

NOTICE OF AGENCY EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 41.30 (1) Menhaden Fishery Closure

CONCISE SUMMARY: The Atlantic States Marine Fisheries Commission (ASMFC) Atlantic Menhaden Management Board approved a total allowable catch (TAC) for the 2017 fishing season of 200,000 mt. The amount allocated to Maine for 2017 is 171,882 lbs. States have the responsibility to close their directed commercial fisheries in their state once their quota has been reached. Based on its knowledge of existing fishing activity, Maine DMR is aware that the 2017 menhaden quota has been reached, and is closing the menhaden fishery for 2017 in order to avoid unusual damage and imminent depletion of the menhaden resource. The Commissioner adopts this emergency rule-making under the authority provided by 6171-3 (A).

EFFECTIVE DATE: June 3, 2017

AGENCY CONTACT PERSON: Melissa Smith
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Repeal Chapter 41 and replace with:

DEPARTMENT OF MARINE RESOURCES

CHAPTER 41

41.30 Menhaden Program

1. State Allocation Fishery
It is unlawful to fish for, take, or possess Atlantic menhaden.

Basis Statement

The Atlantic States Marine Fisheries Commission Atlantic Menhaden Management Board approved a total allowable catch (TAC) for the 2017 fishing season of 200,000 mt. The TAC is made available to the states based on the allocation established by Amendment 2 to the Interstate Fisheries Management Plan for Atlantic menhaden. The amount allocated to Maine for 2017 is 171,882 lbs. States have the responsibility to close their directed commercial fisheries in their state once their quota has been reached. Based on its knowledge of existing fishing activity, Maine DMR is aware that the 2017 menhaden quota has been reached, and is closing the menhaden fishery for 2017 in order to avoid unusual damage and imminent depletion of the menhaden resource. The existing chapter is repealed and replaced with a prohibition on fishing for, taking, or possessing Atlantic menhaden. The Commissioner adopts this emergency rule-making under the authority provided by 6171-3 (A).

Summary of Comments

NA

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 41.30 (1)

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)] The Department has received reports from industry members and Department staff that the 2017 state allocation for Atlantic menhaden has been met or exceeded. For this reason, the Commissioner has determined that it is necessary to take emergency action under 12 MRS 6171(3)(A) to close the fishery to prevent unusual damage or imminent depletion of the menhaden resource.

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)]: This rule seeks to close the 2017 commercial fishery for menhaden, as required by Amendment 2 of the Interstate Fisheries Management Plan for Atlantic Menhaden.

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]
Reports from industry members, Marine Patrol, science staff, and landings program staff; Amendment 2 of the Interstate Fisheries Management Plan for Atlantic Menhaden

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.