

Readopt with amendment Fis 603.21, effective 4-10-19 (Document #12754), to read as follows:Fis 603.21 Atlantic Menhaden.

(a) No person shall take, land, possess, or transfer possession of Atlantic menhaden (*Brevortia tyrannus*) while on or leaving the waters under the jurisdiction of the state except in accordance with the licensing and permit requirements of this section.

(b) For the purpose of this section, “non-directed gear” means a pound net, anchored or stake gillnet, drift gill net, fishing weir, fyke net, trammel net, or floating fish trap.

(c) For the purpose of this section, “small-scale gear” means a cast net, trap other than a floating fish trap, pot, haul seine as defined in Fis 602.05, hook and line, and hand line.

(d) For purposes of this section, “land” means to transfer or attempt to transfer the catch of fish from any vessel to any other vessel or onto any land, pier, wharf, dock, or other artificial structure.

(e) For the purpose of this section, a “menhaden dealer” is:

(1) Any person or business who:

- a. Is a New Hampshire licensed wholesale marine species dealer, pursuant to RSA 211:49-aa or RSA 211:49-c; and
- b. As first point of contact, purchases, ships, consigns, transfers, transports, barter, accepts, or packs Atlantic menhaden directly from a commercial harvester for resale; or

(2) Any person or business who:

- a. Has applied for and received a New Hampshire commercial saltwater license, pursuant to RSA 211:49-a or RSA 211:49-b;
- b. Has notified the department in writing of an intent to sell Atlantic menhaden taken under the license as a New Hampshire menhaden dealer; and
- c. Harvests, and then sells, ships, consigns, transfers, or barter their own catch of Atlantic menhaden to any other person or business.

(f) Any person who possesses a recreational saltwater license pursuant to RSA 214:9, XVI, may take, land and possess any quantity of Atlantic menhaden by rod and reel with hook and line or hand line for personal use as bait for angling purposes, and not for the purpose of sale.

(g) Any person who possesses a lobster license pursuant to RSA 211:18 may possess any quantity of Atlantic menhaden while in the normal conduct of tending lobster and crab pots.

(h) A holder of a commercial saltwater license engaged in the take of Atlantic menhaden for the purpose of sale shall be subject to the following requirements and restrictions:

- (1) The licensee shall obtain a harvest permit in accordance with Fis 609.01;
- (2) The licensee shall report all harvest information to the department in accordance with Fis 608.02;
- (3) No licensee shall transfer any portion of a catch of Atlantic menhaden while at sea;
- (4) No licensee shall receive Atlantic menhaden from a harvester vessel while at sea;

(5) No licensee shall sell, ship, consign, transfer or barter their own catch of Atlantic menhaden to any person other than an end user or another menhaden dealer;

(6) A licensee must report any entanglement of gear used to take Atlantic menhaden with other gear types or marine mammals or any release of Atlantic menhaden from a purse seine to Fish and Game Department dispatch at 271-3361 within 12 hours of the interaction; [~~and~~]

(7) Fishing gear used in the taking of Atlantic menhaden may only be fished between sunrise and one hour after sunset; and

(8) No licensee shall land Atlantic menhaden between January 1 and May 14 except those using non-directed or small-scale gear. Licensees using non-directed or small-scale gear may take, land and possess a maximum of 6,000 pounds per day of Atlantic menhaden.

(i) No licensee shall deploy a gill net seeking the take of Atlantic menhaden in state waters except in accordance with the following restrictions:

(1) The waters of the Great Bay estuarine system inland of the Memorial Bridge in Portsmouth, Little Harbor and its tributaries inland of its most seaward jetty, Rye Harbor and its tributaries inland of its most seaward jetty, and inland of the Hampton Harbor Bridge shall be subject to the restrictions contained in Fis 602.06(e);

(2) Each gill net shall have a high flier buoy or an A-2 or larger orange Gloucester buoy, marked with the name of the licensee, at each end of the net;

(3) Each gill net shall at all times have an identification tag with the licensee's name attached to the head rope at the junction with the vertical line at one end of the net;

(4) No gill net shall have a mesh size larger than 4 inches;

(5) No gill net shall be longer than 300 feet, or have a depth of more than 20 feet;

(6) No more than 2 gill nets shall be deployed by a licensee at any one time in state waters;

(7) The 2 gill nets of a licensee shall be either fished separately or tied together so long as the total length of the nets tied together does not exceed 600 feet;

(8) Each sink gill net shall be deployed at a location that is within the unaided eyesight of the licensee. Unaided eyesight means unaided by devices such as binoculars or spotting scope;

(9) A sink gillnet shall only be weighted with a lead line for a foot rope, and an anchor or weight at only one end of the gill net;

(10) A surface gill net shall have a headrope sufficiently buoyant to remain exposed at the water's surface while fishing, and must be fished with one line attached to the vessel at all times; and

(11) All gill nets shall be in compliance with the weak link requirements in Fis 602.09(b)(6).

