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SUBCHAPTER 22. Menhaden

7:25-22.1 Taking of Atlantic menhaden for fish meal reduction

The taking of Atlantic menhaden (*Brevoortia tyrannus*) from the marine waters of the State of New Jersey by any means for fish meal reduction is prohibited. This prohibition does not apply to the taking of menhaden for bait or the taking of menhaden in whole form and freezing them for consumption by humans.

7:25-22.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Bait net" means a net including, but not limited to, a bait seine, cast net, dip net, lift or umbrella net, or killi-pot.

"Dealer" means a person who has been issued a Menhaden Dealer License to purchase or barter menhaden landed in the State and who is the first point of sale for the purchase or barter of menhaden.

"Division" means the Division of Fish and Wildlife.

"Fishing" means the taking of menhaden from State or Federal waters.

"Gill net vessel" means a vessel that is used in the deployment of a gill net.

"Land" means to enter port with fish, begin offloading fish, or to offload fish.

"Menhaden set vessel" means the smaller of two vessels, often employed in conjunction with a purse seine catch vessel, used as a replacement for the weight of a purse seine to assist in setting the net.

"Other authorized gear" means the gear types listed at N.J.S.A. 23:5-24.2, and includes haul seines, fyke nets, and wire pound nets, which are licensed for the taking of menhaden.

"Pound net vessel" means a vessel that is used in the deployment of a pound net.

"Purse seine" means purse seine or shirred net gear.

"Purse seine carry vessel" means a vessel that is used to carry and land or sell menhaden and which works with a purse seine catch vessel or menhaden set vessel.

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"Purse seine catch vessel" means a vessel that is used in the deployment of a purse seine, which may work in conjunction with a purse seine carry vessel or menhaden set vessel.

"Trawl vessel" means a vessel that is used in the deployment of a trawl net.

7:25-22.3 Atlantic menhaden annual quota and season

(a) The Commissioner, with the approval of the New Jersey Marine Fisheries Council, may modify the annual quota as determined by the Atlantic States Marine Fisheries Council, seasons, annual quota allocation, including modifying gear categories and the quota allocation by gear-type, incidental catch allowance, application of the incidental catch allowance to the annual quota, reporting requirements, trip limits, or gear marking requirements specified in this subchapter by notice in order to maintain consistency with any fishery management plan approved by the Atlantic States Marine Fisheries Council or to maintain consistency with fishery management plan approved by the Mid-Atlantic Fishery Management Council, the New England Fishery Management Council, or the South Atlantic Fishery Management Council and adopted by the National Marine Fisheries Service to provide for the optimal utilization of any quotas specified in this section. The Commissioner will review the catch rate in relation to the season quota and, if harvest data indicate that upward adjustments in harvest control measures are warranted to maximize utilization of the available quota within a specific season for a specific fishery, may adjust the above specified control measures to achieve optimal utilization of the total allowable catch. The Department shall publish notice of any such modification in the New Jersey Register, on the Department's website, through email to every menhaden license holder, and in the Division's commercial regulation publication. All such notices shall be effective when the Department files the notice with the Office of Administrative Law, or as specified otherwise in the notice.

(b) The Atlantic menhaden annual quota shall be divided among the various gear types, with the purse seine fishery being allocated 95 percent of the quota, and pound nets, wire pound nets, gill nets, trawls, bait nets, and other authorized gear being allocated the remaining five percent, combined. If the quota for any gear type is exceeded, the overharvested amount shall be deducted from the following year's quota.

1. The season for fishing and landing menhaden in the State shall be:

- i.** January 1 to December 31 for licensees taking menhaden, or landing menhaden taken, by purse seine;
- ii.** January 1 to December 31 for licensees taking menhaden, or landing menhaden taken, by gill net;
- iii.** January 1 to December 31 for licensees taking menhaden, or landing menhaden taken, by pound net or wire pound net;

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- iv.** January 1 to December 31 for licensees taking menhaden, or landing menhaden taken, by trawl;
- v.** January 1 to December 31 for licensees taking menhaden, or landing menhaden taken, by bait net; and
- vi.** January 1 to December 31 for licensees taking menhaden, or landing menhaden taken, by other authorized gear not otherwise specified above.

