

**Public Hearing**  
**February 19, 2018**

**Proposed/annotated amendments**  
**Part 3 – Finfish**  
**Section 3.22.2**  
**Menhaden**

Note: Proposed new language is identified as **red, bold, underline**; proposed language to be deleted is identified as ~~red stricken~~.

**3.22.2 Commercial**

A. Menhaden Management Area: Narragansett Bay in its entirety is designated a Menhaden Management Area pursuant to R.I. Gen. Laws § 20-4.1-1. This area shall include the east and west passages of Narragansett Bay, Mt. Hope Bay, and the Sakonnet River, and be bordered on the south by a line from Bonnet Point to Beavertail Point to Castle Hill Light. The southern boundary further extends from Land's End to Sachuest Point and then to Sakonnet Light. The following regulations govern all commercial menhaden operations conducted in the Menhaden Management Area (Management Area).

1. Opening and closure of fishery:

a. Fishery opening - possession limits:

(1) Biomass Floor: On an annual basis in the spring, the DEM shall conduct regular estimates of the standing stock of menhaden ~~present in the Management Area~~ utilizing approved scientific monitoring methods. On the basis of those estimates, DEM shall open the commercial fishery at an initial possession limit of 120,000 pounds per vessel per calendar day when the estimated weekly standing stock reaches 2,000,000 pounds.

~~(2) The possession limits may be modified by the DEM on the basis of the estimated weekly standing stock of menhaden in the Management Area derived via approved scientific monitoring methods.~~

~~(3) The possession or taking of menhaden is prohibited on any Saturday, Sunday, official state holiday, or prior to sunrise or following sunset, unless using a non-directed gear type for menhaden. Non-directed gear shall be defined as cast nets, floating fish traps, and rod and reel.~~

**Commented [LN(1):** All of section A. is the Menhaden Management Area, no need to repeat this.

**Commented [LN(2):** Marine Fisheries Regulations Part 1, section 1.6 already covers possession limit adjustments. This section is redundant.

**Commented [LN(3):** This language has been moved below to section A.2.e. It has been modified to only apply to purse seines as was the original intent.

b. Fishery closure:

- (1) Biomass Ceiling: When 50% of the estimated standing stock of menhaden stock ~~present in the management area~~, above the minimum threshold amount of 1,500,000 pounds, is harvested, the DEM shall close the menhaden fishery until further notice.
- (2) If at any time the stock estimate drops below 1,500,000 pounds, the DEM shall close the commercial fishery **and the incidental catch fishery will be in effect** until further notice.
- ~~(3) Non-directed gear possession limit allowance: Upon closure of the fishery, the possession limit is 6,000 pounds per vessel per day for vessels utilizing non-directed gear.~~

**Commented [LN(4)]:** All of section A. is the Menhaden Management Area, no need to repeat this.

~~5.~~ **c. Fall opening in the Menhaden Management Area:**

~~a.(1) Beginning September 1 annually, the area south of a line extending from the Jamestown and Newport Bridges, and the area south of a line extending from Fogland Point to Sandy Point in the Sakonnet River, to the southern extent of the Management Area, will be open to the harvest of menhaden by purse seine provided that the state's quota has not been exhausted or if the Episodic Event Set Aside Program has been enacted in RI.~~

~~b.(2) Possession limit: 25,000 pounds per vessel per day.~~

**Commented [LN(5)]:** Specified above that incidental catch fishery will be in effect. The incidental catch fishery is defined below in section D.

2. Purse seine restrictions: The use of purse seines ~~in the Management Area~~ shall be permitted only in accordance with the following terms and conditions:

**Commented [LN(6)]:** All of section A. is the Menhaden Management Area, no need to repeat this.

- a. All nets shall be less than 100 fathoms (600 feet) in length and less than 15 fathoms (90 feet) in depth.
- b. All nets shall be marked with fluorescent-colored float buoys, distinguishable from the other float buoys on the net, at intervals of 50 feet.
- c. Annually, prior to use, all nets shall be inspected and certified as being in conformance with the provisions of this section by the DEM Division of Law Enforcement (DLE). Once inspected and certified, a net may be used throughout the duration of the calendar year in which it was inspected, provided that it is not altered with regard to any of the provisions of this section. Any net that is altered with

regard to any of the provisions of this section must be re-inspected and recertified prior to use.

