

STATE OF MAINE
DEPARTMENT OF THE SECRETARY OF STATE

Notice of Agency Rulemaking Adoption

AGENCY: Marine Resources

CHAPTER NUMBER AND RULE TITLE: 41; 2026 Menhaden Season

ADOPTION FILING NUMBER: [Leave Blank] - Assigned by the Department of the Secretary of State]

CONCISE SUMMARY:

This rulemaking specifies effort restrictions for the state allocated menhaden fishery on and after the first Monday of September, annually. Open harvest days are Mondays and Thursdays only, with a daily trip limit of 7,000 pounds, except that pound net, stop seine and fish weirs may harvest seven days a week with a weekly landing limit of 14,000 pounds.

EFFECTIVE DATE: [Leave Blank] -- To Be Filled in by the Department of the Secretary of State]

AGENCY CONTACT PERSON:

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Agency Name: Marine Resources

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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, take or land menhaden except between May 1 and November 30, both days inclusive.
3. 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.
4. 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.
5. It is unlawful for any vessel other than the harvester vessel that made the set to remove fish from the purse seine or gillnet. 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.
6. It is unlawful for the holder of a menhaden license to take menhaden using a gear type not authorized for their license type, as specified in either section 41.30 or 41.40. Permitted gears include anchored/staked gillnets, bait gillnets, cast nets, drift gill nets, fish weirs, floating fish traps, fyke nets, hand seines, hand lines, hook and line, stop seines, pots, pound nets, and purse seines. Permitted gears are dependent upon which commercial fishery phase is open.

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 direct notice to the email address and phone number provided by the license holder, and on the Department's publicly accessible website.

41.20 Reporting

1. Commercial Menhaden Fishing License

All harvesters must report all landed and retained fish daily to the Department via an approved electronic reporting option by 11:59 PM the day of landing or retention. If no landings or retention occurred on a calendar day, a negative 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. Trip level reports are due weekly by 11:59 pm Sunday.

2. Noncommercial Menhaden Fishing License

All harvesters must report trip level landings and retention to the Department via an approved electronic reporting option once per week no later than 11:59 pm Sunday. If no landings or retention occur during the week (Monday 12:01 am through Sunday 11:59 pm), a negative 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. Fish Tank or Box: a standard Saeplast or Bonar brand fish tank with internal measurements of 38 inches long x 38 inches wide x 44 inches deep and when filled to allow for a sealed cover, equals 20 bushels.

H. Landing: to come to shore, float or a dock and offload menhaden.

I. 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.

J. 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.

K. Pound net or trap net: a type of entrapment gear that consists of an arrangement of netting or wire supported upon stakes or piles and has the head ropes or lines above the water or in a frame that is supported by floats and anchors. A pound net or trap net may consist of an enclosure known as the pound proper, crib or pocket which has a netting floor and section known as a heart from the entrance of which a straight wall known as the leader or runner extends outward. There may be several combinations of hearts, pounds or pockets. Finfish are voluntarily directed by the leader towards and into the heart and/or pound, and then into the crib or pocket where they are removed periodically by various devices and methods, that are solely operated by hand.

L. Fish weir: any fixed type of fishing equipment that consists of fences made of wooden stakes or out of other materials constructed in such a manner so as to intercept or attempt to intercept finfish. The fences form successive enclosures called the heart, pound and pocket into which the finfish are directed by a prolonged fence known as a leader.

M. Dory: a boat with no mechanical means of propulsion that is towed to and from the fishing grounds by the 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 direct notice to the email address provided by the license holder, 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.

Whenever landings of menhaden are occurring at a rate that the Commissioner is concerned that the entire quota for the state allocation fishery will be reached in a time frame that will negatively impact the supply and availability of bait, the Commissioner may temporarily prohibit the taking of menhaden by commercial menhaden license holders for up to fourteen days. If the Commissioner determines it is necessary to temporarily prohibit the taking of menhaden by commercial menhaden license holders, the Department will notify license holders by direct notice to the email address provided by the license holder, a notice in a newspaper circulated in the area affected, and on the Department's publicly accessible website, of the date of closing of the fishery and the date on which it will reopen.

When the commercial menhaden fishery is paused by the Commissioner, or if the commercial fishery is closed while transitioning to the Episodic Event Set Aside program, individuals operating a pound net, stop seine or a fish weir, who also hold a Commercial Pelagic and Anadromous license may take 3 barrels (1,050 lbs) of menhaden as incidental bycatch.