2. The daily trip limits during the open season for menhaden in the State shall be:

- i.** The daily trip limit shall be unlimited for licensees taking menhaden, or landing menhaden taken, by purse seine;
- ii.** The daily trip limit shall be unlimited for licensees taking menhaden, or landing menhaden taken, by gill net;
- iii.** The daily trip limit shall be unlimited for licensees taking menhaden, or landing menhaden taken, by pound net or wire pound net;
- iv.** The daily trip limit shall be unlimited for licensees taking menhaden, or landing menhaden taken, by trawl;
- v.** The daily trip limit shall be unlimited for licensees taking menhaden, or landing menhaden taken, by bait net; and
- vi.** The daily trip limit shall be unlimited for licensees taking menhaden, or landing menhaden taken, by other authorized gear not otherwise specified above.

(c) The Department shall close the menhaden season for each respective gear type, by giving not less than two days' notice of the projected date that the year's quota for that gear type will be landed.

(d) If the Commissioner, or his or her designee, has closed the season and if unanticipated events result in the quota not being landed by the projected date stated in the closure notice, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon two days' public notice.

(e) Public notice shall be provided by a posting on the Department's website and by email sent to all licensees under this subchapter. Each licensee shall, at the time of licensure, provide the Department with the licensee's email address to facilitate the provision of notice pursuant to this section.

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(f) If the season for a particular gear type is closed because the quota amount allocated to that gear type has been harvested and landed, then:

1. The holder of a Menhaden Landing License for that gear type or the holder of a Menhaden Personal Use and Limited Sale License may continue to land an incidental catch as established by the Atlantic States Marine Fisheries Commission, or by the Mid-Atlantic Fishery Management Council, the New England Fishery Management Council, or the South Atlantic Fishery Management Council, as adopted by the National Marine Fisheries Service;
2. The holder of a Menhaden Dealer License may continue to accept incidental catch from the holder of a Menhaden Landing License or the holder of a Menhaden Personal Use and Limited Sale License, as established by a fishery management plan for menhaden; and
3. The incidental catch allowance shall be applied to the annual menhaden catch quota as provided by a fishery management plan for menhaden.

7:25-22.4 Taking Atlantic menhaden utilizing a purse seine

(a) Persons licensed to fish for, or in any way participate in the fishery for, Atlantic menhaden with a purse seine in the marine waters of New Jersey must be in possession of a Menhaden Purse Seine Fishing Vessel License or a Menhaden Purse Seine Fishing Vessel Operator's License for the purpose of taking Atlantic menhaden for bait or in whole frozen form for consumption by humans only.

1. A Menhaden Purse Seine Fishing Vessel License may only be issued to an owner and a vessel that have a valid Menhaden Purse Seine Fishing Vessel License from the previous year.
2. A menhaden set vessel that participates only in the setting of a purse seine in conjunction with a purse seine catch vessel is exempt from licensure.
3. A licensee shall not use, have on board the licensed vessel, or work in conjunction with any other vessel that uses any type of fishing gear other than purse seine.
4. A license issued pursuant to (b) and (c) below shall remain on board the licensed vessel at all times.
5. A license is good for one calendar year and the licensee must reapply every year for a license. Failure to renew a Menhaden Purse Seine Fishing Vessel License shall result in forfeiture of the license.

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(b) Menhaden Purse Seine Fishing Vessel Licenses shall be issued only to vessels and owners who have a valid Menhaden Purse Seine Fishing Vessel License.

1. The following types of vessels and owners that intend to take menhaden must obtain a Menhaden Purse Seine Fishing Vessel License:

- i.** A purse seine catch vessel that takes menhaden from State waters on an individual trip basis; and
- ii.** Any purse seine carry vessel that works in conjunction with the purse seine catch vessel except for a menhaden set vessel.

2. To obtain a license, an applicant must:

- i.** Complete the application form each year and submit it by December 31 in the year the license to be replaced is valid;
- ii.** Provide an email address to receive notifications from the Department;
- iii.** Submit the correct fee, based upon the gross tonnage of a vessel using Custom House measurements, as follows:

(1) For a New Jersey resident, excluding a New Jersey resident who leases a vessel from out-of-State:

(A) \$ 125.00 for each vessel not less than 30 nor more than 100 tons in gross tonnage;

(B) \$ 250.00 for each vessel not less than 100 nor more than 150 tons in gross tonnage;

(C) \$ 400.00 for each vessel not less than 150 nor more than 175 tons in gross tonnage;

(D) \$ 550.00 for each vessel not less than 175 nor more than 200 tons in gross tonnage;

(E) \$ 900.00 for each vessel more than 200 tons in gross tonnage; and

(F) \$ 20.00 for each vessel up to 300 tons in gross tonnage, which is used to take menhaden for bait purposes only;