(j) No licensee shall deploy a purse seine seeking the take of Atlantic menhaden in state waters except in accordance with the following restrictions:

(1) For the purpose of this section, the vessel that the purse seine net is deployed from shall be the "primary purse seine vessel";

(2) For the purpose of this section, the vessel that draws the purse seine net around a school of Atlantic menhaden and returns control of the deployed net back to the primary purse seine vessel shall be the “assisting vessel”;

(3) No purse seine shall be larger than 600 feet wide and 48 feet deep;

(4) Any purse seine deployed must be pursed and retrieved by hand without the aid of hydraulic, electrical, gas or diesel powered devices;

(5) No purse seine shall be set or retrieved in the waters landward of 72 COLREGS demarcation line, landward of the Rye harbor approach channel as defined in RSA 211:19-a, III or landward of the outer most jetty at the Hampton harbor entrance;

(6) No purse seine shall be set or retrieved from a vessel that is more than 50 feet in length;

(7) No more than one additional vessel shall assist another vessel with the take of Atlantic menhaden with a purse seine, nor shall the assisting vessel be more than 50 feet in length;

(8) No purse seine shall be set or retrieved on the days of Saturday or Sunday;

(9) Atlantic menhaden shall not be removed from a purse seine with a power assisted pumping device;

(10) All marine species other than Atlantic menhaden shall be released immediately from a purse seine; and

(11) The primary purse seine vessel shall be responsible for reporting all information required under Fis 608.02, including any Atlantic menhaden landed by the assisting vessel.

(k) Except as provided in this section, no holder of a commercial saltwater license or wholesale marine species license shall take, land, or possess Atlantic menhaden for the purpose of sale while on or leaving the waters under the jurisdiction of the state whenever the executive director has projected that 92 percent of the annual state quota established by the Atlantic States Marine Fisheries Commission (ASMFC) has been taken.

(l) A closure date shall be announced via notice by the executive director at least 2 days prior to the closure being enacted.

(m) Until the state’s Atlantic menhaden quota has been taken and a closure date announced, any menhaden dealer shall electronically report all menhaden landing transactions daily, providing the following information consistent with the minimum data requirements of the Standard Atlantic Fisheries Information System (SAFIS):

(1) Name of dealer, or properly licensed person;

(2) The dealer’s wholesale marine species or commercial saltwater license number;

(3) Week of reporting period;

(4) Commercial harvester’s trip start date;

(5) Vessel name;

(6) State of vessel registration and number or coast guard number;

(7) Commercial harvester’s first name, last name, date of birth, and license number;

(8) Number of trips for commercial harvester per day;

- (9) Species purchased;
- (10) Pounds of species purchased;
- (11) Disposition of species purchased;
- (12) Ex-vessel value or price of purchased species;
- (13) Port, county and state where species were landed;
- (14) Date species unloaded from commercial harvester’s vessel;
- (15) Grade and market size of purchased species;
- (16) Gear used to harvest species; and
- (17) Dated signature of the dealer, signed subject to the penalties for unsworn false statements under RSA 641:3.

(n) Once the state Atlantic menhaden quota has been taken and a closure date announced, all menhaden dealers shall electronically report all Atlantic menhaden landing transactions on a weekly basis with the information defined in paragraph (k) above. The reporting week shall be Sunday through Saturday.

(o) Notwithstanding the above restrictions and requirements, any holder of a commercial salt water license or harvest permit may take, land and possess up to a maximum of 6,000 pounds per day of Atlantic menhaden during a closure period provided that:

- (1) The fish have been taken by non-directed or small-scale gears; and
- (2) No licensee shall land Atlantic menhaden more than once per calendar day.

(p) Five hundred thousand pounds of the state Atlantic menhaden quota shall be set aside annually for fish harvested within the jurisdiction of New Hampshire for the intent of sale. Any remaining set aside will be applied to the overall state Atlantic menhaden quota on October 1.

| Rule | State Statute | Federal Statute |
|-------------|----------------------|------------------------|
| Fis 603.21 | RSA 211:62 | 16 USC 1801 |