B. Pound net and fish weir effort restrictions

It is unlawful to harvest menhaden prior to the opening of the state allocation fishery which is set for pound net, stop seines and fish weirs as May 1st, annually. Harvest of menhaden by pound net, stop seines or fish weirs prior to the second Monday of June may occur seven days a week and is limited to taking 1,050 pounds per harvester and per vessel per day.

Starting on the second Monday of June, pound net, stop seine and fish weirs may land, take or fish seven days a week and have a weekly landing limit of 17,850 pounds per harvester vessel.

Exception: Starting on the first Monday of September, pound net, stop seine and fish weirs may land, take or fish seven days a week and have a weekly landing limit of 14,000 pounds per harvester vessel.

C. Effort restrictions for all other gears

It is unlawful to harvest menhaden prior to the opening of the state allocation fishery, starting on the second Monday of June, annually, at 12:01 AM. 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 to 11:59 PM on Mondays, Wednesdays and Fridays each week. It is unlawful to fish for, take or possess more than 17,850 pounds 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 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: Starting on the first Monday of September, annually, at 12:01AM, 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 7,000 pounds per harvester vessel per day.

D. Storage Requirement

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

2. **Episodic Event Set-Aside (EESA) Fishery**

Following authorization by the Atlantic States Marine Fisheries Commission, the Department may open an episodic event set-aside (EESA) 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 direct notice to the email address provided by the license holder, public notice in a newspaper circulated in the area affected, and on the Department's publicly accessible website, of the closing date for the EESA fishery.

B. Effort restrictions

Following the opening of an EESA fishery and prior to the closure of the EESA 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 14,000 pounds 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 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.

Pound nets and fish weirs are not subject to the harvest schedule detailed above and may land, take or fish seven days a week. However, the total weekly landing limit may not exceed 14,000 pounds.

Exception: When the Department is informed that another state has begun participating in the EESA fishery, the Department will notify license holders by direct notice to the email address provided by the license holder and a notice in a newspaper circulated in the area affected.

Upon notice to license holders, the ~~weekly~~ limit is 7,000 pounds per harvester vessel per day when more than one state is participating in the EESA fishery.

Pound nets and fish weirs are not subject to the harvest schedule detailed above and may land, take or fish seven days a week. However, the daily landing limit is 7,000 pounds and the total weekly landing limit may not exceed 14,000 pounds.

C. Storage Requirement

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

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 direct notice by email and text to the email address and phone number provided by the license holder in their license application, 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 5,950 pounds per harvester 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. It is unlawful for a harvester vessel to complete more than one landing per calendar day.

Pound nets and fish weirs are not subject to the harvest schedule detailed above and may land, take or fish seven days a week. However, the daily landing limit is 5,950 pounds per harvester vessel per day and the total weekly landing limit may not exceed 17,850 pounds per harvester vessel per day.

C. Gear Restrictions

It is unlawful during the Incidental Catch and Small Scale Fishery to use any gear type other than the following: bait gillnets (including anchored/staked gillnets or drift gill nets), cast nets, pots, hand seines, hook and line, pound nets, fish weirs, fyke nets, and floating fish traps.

Bait gillnets cannot exceed 500 feet in length. A hand seine is defined as a seine solely operated by hand with no option to be cinched or pursed by the footrope.

D. Storage Requirement

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

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 November 30.

B. Effort Restrictions

- (1) It is unlawful to fish for, take, possess or land more than 1,050 pounds per harvester and per vessel, per day.
- (2) It is unlawful to make more than one landing per vessel 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 (including anchored/staked gillnets or drift gill nets), hand seines, cast nets, and fish traps.

Bait gillnets cannot exceed 500 feet in length. A hand seine is defined as a seine solely operated by hand with no option to be cinched or pursed by the footrope.

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.

Basis Statement

This rulemaking specifies effort restrictions for the state allocated menhaden fishery on and after the first Monday of September, annually. Open harvest days are Mondays and Thursdays only, with a daily trip limit of 7,000 pounds, except that pound net, stop seine and fish weirs may harvest seven days a week with a weekly landing limit of 14,000 pounds. With the current capacity in the fleet, DMR is better able to ensure that Maine will not exceed the available quota when fishing is conducted under a daily limit and not a weekly limit, and harvest opportunity is limited to two days per week.