~~3.d. Permanently closed areas (waters) to purse seining for menhaden~~  
**The possession or taking of menhaden by purse seine is prohibited in the following areas:**

~~a.(1)~~ Providence River: **Described as the All** waters north of a straight line extending from Rocky Point to Conimicut Light **in the city of Warwick, and further extending** to Nayatt Point **in the town of Barrington.**

~~b.(2)~~ Greenwich Bay: **Described as the all** waters ~~in of~~ Greenwich Bay west **and north** of a line **extending** from the flag pole on Warwick Point to Sandy Point **in the city of Warwick.**

~~e. Harvest of menhaden in permanently closed areas: No person harvesting menhaden shall possess more than 200 menhaden per vessel per calendar day unless using gear types other than purse seine.~~

~~e.~~ **The possession or taking of menhaden is prohibited on any Saturday, Sunday, official state holiday, or prior to sunrise or following sunset.**

~~3.4.~~ Commercial vessel restrictions: A fishing vessel engaged in the commercial menhaden fishery may not have a useable fish storage capacity greater than 120,000 pounds. Prior to the commencement of fishing, for any vessel not previously certified through this process, each vessel must be inspected by a certified marine surveyor and assessed with regard to its fish storage capacity. Such certification must be kept aboard the vessel at all times. Vessels must either be certified as having a useable storage capacity of 120,000 pounds or less, or for vessels with a fish storage capacity greater than 120,000 pounds the excess capacity is rendered unusable in accordance with the specifications set forth in the assessment.

~~5.~~ **Fall opening in the Menhaden Management Area:**

~~a.~~ Beginning September 1 annually, the area south of a line extending from the Jamestown and Newport Bridges, and the area south of a line extending from Fogland Point to Sandy Point in the Sakonnet River, to the southern extent of the Management Area, will be open to the harvest of menhaden by purse seine provided that the state's quota has not been exhausted or if the Episodic Event Set Aside Program has been enacted in RI.

**Commented [LN(7)]:** This language is no longer needed. We are no longer designating it as a closed area, just prohibiting purse seine possession. The recreational possession limit is defined in 3.22.1 and the possession limits for all other commercial gear types are specified elsewhere.

**Commented [LN(8)]:** Moved from A.1.a.(3) above

~~b. — Possession limit: 25,000 pounds per vessel per day.~~

~~6. — Reporting requirements:~~

~~a. — Any fisher intending to engage in the commercial menhaden fishery in the Management Area shall notify the DLE at (401) 222-3070 prior to taking or possessing menhaden. At the time that a fisher advises the DLE of his/her intent to harvest menhaden, the DLE shall notify said fisher of any modification which may have been established in the possession limit for menhaden.~~

~~b. — Each person engaging in the commercial menhaden fishery shall contact the DEM at (401) 423-1940 at the end of each day to report the area fished and the amount of menhaden in possession by the fisher in pounds.~~

B. Landing of menhaden in RI under State Quota Program: An annual statewide quota for menhaden is established annually for the State by the ASMFC. The quota shall pertain solely to landings of menhaden in RI and shall not pertain to the possession of menhaden in RI waters prior to landing.

1. The landing limit is ~~unlimited~~ **120,000 pounds/vessel/day** until the quota has been reached, as determined by the DEM.

2. Once the quota has been reached, the fishery will close for directed fisheries, including but not limited to purse seine operations, and **the incidental catch fishery** a bycatch limit will be in effect. ~~The bycatch limit will be:~~

~~a. — Non-directed fisheries: 6,000 pounds per vessel per day.~~

~~b. — Pound nets, fish traps, anchored/staked gill nets, and fyke nets: If two commercially licensed individuals are harvesting from the same vessel, two (2) daily possession limits (12,000 pounds per vessel per day).~~

3. All commercial menhaden operations conducted in the Management Area, prior to and after the State's quota has been reached, are subject to the provisions of § 3.22.2(A) of this Part, ~~unless using non-directed gear.~~

C. Episodic Event Set Aside Program:

1. After the State's quota has been reached, if RI is approved to participate in the Episodic Event Set Aside Program for Menhaden, as established by the ASMFC, the landing limit for menhaden will be 120,000 pounds per vessel per day ~~for vessels associated with directed fisheries for Menhaden~~, until the Set Aside quota has been exhausted, as determined by the ASMFC and/or the DEM, at which time the program will end and

**Commented [LN(9)]:** Moved to Incidental catch fishery section D below.

**Commented [LN(10)]:** Everything in A should apply, it was only the reporting requirement that should not apply which was moved below as a separate section E so it only applies to purse seines.

