and small scale fishery, it is unlawful to fish for, take, possess, or land menhaden except from Maine's territorial waters. It is unlawful to fish for, take, possess or land more than 6,000 lbs per vessel per day. It is unlawful to make more than one landing per calendar day 24-hour period (12 am to 12 am). For the purpose of enforcing these limitations, the Department shall use the definitions provided in 41.30 (1), except that it is unlawful during the incidental catch and small scale fishery for a harvester ~~catcher~~ vessel to sell, give or transfer, ~~at sea~~ menhaden they have taken to any other vessel while at sea. It is unlawful to receive menhaden from a harvester vessel while at sea. ~~For the purpose of this subsection, a standard fish tote (tray), measuring 28 inches long x 16 inches wide x 11 inches deep, when level full equals 1/3 barrel.~~

C. Gear Restrictions

It is unlawful 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, ~~stretched~~. 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 ~~catcher~~ vessel and the dory towed by the harvester ~~catcher~~ vessel, if utilized.

5. Areas

- A. Bald Head Cliff to Cape Arundel
Shoreward and westerly of a straight line starting at the easternmost point of Bald Head Cliff, Ogunquit to the southernmost point of Cape Arundel, Kennebunkport.
- B. Biddeford Pool to Cape Elizabeth
Shoreward and westerly of the territorial sea line, as identified on National Oceanic and Atmospheric Administration nautical chart 13286, starting at the easternmost point of Biddeford Pool, Biddeford following the territorial sea line to where the line intersects the southernmost point of land in Cape Elizabeth.
- C. All Maine territorial waters outside the areas defined in Chapter 41.30 (5)(A) & (B)
Shoreward of the territorial sea line, as identified on National Oceanic and Atmospheric Administration nautical charts, except for those areas defined in Chapter 41.30 (5)(A) & (B).

6. Area Limitations

- A. Limitations in all Areas A, B & C
 - (1) It shall be unlawful for any harvester vessel targeting menhaden that exceeds 50 feet in length overall (LOA) to fish for, take or possess menhaden within these restricted areas.
 - (2) It shall be unlawful for any carrier vessel to possess or land more than 120,000 lbs of menhaden per day (00:01 AM to 11:59 PM) harvested from Maine Territorial waters, which includes Areas A, B & C.
 - ~~(3) A carrier vessel may transport and land menhaden once per day at a limit of 120,000 lbs capacity.~~
 - (3) (4) It shall be unlawful for any carrier vessel greater than 90 feet LOA to transport menhaden harvested from Areas A, B & C. Any carrier vessel greater than 70 feet but not to exceed 90 feet LOA must be measured, plainly marked at a maximum 120,000 lbs capacity or equivalent volume; or marked at the maximum vessel capacity if under 120,000 lbs, and sealed* by the State Sealer of Weights and Measures.

*Sealed means receipt of the applicable Fish Carrier Calibration Report and sticker, seal or appropriate marking affixed by the State Sealer of Weights and Measures or their designee. This documentation must be obtained prior to transporting menhaden taken from these areas.

7. Carrier Vessels

- A. A carrier vessel may transport and land menhaden once per calendar day at a limit of 120,000 lbs.
- B. A carrier vessel is prohibited from possessing fish that it did not catch during the Incidental and Small Scale fishery.
- C. A carrier vessel is prohibited from making a transfer at sea to another vessel.

8.7 Suspension of rules

The Commissioner has the authority to suspend all regulations in Chapter 41.30 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 to industry members or telephone.

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: 13-188- Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6573; web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 41 Atlantic Menhaden; 2020 Season

STATUTORY AUTHORITY: 12 M.R.S. § 6171

DATE AND PLACE OF PUBLIC HEARING(S): January 27, 2020, at 5:00 p.m., Marquardt Building, Room 118, 32 Blossom Lane, Augusta. Snow date: January 31, 2020, at 3:30 p.m., Marquardt Building, Room 118, 32 Blossom Lane, Augusta.