Summary of Comments

Notice of the proposed rulemaking appeared on January 21, 2026, posted to DMR's website and also printed in the five major daily newspapers as published by the Secretary of State; and electronic messages were sent to individuals who subscribe to DMR's rulemaking notices and sent to industry members who provided their email address to DMR. The comment period closed February 23, 2026.

A hybrid public hearing was held on February 10, 2026 in-person at DMR's Augusta office and offered remotely via Microsoft Teams. Some individuals attending the hearing had comments pertaining to a bill pending in the Maine Legislature (LD 1353) and proceedings at ASMFC. Comments on this topics are not included in the comments on the rule-making.

Attendance:

Name	Affiliation
Deirdre Gilbert, Melissa Smith, Megan Ware, Declan McCormick	Maine Department of Marine Resources
James Wotton, George Bamford, Earl Small, Doug McLennan, Brighton Sawyer, Robbie Begin, Mark Bichrest	Members of the Public

Mark Bichrest, Harpswell

I don't know why you can't catch 50 barrels outside of the three mile line rather than steam 50 miles to catch them. It's the same amount of fish and it's usually bigger fish. Doesn't make any sense.

Robbie Begin, Boothbay Harbor

I agree with this.

Earl Small, Eastport

I agree with everything here. Start date, the later the better. For right now, I think the water is gonna be too cold. So it's going to be later that the menhaden are gonna be coming up this way. But I do agree with everything that's been written down so far.

George Bamford, Columbia Falls

I agree with what you were proposing.

Jim Wotton, Friendship

I support the rule as you've drafted it.

DMR received the following written comments via email:

Justin Boyce, Stonington:

I just wanted to comment on the newly proposed manhaden changes. I don't believe it is a needed addition when it can always be changed through emergency rule making. My reason for not thinking we need this is because it is possible with the resource moving further north each year we don't know if for some strange reason we receive more quota than anticipated and I know that we can always do emergency measures to lower quota but not to bring it back up. It would be a shame to get a bunch of quota and not be able to fill it because we restricted too much. Lots of boats stop going later in the season because they focus on lobstering and fish get harder to catch. I understand this would be a cleaner way of doing things but really don't think it is necessary.

Colleen Brown, Whiting:

I am submitting written comments regarding the proposed 2026 menhaden regulations under Chapter 41.

My family is directly connected to Maine's commercial fishing industry, with sons actively fishing in Downeast waters. Menhaden are a critical part of fall bait supply, and the structure of this fishery has real downstream impacts on lobster operations, dealers, and working waterfront communities.

I support maintaining a flat daily trip limit and a clear structure that prevents Maine from exceeding its allocation. Menhaden have been overfished in the past, and staying within quota protects both the resource and future opportunity for harvesters.

Where I believe additional consideration is warranted is in how the fixed open harvest days interact with weather and safety. Limiting harvest to two specific days per week can create significant pressure when conditions are poor. When fishermen only have two opportunities, there is strong financial incentive to go in marginal weather rather than lose half their weekly earning potential. That is not just an economic concern. It is a safety concern.

I respectfully ask the Department to consider whether a weather-related flexibility provision or make-up mechanism could be incorporated without increasing total harvest. Providing limited flexibility would reduce unsafe pressure while still maintaining quota accountability.

Additionally, compressed landing days can strain dock space, cold storage, and infrastructure in Down East communities where capacity is limited. Stability of supply benefits both harvesters and lobstermen who depend on reliable bait access later in the season. Avoiding artificial bottlenecks should be part of the management discussion.

I appreciate the Department's work to balance conservation and industry needs. My request is simply that safety realities and rural infrastructure constraints be factored into the final rule structure.

Thank you for the opportunity to comment.

DMR's Response:

Second Harvest under State Allocation

The majority of comments supported the proposed language to keep all aspects of the menhaden regulation consistent with the past season, with the exception of establishing a reduced number of harvest days and a daily trip limit (instead of a weekly limit) when the fishery is fishing under state allocation provisions after September 1. One commenter (Justin Boyce) suggested that this change should not be made to the rule, but implemented as an emergency rule only when necessary. However, the Department feels strongly that with the 20% reduction in the overall menhaden quota, the opportunity to secure transfers from other states is likely to become more competitive. If Maine is able to re-enter the state allocation fishery after the episodic event set-aside, it is likely to be with a modest amount of additional quota. With the current capacity in the fleet, DMR is better able to ensure that Maine will not exceed the available quota when fishing is conducted under a daily limit and not a weekly limit, and harvest opportunity is limited to two days per week.

