

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 8 Landings Program; Chapter 36 Herring; Chapter 41 Menhaden

ADOPTED RULE NUMBER:
(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

CONCISE SUMMARY:
This rule updates reporting requirements for lobster license holders to replace “distance from shore” with a 10-minute square, and also require the reporting of the number of endlines fished. It replaces references to the IVR herring permit in Chapters 8 and 36 with a herring permit. Finally, it requires individuals intending to participate in the menhaden fishery to obtain a menhaden permit on their commercial pelagic and anadromous license, to facilitate proper reporting in that fishery as required in Chapter 41.

EFFECTIVE DATE:
(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

AGENCY CONTACT PERSON: Amanda Ellis (207) 624-6573
AGENCY NAME: Department of Marine Resources
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 Augusta, Maine 04333
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Please approve bottom portion of this form and assign appropriate MFASIS number.

APPROVED FOR PAYMENT _____	DATE: _____				
FUND	AGENCY	S-UNIT	APP	OBJT	AMOUNT
<i>Please forward invoice to: Natural Resource Service Center, 155 SHS, Augusta</i>					
010	13A	1120	10	4946	regulations

DEPARTMENT OF MARINE RESOURCES

Chapter 8 – Landings Program

N. Lobster Harvest

- A. Ten percent of the lobster and crab fishing license holders, except lobster apprentices, during a given calendar year will be randomly selected to report the listed data elements for the following calendar year with the exception that all (100%) of lobster and crab fishing license holders, except lobster apprentices, of the Monhegan Island Lobster Conservation Area must report each year. With the exception of lobster and crab fishing license holders of the Monhegan Island Lobster Conservation Area, no individual can be selected to report in two consecutive years.

Any person that holds a Class I, II, or III, student or noncommercial lobster and crab fishing license issued under 12 M.R.S §6421(A, B, C, E, F and G) and is selected for reporting must report trip level fishing activity on forms supplied by the Department. The following data elements must be reported to the DMR on approved paper forms or through approved electronic reporting mechanisms:

1. Harvester name (as it appears on the harvesting license) and license number
2. Boat name and hull ID
3. Designate negative report period if no harvesting activity occurred
4. Date fished
5. Number of crew
6. Gear type and number of traps hauled
7. Set time (hours the gear soaked)
8. Total gear in water
9. Depth
10. Primary Statistical area, lobster zone and distance from shore (0-3 miles; 3-12 miles; or 12+ miles) 10-minute square where gear hauled this trip was fished
11. Sea time (including travel)
12. Pounds of species landed
13. License of dealer sold to or if not sold to a licensed dealer, disposition of catch and whether catch was carried
14. Port landed
15. Signature, written or electronic
16. Number of strings hauled. For purposes of this section, a string means a single trap or multiple traps connected by a groundline.
17. Number of endlines – Count of total endlines in the water

R. ~~IVR~~-Herring Harvester

Any person that holds a Commercial Pelagic and Anadromous Fishing License issued under 12 M.R.S. §6502-A and a ~~IVR~~ Herring Harvester Permit under that license must submit weekly catch reports ~~via the National Marine Fisheries Service IVR call-in system~~. Catches from fixed gear must be included in these reports. Any person that holds more than one Commercial Pelagic and Anadromous Fishing License with the ~~IVR~~ Herring Harvester Permit must report for each license they hold. Reports are required even if the herring caught during the week have not been landed. The report shall include the following data elements:

1. Reporting week number
2. Negative reporting period if no harvesting activity occurred
3. Total pounds kept
4. Total pounds discarded

5. Federal fishery management area where the fish were caught

The ~~IVR~~-reporting week begins Sunday at 0001 hrs (12:01 am) and ends Saturday at 2400 hrs (midnight). Weekly Atlantic herring catch reports must be submitted ~~via the IVR system~~ by midnight Tuesday for the previous week. The ~~IVR call-in system~~ weekly report does not exempt the license holder from their Commercial Pelagic and Anadromous Fishing license report (in section P above). Atlantic herring ~~IVR~~-reports are not required from Atlantic herring carrier vessels.

DEPARTMENT OF MARINE RESOURCES

Chapter 36 Atlantic Herring

B. Permits and reporting

(1) Dealer Permit.