COMMENT DEADLINE: February 10, 2020

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

This proposed rulemaking amends the reporting of menhaden landings; reporting through an approved electronic option will be required. State and episodic fisheries remain at daily reporting. The Incidental and Small Scale fishery is amended to a weekly reporting requirement. This rulemaking introduces a personal use bait permit that will allow harvesters to use a bait gillnet to take three barrels of menhaden daily, separate from all other menhaden fishery activity. The harvest schedule has been modified; open harvest days are Monday, Tuesday, Thursday, and Friday during the quota allocation fishery programs. Harvester vessels may make multiple transfers of menhaden to no more than two carrier vessels per calendar day. Carrier vessels are defined and effort restrictions for their activity have been described. Carrier vessels are prohibited from making transfers at sea. Carrier vessels are prohibited from participating in the Incidental and Small Scale fishery.

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

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [*see* §8057-A(1)(B)&(D)]

The adopted rule(s) seeks to improve reporting requirements for all harvesters conducting directed Atlantic menhaden trips and create access alternatives for recreational and fixed gear sectors of the fishery.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE

Comments received from marine patrol during the 2019 harvest season as well as an industry meeting of menhaden harvesters held at DMR in December 2019 to determine suggestions and alternatives options for the 2020 harvest season.

ESTIMATED FISCAL IMPACT OF THE RULE: [*see* §8057-A(1)(C)]

Enforcement of these amendments will not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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

Basis Statement

This rulemaking amends the reporting of menhaden landings; reporting through an approved electronic option will be required. The Department will offer reporting online through the LEEDS system and via an application for smart phones and tablets that will operate in offline situations but allow for the upload of landings data once the device reaches an area for wi-fi service. State and episodic fisheries remain at daily reporting. The Incidental and Small Scale fishery is amended to a weekly reporting requirement.

This rulemaking introduces a personal use bait permit that will allow harvesters to use a bait gillnet to take three barrels of menhaden daily, separate from all other menhaden fishery activity. Activity under this permit will count towards the quota during quota fishery operations. As such, daily reporting will be required during quota fishery status.

Harvesters may complete multiple transfers to no more than two carrier vessels per calendar day. The harvest schedule has been amended for the 2020 fishing season, such that Monday, Tuesday, Thursday and Friday will be open harvest days during the quota managed fishery programs. This amendment will assist in balancing the flow of menhaden within the bait system.

Vessels intending to transport fish from the harvester vessel to the final landing location are required to possess a carrier vessel license (12 M.R.S. §6502-B). Carrier vessels are prohibited from making transfers at sea. Carrier vessels are prohibited from participating in the Incidental and Small Scale fishery.

Based on the comments received, the following changes have been made:

- The Department has updated the reporting requirements for the personal use bait permit to daily to align with the quota fisheries schedule for adequate monitoring of landings.
- Effort restrictions within the State and Episodic fishery programs have been amended to allow multiple transfers of menhaden by the harvester vessel to no more than two carrier vessels that match the harvesters daily landing report.
- The harvest schedule has been amended from Monday through Thursday, to Monday and Tuesday, followed by a break on Wednesday and then resume harvesting Thursday and Friday. This maintains the existing opportunity of four harvest days.
- Carrier vessels are prohibited from making transfers at sea.

Summary of Comments

Notice of this proposed rulemaking appeared on January 8, 2020 in the five major daily newspapers as published by the Secretary of State. On January 8, 2020, the rule was posted on the DMR website, and electronic messages were sent to individuals who subscribe to DMR notices. Public hearings were advertised in compliance with the procedures outlined in the Maine

Administrative Procedures Act and were held as follows: 5:00 PM January 27, 2020 Rm 118 DMR Offices, Marquardt Building, Augusta. The comment period closed February 10, 2020.