(2) For a non-resident, including a New Jersey resident who leases a vessel from out-of-State:

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(A) \$ 450.00 for each vessel not less than 30 nor more than 100 tons in gross tonnage;

(B) \$ 700.00 for each vessel not less than 100 nor more than 150 tons in gross tonnage;

(C) \$ 1,000 for each vessel not less than 150 nor more than 175 tons in gross tonnage;

(D) \$ 1,150 for each vessel not less than 175 nor more than 200 tons in gross tonnage; and

(E) \$ 1,500 for each vessel more than 200 tons in gross tonnage; and

iv. Submit the name of the vessel and the name of the vessel's owner. If the vessel owner is not the operator, then the vessel owner shall apply for a Menhaden Purse Seine Fishing Vessel License and the vessel operator shall apply for a Menhaden Purse Seine Fishing Vessel Operator's License pursuant to (c) below.

3. A license shall be issued in the name of the owner and the vessel.

4. When a holder of a Menhaden Purse Seine Fishing Vessel License wishes to increase or decrease the vessel's length or the engine's horsepower or, if a carry vessel, the vessel's hold capacity, whether at the time of license application, when transferring the license pursuant to N.J.A.C. 7:25-22.6, or any time, the licensee must submit:

i. Documentation attesting to the overall length and horsepower of the vessel; and

ii. If the vessel is a purse seine carry vessel, submit a certification of the hold capacity as determined by one of the following:

(1) An individual credentialed as a Certified Marine Surveyor with a fishing specialty by the National Association of Marine Surveyors;

(2) An individual credentialed as an Accredited Marine Surveyor with a fishing specialty by the Society of Accredited Marine Surveyors;

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(3) Employees or agents of a classification society approved by the United States Coast Guard;

(4) A professionally licensed and/or registered Marine Engineer;
or

(5) A Naval Architect with a professional engineer license.

(c) Menhaden Purse Seine Fishing Vessel Operator's Licenses shall be issued as follows:

1. Only a vessel operator who is not the owner may apply for a Menhaden Purse Seine Fishing Vessel Operator's License;

2. To obtain a license, an applicant must:

i. Complete the application form each year and submit it by December 31;

ii. Provide an email address to receive notifications from the Department;
and

iii. Submit a fee of \$ 50.00 if the applicant is a New Jersey resident, or a fee of \$ 75.00 if the applicant is a non-resident; and

3. A license shall be issued in the name of the vessel operator only.

(d) Persons licensed to fish for Atlantic menhaden with a purse seine in the marine waters of New Jersey, shall be subject to the following:

1. Fishing, for the purpose of this section, shall be defined as having a purse seine in the marine waters of this State within three nautical miles of the State coastline.

2. Fishing shall be restricted to not closer than 0.6 nautical miles of any point along the shore, jetties, or fishing piers in the Atlantic Ocean, in the portion of the Delaware Bay south and east of LORAN C line 42850, and in Raritan Bay and Sandy Hook Bay. It will be incumbent upon the captain of a purse seine vessel to determine the possibility of drifting inside the limit while fishing, before setting his or her net. The drifting of a purse seine into the restricted area along the shore or around the jetty or pier while fishing shall be considered a violation of this subchapter.

3. The maximum length overall of any vessel fishing under the provisions of this section shall be 90 feet as reported on the vessel's Coast Guard documentation. A licensee may increase a carry vessel's hold capacity up to 10 percent, and increase any purse seine vessel's horsepower by up to 20 percent and/or increase the overall length up to 10 percent, as long as the overall length of the vessel is 90

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feet or less. The increased capacity, horsepower, or length may be achieved by upgrading the vessel or replacing the vessel with a new vessel. The increases may be made one time during the life of the vessel or a licensee may incrementally increase a vessel's capacity, horsepower, and/or length over the life of the vessel, as long as the overall increases do not exceed 10 percent for the hold capacity, 20 percent for the horse power, and 10 percent for the length, as long as the vessel is 90 feet or less at all times.

4. Purse seine shall not exceed 150 fathoms in length.

5. A person shall not fish for, or land, menhaden on Saturdays and Sundays. A person shall not fish on the days on which a public holiday is officially observed by the State of New Jersey.

6. Fishing shall be conducted only during the hours between sunrise and sunset.

7. Removal of fish from the purse seine shall be by brailing or dip net only. No fish pump shall be on board any vessel operating under a license for the purpose of taking Atlantic menhaden, unless the pump is completely covered and securely fastened with a brightly colored tarp, and the pump intake or hose is disconnected from the pump and is securely stowed away from the pump, so that it is not readily available for use when the vessel is fishing in State waters.