Fishing in State Waters

One commenter (Mark Bichrest) questioned whether it would be possible for this fishery to take place in federal waters. Maine has participated in the episodic event set-aside (EESA) for nine of the last ten fishing seasons. It is a requirement of the fishery management plan that all harvesting under the EESA must occur in state waters. The early menhaden fishing seasons consisted of a very short state allocated phase due to limited quota, a possible few weeks of fishing while in EESA, and then multiple weeks of fishing under the small scale provision. During these earlier fishing years, menhaden were predominantly in state waters. To remove the confusion about when menhaden harvesting could or could not occur in federal waters, it was determined that limiting all harvest to state waters would remove this confusion and allow for more seamless transitions between the different phases of the fishery. The DMR recognizes that menhaden biomass in the previous two seasons have been exhibiting different behaviors, staying in deeper waters for longer periods of time, or traveling along the coast in large schools just beyond the three nautical mile line. This issue could be evaluated to determine if relaxing the prohibition of harvesting in federal waters could be beneficial to the industry in future seasons.

Fixed Harvest Days

One commenter (Colleen Brown) requested consideration of additional flexibility on harvesting days due to safety concerns in poor weather. Harvest during the State Allocation phase of the menhaden fishery is set at three days per week: Mondays, Wednesdays and Fridays. These set days have been determined through trial and error, as originally, harvest was available five days a week. However, with the increase of effort in Maine's menhaden fishery from ~ 40 license holders in 2017 to ~340 license holders in 2025, opportunity must be constrained to a fixed schedule in order to ensure that Maine does not exceed its quota. Reducing the harvest to two set days beginning in September if the fishery reverts back to utilizing additional quota via transfers will ensure that the fishery may continue at a pace that matches the level of activity with the availability of quota.

STATE OF MAINE
DEPARTMENT OF THE SECRETARY OF STATE

Rulemaking Fact Sheet

(see 5 M.R.S. § 8057-A(1))

Agency: Marine Resources

Name, Address, Telephone Number, and Email Address of Agency Contact Person:

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Chapter Number and Rule Title: 41; 2026 Menhaden Season

Type of Rule: Routine Technical

Statutory Authority: 12 M.R.S. § 6171; § 6502-C

Public Hearing(s): February 10, 2026: 5:00 p.m. at DMR's Augusta office (Marquardt Building, 32 Blossom Lane, rm 118) and remotely via Microsoft Teams. If the February 10th hearing is cancelled due to inclement weather an alternate hearing will be held on February 11th at 5:00 pm in Room 118 of the same location, and remotely via Microsoft Teams. Remote access information is posted to DMR's website under "Meetings."

Comment Deadline(s): February 23, 2026

Principal Reason(s) or Purpose for Proposing this Rule [see 5 M.R.S. § 8057-A(1)(A)]:

This rulemaking specifies effort restrictions for the state allocated menhaden fishery on and after the first Monday of September, annually. Open harvest days are Mondays and Thursdays only with a daily trip limit of 7,000 pounds, except that pound net, stop seine and fish weirs may harvest seven days a week with a weekly landing limit of 14,000 pounds.

Is Material Incorporated by Reference into the Rule [see 5 M.R.S. § 8056(2-A)]? No

Analysis and Expected Operation of the Rule [see 5 M.R.S. § 8057-A(1)(B) & (D)]:

The proposal seeks to adjust the menhaden regulations. It is expected to allow the Maine menhaden fishery to operate within the limitations of the quota available, while maintaining harvest flexibility for fishermen.

Brief Summary of Relevant Information Considered During Development of the Rule (including up to 3 primary sources relied upon)[see 5 M.R.S. §§ 8057-A(1)(E) & 8063-B]:

An industry meeting was held in December 2025 to survey industry feedback in preparation for the FY2026, in addition to Marine Patrol and updated regulatory actions (Addendum I to Amendment 3 of the ISFMP for Atlantic Menhaden).

Estimated Fiscal Impact of the Rule [see 5 M.R.S. § 8057-A(1)(C)]:

Enforcement of these proposed 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* 5 M.R.S. § 8057-A(2)(A)]:

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Individuals, Major Interest Groups and Types of Businesses Affected and How They Will Be Affected [*see* 5 M.R.S. § 8057-A(2)(B)]:

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Benefits of the Rule [*see* 5 M.R.S. § 8057-A(2)(C)]:

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