I. Augusta Public Hearing

Members of the Public	DMR Staff
Earl Small, Gary Small, Glenn Lawrence, Doug Jowett, Robert Bernat, Andrew Banon, Jocelyn Runnebaum, Jeff McLean, Howard Harrington, Jeanne Fuller, Samuel Fuller, Chad Benner, Toby Benner, Cory Blackler, Robert Begin, Jim Wotton, Josh Saxton, Cova Willis, Alex Todd, Jim Clemons, Dan Miller, Tad Miller, Craig King, Barry Gibson, Larry Grimard, Jason Farris, Peter Fallon, David Pecci, Forest Faulkingham, Knoep Nieuwkerk, Eben Nieuwkerk, Nick Nieuwkerk, and Howard Harrington	Deirdre Gilbert and Melissa Smith

Rob Bernat, Augusta Public Hearing, January 27, 2020

If we are only allowed 120,000 a day or 160,000 a week, why would it matter how many sets it takes to fill that goal? I want status quo, same as it was last year. By forcing guys into one and done you are going to see a greater effort because they are going to get bigger gear. You risk the chance of fish kill.

Glenn Lawrence, Augusta Public Hearing, January 27, 2020

Operating as a carrier and a dealer at the same time the one set thing doesn't work well for my operation. I have over \$100,000 tied up in a refrigeration system. The way it works is that I have a lot of refrigerated water. I have to steam 50 miles to get to the islands that are waiting for me to come and can't put a fill load on is not good at all. It wont work for me or my customers.

Alex Todd, Augusta Public Hearing, January 27, 2020

By making it a one transfer we're going to have to keep making sets until we're drying up and making sure it is enough to load the carrier we have. I don't think it is good for the fish to go through that over and over again and then let go. I am for status quo because I can work better with two little carriers, but you are going to push us to get bigger carriers and make more sets where we injure more fish. It doesn't sound good for the fishery or me.

Knoep Nieuwkerk, Augusta Public Hearing, January 27, 2020

I feel like the ability to be able to land 18 barrels a day. I don't see the difference if you can do it in one set, or three sets. If it's a problem you could certainly come up with a TAC at the end of the week and do some arithmetic so people could take a time out at the end of the week. I think the way it is now, small boats can harvest pogies and if you delay the catch into October, small

boats won't be able to harvest them. I think the lobstermen are getting a pretty good deal on the bait. I think during the timeframe it was huge last year. If you slow down on pokies it will drive bait back up. I think it was a win-win the way you had it last year.

Robbie Begin, Augusta Public Hearing, January 27, 2020

Its not going to be safe if you only do one set. You're going to catch so many that your boat is going to sink. I think it should be as many times as it takes to load the carrier. I mean you've got your quota anyways. I want status quo like it was last year.

Josh Saxton, Augusta Public Hearing, January 27, 2020

I am going to say status quo. With only being able to make one set you are going to push people into making bigger sets than what they really need. If they need 100 barrels and there is a 100 barrel school there they are not to set that, they are going to set a 200 barrel school just to make sure they have enough. People are going to make bigger sets than they can actually manage. Without having multiple carriers you are driving people to overload their one. It's a huge safety risk and an environmental risk if the boat sinks.

Ira Miller, Augusta Public Hearing, January 27, 2020

I agree with what Alex Todd said. Status quo.

Eben Nieuwkerk, Augusta Public Hearing, January 27, 2020

By limiting the licenses, its making it harder for the groundfishermen. If you are lobsterman, you should have the means to catch your own fish too for bait. Why should you be stuck buying bait from someone else just because you didn't get a license in time? I would like a 21-barrel limit for the week. It would make it more time effective for the lobstermen.

Earl Small, Augusta Public Hearing, January 27, 2020

I oppose the one transfer to the carrier. I believe we should have multiple transfers to do it safely. The number one goal is to come home safe. If you have to make one big set and roll your boat, that's not safe and we are going backwards. If I do make a bigger set, I should be able to give it to another fishermen. We should transfer from a seine to another boat if necessary.

Jeff McLean, Augusta Public Hearing, January 27, 2020

I am in opposition to the single transfer for all the reasons people are saying. Make multiple sets for multiple boats.

Jeanne Fuller, Augusta Public Hearing, January 27, 2020

I support the multiple sets and multiple transfers to a carrier. I support one carrier to a harvester, because it would be easy for a lobster boat to get a carrier permit and then that would mean transfers at sea.

Matt Clemons, Augusta Public Hearing, January 27, 2020

Same thing everyone else has said. Safety for everyone in the fishery. I am in favor of multiple carriers and multiple sets.