**Commented [LN(11)]:** Language not needed, all gear types should be able to participate

the directed fishery will close. Vessels that target and land menhaden in RI under this program must harvest only from RI waters and, if operating in the Management Area, must adhere to all of the provisions as specified in these regulations.

~~2. Reporting Requirements:~~

~~a. Any person intending to engage in the commercial menhaden fishery under the Episodic Event Set Aside Program must notify the DLE at (401) 222-3070 prior to taking or possessing menhaden. At the time that a fisher advises the DLE of his/her intent to harvest menhaden, the DLE shall notify said fisher of any modification to the possession limit for menhaden that is applicable to operations conducted in the Management Area.~~

~~b. Each person engaged in the commercial menhaden fishery shall contact the Division of Marine Fisheries at (401) 423-1940 at the end of each daily trip or within four hours thereof to report the amount of menhaden landed by the fisher in pounds. These menhaden-specific reporting requirements are in addition to all other existing commercial fishing reporting requirements as set forth in the RI Marine Fisheries regulations.~~

~~3. Vessels not associated with directed fisheries for menhaden may continue to harvest and land in RI up to 6,000 pounds per vessel per day as bycatch. Such vessels are not subject to the provisions of §§ 3.22.2(A)(1)(a)((2)) and ((3)) of this Part, but are subject to the provisions of § 3.22.2(A) of this Part with regard to operations conducted in the Management Area, and are subject to all existing commercial fishing reporting requirements as set forth in the RIMFR.~~

2.4.—The Episodic Event Set Aside Program will end on November 1 annually or when the set aside quota has been harvested, whichever first occurs.

**D. Incidental Catch Fishery:**

**1. Upon closure of the commercial menhaden fishery, an incidental catch fishery will be in effect as defined below:**

**a. Possession limit:**

- (1) 6,000 pounds/vessel/day for non-directed and small-scale gears.**
- (2) 12,000 pounds/vessel/day for two commercially licensed individuals harvesting from the same vessel, fishing stationary multi-species gear.**

**Commented [LN(12):** Covered under purse seine reporting requirements section below, E.

**Commented [LN(13):** Not applicable, opened it to all gear types

**b. Gear Types:**

- (1) **Non-directed: Anchored/stake gillnets, trawls, fyke nets, and floating fish traps.**
- (2) **Small-scale: Cast nets, pots, hook and line, hand lines, trammel nets, and bait nets.**
- (3) **Stationary multi-species: Anchored/stake gillnets, floating fish traps, and fyke nets.**

**6.E. Purse Seine** Reporting requirements:

**a-1. Any fisher intending to engage in the commercial menhaden fishery in the Management Area shall notify the DLE at (401) 222-3070 prior to taking or possessing menhaden. At the time that a fisher advises the DLE of his/her intent to harvest menhaden, the DLE shall notify said fisher of any modification which may have been established in the possession limit for menhaden.**

**b-2. Each person engaging in the commercial menhaden fishery shall contact the DEM at (401) 423-1940 at the end of each day to report the area fished and the amount of menhaden in possession by the fisher in pounds.**

**DF.** Prohibition on the harvesting of menhaden for reduction processing: The taking of Menhaden for reduction (fish meal) purposes is prohibited in Rhode Island waters. A vessel will be considered in the reduction (fish meal) business if any portion of the vessel's catch is sold for reduction.

**EG.** No person may transfer or attempt to transfer at sea, from one vessel to another, any finfish identified in these regulations.

**H. Possession limit and landing limit compliance:**

- 1. It shall be unlawful for any purse seine operation and/or company to land more than one possession limit and/or landing limit per day.**

**Commented [LN(14):** To prevent multiple landings per day with the use of carrier vessels.