

## NOTICE OF AGENCY EMERGENCY RULE-MAKING

**AGENCY:** Department of Marine Resources

**CHAPTER NUMBER AND TITLE:** Chapter 41 Menhaden EESA Reduction

**CONCISE SUMMARY:**

Department of Marine Resources (DMR) was granted approval to participate in the Episodic Event Set Aside (EESA) program to access an available 4.7 million lbs of menhaden quota. Due to the high rate of effort, it was projected that landings on Monday, June 29 exceeded 2.5 million pounds, and continued fishing would result in an overage of the available EESA. To allow for continued participation in the EESA, the daily landing limit will be reduced to 6,000 lbs on open harvest days and carriers are prohibited; Mondays and Thursdays. 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:** July 2, 2020

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# DEPARTMENT OF MARINE RESOURCES

## CHAPTER 41

### 41.30 Menhaden Program

#### 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 on Mondays between 12:01 AM to 11:59 PM and Thursdays between 12:01 AM to 11:59 PM. It is unlawful to fish for, take, or possess more than 6,000 lbs ~~420,000 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. 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 harvest schedule detailed above. However, daily and weekly landing limits still apply

## **Basis Statement**

Department of Marine Resources (DMR) was granted approval to participate in the Episodic Event Set Aside (EESA) program to access an available 4.7 million lbs of menhaden quota. Due to the high rate of effort, it was projected that landings on Monday, June 29 exceeded 2.5 million pounds, and continued fishing would result in an overage of the available EESA. To allow for continued participation in the EESA, the daily landing limit will be reduced to 6,000 lbs on open harvest days and carriers are prohibited; Mondays and Thursdays. 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 Menhaden EESA Reduction

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)]

Department of Marine Resources (DMR) was granted approval to participate in the Episodic Event Set Aside (EESA) program to access an available 4.7 million lbs of menhaden quota. Due to the high rate of effort, it was projected that landings on Monday, June 29 exceeded 2.5 million pounds, and continued fishing would result in an overage of the available EESA. To allow for continued participation in the EESA, the daily landing limit will be reduced to 6,000 lbs on open harvest days and carriers are prohibited; Mondays and Thursdays. 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 \_\_\_  NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [see §8057-A(1)(B)&(D)]: This rule reduces the daily landing limit for Atlantic menhaden after the opening of the Episodic Event Set Aside fishery recorded high landings. Additional harvesting at the same level would have resulted in overage of the available 4.7 million pound quota.

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 and the landings reports provided by harvesters regarding their recent activity, observations of the fishery provided by Maine Marine Patrol and also the balance of supply and demand as set by the lobster fishery.

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.*