Nick Nieuwkerk, Augusta Public Hearing, January 27, 2020

Pretty much on the same page as my brother. Everyone lobstermen should have the ability to catch their own bait. They shouldn't be at the mercy of the dealer. I think three drums a day isn't enough. You should be able to catch all your bait in one day, call it 21 in a week.

Jim Clemons, Augusta Public Hearing, January 27, 2020

I am in favor of status quo for safety reasons.

Gary Small, Augusta Public Hearing, January 27, 2020

I think we should be able to do multiple sets to fill the carrier. Also, if you have extra fish in your nets you should be able to transfer them to a licensed menhaden fishermen versus dumping it. But they also have to report it. If they dump it, it ends up on the beaches and there are complaints.

Howard Harrington, Augusta Public Hearing, January 27, 2020

I am for the status quo. In order to fill a carrier you are going to have to make multiple sets, which is safer for fishermen and is better for the fishery. You won't be putting so much pressure on everything. If there is a quota limit and it is reached, it will good for the fishery and the fishermen.

Jim Wotton, Augusta Public Hearing, January 27, 2020

I am for the personal use permit. One thing you might consider is a gill net size limit. I would think a 50 fathom would be sufficient. I also wonder if a dory needs a carrier license? I am against the one transfer. For me, one carrier works but I realize it doesn't for everyone. One set per day is not going to work for anybody. Maybe you declare your carrier at the beginning of the season, or week. I think if you had to declare your carrier or carriers it might solve the problem of taking too much. Could a vessel have a carrier and harvest license? Also, when small-scale harvest is in place, can a carrier vessel participate?

Written Comments

Comment period closed February 10, 2020

Robbie Begin, submitted via email, January 15, 2020

I don't agree on the new rule making I believe that one transferred to a carrier per day will create more dumping of fish and also will not make it safe for the catch boat trying to catch 120,000 in one set it is not safe.

Matt Talbot, submitted via email, January 29, 2020

I would recommend the following clerical adjustments to the CH 41 rule:

41.30 Menhaden Fishery Management Program

1. 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. ~~E. "Landing": to come to shore, float or a dock and offload menhaden; or to transfer menhaden at sea to a vessel utilizing the menhaden for bait.~~
- H. ~~F. "Dory": a boat with no mechanical means of propulsion that is towed to and from the fishing grounds by the catcher vessel. A dory may be used by a catcher vessel to transport menhaden the catcher vessel has taken.~~
- I. ~~G. "Harvester Catcher vessel": the exclusive vessel that deploys the net to catch menhaden to fish for, take and possess menhaden.~~
— Harvester
- J. Carrier vessel: a vessel that is not rigged to fish and is in possession of a Carrier License issued under 12. M.R.S. §6502-B.

Hugh Bowen, submitted via email, February 10, 2020

I am writing to comment on the chapter 41 rulemaking proposal on Menhaden. I am against this proposal. The personal use bait permit is foolish. I cannot tell Gillnets to only catch three barrels. We are getting raped by the bait companies, and all other associated businesses we have to spend money at in order to operate. Our material costs for boat building and gear Have gone up drastically in comparison to how much the lobster price has gone up over the last 20 years. I need to catch a lot more than three barrels if the situation allows; I may only have one opportunity in an entire season given local populations of fish or my own availability to spend time catching the fish. The net I have now can easily catch eight barrels. Now the state is going to tell me "well that's your problem , your \$1000 Gillnet is worth nothing now , you should spend more money and get a smaller one"? I don't think so. The whole point is to catch as much as your net can. This is a slippery slope, the amount of regulation is getting stupid crazy. When the fish are there we will catch them, when the lobsters are there we will catch them, when the clams are there we will dig them. There's not even enough money in the system to have any meaningful enforcement. It's not hard to see that a life fishing is going down the drain and the drain is getting bigger and bigger and bigger the more you regulate us.

Vincent Balzano, submitted via email, February 10, 2020

- 1). Personal use non-commercial gill net 3 drum per day license
Agree, please allow for any and all to catch their own bait.
- 2) Approved electronic reporting daily for state allocated and episodic fisheries and weekly for small scale fishery.