All herring dealers shall obtain a herring dealer's permit as part of the Wholesale Seafood License issued by the Department of Marine Resources. There will be no additional charge for this permit. The Commissioner may require that dealer permit holders report volumes of herring bought and sold and other information as required.

(2) ~~IVR~~ Herring Harvester Permit

All herring harvesters, ~~except those who hold a Federal Limited Access Atlantic Herring permit, who catch 2,000 pounds or more Atlantic herring in any given week~~ must possess an ~~IVR~~ a Herring Harvester Permit on their Commercial Pelagic and Anadromous Fishing License issued by the Department of Marine Resources. ~~For purposes of this section only, a week is defined as beginning on Sunday at 0001 hrs (12:01 am) and ending Saturday at 2400 hrs (midnight). There will be no additional charge for this permit.~~

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.

41.20 Permits and Reporting

1. All harvesters intending to participate in the state allocation, episodic event, or incidental catch and small scale fishery for menhaden shall obtain a menhaden permit on their commercial pelagic and anadromous fishing license. There will be no additional charge for this permit.

2. Reporting of catch

All harvesters must report landings daily to the Department via 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 menhaden 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 Incidental Catch and Small Scale Fishery as described in 41.30 (4). Monthly logbook reporting remains a requirement.

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

Dealers: See Chapter 8.10 Landings Program

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: 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 8 Landings Program; Chapter 36 Menhaden; Chapter 41 Herring

STATUTORY AUTHORITY: 12 M.R.S. §6173

DATE AND PLACE OF PUBLIC HEARING(S): 3:30 PM, October 2, 2019, DMR Augusta Office, 32 Blossom Lane, Room 118, 32 Blossom Lane, Augusta, ME 04333

COMMENT DEADLINE: October 12, 2019

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

The principal reason for proposing the change to the lobster reporting requirements is to comply with ASMFC requirements that must in place for the 2020 licensing year. The principal reason for proposing the changes to the IVR herring permit and requiring a menhaden permit is to facilitate in season reporting for those fisheries.

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

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

Harvesters would obtain the necessary permits on their commercial pelagic and anadromous license as required. Lobster license holders would report the information required.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE

Input from the Landings Program staff and policy staff for the herring and menhaden fisheries.

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

Enforcement of these proposed amendments will not require additional activity in this Agency.

Note: If necessary, additional pages may be used.

Basis Statement:

This rule updates reporting requirements for lobster license holders to replace “distance from shore” with a 10-minute square, and also require the reporting of the number of endlines fished. Based on the comment received supporting these data elements in compliance with Addendum XXVI to Amendment 3 of the American Lobster Fishery Management Plan, DMR has modified the reporting requirement for the number of endlines for clarity that the data element is the number of endlines the individual has in the water. This is the piece of information that would be most useful in understanding potential interactions with right whales. The rule also replaces references to the IVR herring permit in Chapters 8 and 36 with a herring permit. Finally, it requires individuals intending to participate in the menhaden fishery to obtain a menhaden permit on their commercial pelagic and anadromous license, to facilitate proper reporting in that fishery as required in Chapter 41.

Summary of Comments:

Notice of this proposed rulemaking appeared on September 11, 2019 in the five major daily newspapers as published by the Secretary of State. On September 11, 2019, the rule was posted on the DMR website, and electronic messages were sent to individuals who subscribe to DMR notices. The public hearing was held as follows: October 2, 2019, 3:30 PM, DMR’s Augusta Office, 32 Blossom Lane, Augusta. The comment period closed October 12, 2019.

Attendance at the Public Hearing:

Members of the Public	DMR Staff
Morgan Urquhart (District Representative, Congressman Jared Golden), John Williams, Jim Dow, Patrice McCarron (Executive Director, Maine Lobstermen’s Association), Joseph Kramer, Kristan Porter, and Penny Overton	Kathleen Reardon, Deirdre Gilbert, and Amanda Ellis

Patrice McCarron, Executive Director, Maine Lobstermen’s Association (MLA), Public Hearing, October 2, 2019:

The MLA strongly supports this proposal. We submitted comments to ASMFC supporting these two provisions in Addendum 26. We feel that the lobster fishery does need better spatial reporting of our harvester data. Particularly it would help with aquaculture siting, with potential wind development, and certainly with potential interactions with right whales. Further on the whale front, we support reporting the number of end lines, because we don’t know how many we have right now.