Agree, will allow the state to better monitor and account for the catch.

3). Carriers

Proposed rule for state allocated and episodic fisheries is to restrict for one transfer from a harvester to a carrier per day.

Disagree, will just promote discards

Propose a single identified carrier per harvester with one landing per day for that carrier.

Proposed rule for the small scale fishery prohibit use of carries

Agree, continuation of current rules.

4). Additional Input Measures

With the large increase of new participants and to avoid the challenges of the 2019 menhaden season please consider some additional input measures to manage our limited quota.

1) Reduce available fishing days per week in the state allocated and episodic fisheries vs reducing trucks per week.

2) Reduce available fishing days in the small scale fishery ie maybe no weekends

3) Consider certifying nets for the small scale fishery.

5). Additional Comments

I understand that the increase in participation in the menhaden fishery has created an enforcement and monitoring nightmare.

Simply put an honest guy can't compete. So please enforce the current and any additional rules before things get completely out of control.

Rob Watts, submitted via email, February 10, 2020

I would like to add that if DMR does indeed create a non-commercial path for menhaden harvesters then I would like to see the following criteria be added:

1. If you have a commercial menhaden license/permit then you are not able to obtain a non-commercial permit/license for menhaden under any circumstances.
2. If you have any permit that allows you as a harvester to fish for menhaden then you must report daily regardless of permit/license type. All landings will count towards the quota and must be collected on a daily basis.
3. One vessel cannot have a commercial and non-commercial license/permit for menhaden regardless of people with the permit.

Department Response to Comments:

Status Quo Fishery Operations

There was consensus among comments to maintain status quo scenarios with the ongoing, unrestricted use of carrier vessels in menhaden harvester operations. Menhaden harvester capacity varies greatly coastwide and the dependency on carrier vessels to transport the daily allowance of menhaden was recognized through comments to this proposed rulemaking. Several comments suggested initiating a limit on how many carriers that a harvester may transfer to, with both one carrier or two carriers being offered as viable options. The Department has amended the proposed rule language to allow for multiple daily transfers of menhaden from the licensed harvester to the no more than two licensed carrier vessel as reported on the harvesters daily landing report.

Two comments were received regarding the allowance of harvester to harvester transfer, such that extra fish taken would not be subject to slippage. While the Department is aware of this potential scenario to occur, the menhaden fishery has been operating for four seasons without this issue arising.

Personal Use No-Sale Permit

There was support from all comments received for the establishment of a personal use, no-sale, permit. Of the comments received, there was a suggestion to allow for a weekly limit of 21 barrels, rather than a daily limit of 3 barrels to allow for a lobsterman to catch his week's bait in a more timely manner. However, during the small scale fishery, the daily landing limit may not exceed 17 barrels per day; this is in direct conflict with the suggested 21 barrels per week for personal use and for that reason is not a suitable change.

Additionally, there was a suggestion to place gear restrictions upon the personal use permit. Currently, Chapter 55 specifies that a bait gillnet may not exceed 2000 feet in length with specified increments of marking. One commenter suggested a maximum of 50 fathoms (300 feet) would suffice while another comment said to maintain existing restrictions. The Department sees no reason to place further restrictions on the bait gillnet used for harvesting menhaden.

General Concerns

There were questions pertaining to the use of a dory within the fishery and would the inclusion of the dory in fishery operations require a carrier license. The typical use of a dory within the menhaden fishery is to assist with the deployment of the net and to also aid in the transportation of fish to shore. The dory is a secondary, non-motorized vessel, that the harvester may use to complete fishing activities. However, the primary vessel listed on the person's commercial pelagic and anadromous license is the platform for the fishery operations. The dory does not require a carrier license.

A person may possess both a commercial pelagic and anadromous license and a carrier license with the same primary vessel listed on both licenses. However, a vessel may not operate as both during a open harvest day. Upon the opening of the small scale fishery, an operator with an active CPAL license may use a vessel that operated as a carrier in the quota fisheries during the small scale fishery, such that the vessel is now acting to harvest fish and no transfers at sea may occur.