8. The possession of more than 500 pounds of any fish other than Atlantic menhaden, as defined at N.J.S.A. 23:2B-3e, on a purse seine licensed vessel harvesting Atlantic menhaden is prohibited.

i. The simultaneous possession of Atlantic menhaden and more than 500 pounds of any other fish, as defined at N.J.S.A. 23:2B-3e, and a purse seine, aboard a licensed vessel or any vessel conducting menhaden fishing operations, shall constitute prima facie evidence of the violation of this subchapter.

9. No refuse, litter, or garbage of any kind shall be thrown overboard or released from the vessel or its net(s). Dead fish shall not be thrown overboard or otherwise released from the vessel or its net(s), except for an incidental amount of dead fish that results during the course of fishing operations. The licensee shall immediately notify the Division's Marine Enforcement Unit at (609) 748-2050 of a release of dead fish.

10. The licensee is responsible for cleaning up any fish, fish-part, refuse, litter, or garbage of any kind that is released during any fishing operation or as a result of a fishing operation and must initiate such cleanup no later than 24 hours after the release begins. If the licensee fails to initiate such cleanup within the 24-hour period, the Department may conduct or arrange for the performance of the

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cleanup. In addition to any other penalties and remedies provided by law, the licensee shall be liable for all costs associated with such cleanup, including any administrative costs incurred by the Department. Such cleanup shall include, but not be limited to, the marine and estuarine waters of the State and adjacent beaches, shorelines, and marshes.

11. No stakes, markers, or buoys designating channels, crab pots, lobster pots, fish pots, or traps, or staked leased shellfish grounds, shall be disturbed by the act of fishing.

12. Any vessel operating under a license for the purpose of taking Atlantic menhaden shall be required to notify the Department of the intent to fish for menhaden and the intended fishing location of the vessel. The notification shall be made by calling the Division's Marine Enforcement Unit at (609) 748-2050, or if made available by the Department, by electronic means, prior to fishing in State waters and prior to change of location.

13. No vessel or person shall fish or utilize any other gear type in the same day it has called in and declared that it is fishing for menhaden.

7:25-22.5 Menhaden Landing and Personal Use and Limited Sale licenses

(a) No person shall land for the purposes of sale or barter, or otherwise sell or barter, more than 100 pounds of menhaden at any time in the State, unless the person is in possession of a Menhaden Landing License that authorizes the person to participate in the directed bait and whole frozen human food fishery for menhaden.

(b) Any person who intends to take menhaden from State waters for personal use as bait using a gill net, with the option to sell or barter 500 pounds or less in excess of the amount needed by the person for bait per day, shall obtain a Menhaden Personal Use and Limited Sale License pursuant to (l) below.

(c) Nothing in this section shall prohibit a person who does not possess a Menhaden Landing License or a Menhaden Personal Use and Limited Sale License from landing 100 pounds or less of menhaden for sale or barter, at any time, and on any trip or day.

(d) A person with a valid Menhaden Landing License who intends to land for the purposes of sale or barter, or otherwise sell or barter, more than 100 pounds of menhaden at any time shall obtain a Menhaden Landing License as follows:

1. The licensee must:

i. Complete the application form each year and submit it by December 31;

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ii. Provide an email address to receive notifications from the Department; and

iii. Submit the correct fee as follows:

(1) The fee for a New Jersey resident using a purse seine is \$ 150.00;

(2) The fee for a New Jersey resident using a gear type other than a purse seine is \$ 50.00;

(3) The fee for a non-resident using a purse seine is \$ 750.00 or an amount equal to the non-resident fee charged for the landing of menhaden in the non-resident's state, whichever is greater; or

(4) The fee for a non-resident using a gear type other than a purse seine is \$ 250.00 or an amount equal to the non-resident fee charged for the landing of menhaden in the non-resident's state, whichever is greater.

(e) The following types of vessels, and their owners or operators, must obtain a Menhaden Landing License prior to landing any menhaden:

1. A gill net vessel that is used, or is intended to be used, to land more than 100 pounds of menhaden on an individual trip basis, for the purposes of sale or barter;

2. A pound net vessel that is used, or is intended to be used, to land more than 100 pounds of menhaden on an individual trip basis, for the purposes of sale or barter;

3. A trawl vessel that is used, or is intended to be used, to land more than 100 pounds of menhaden on an individual trip basis, for the purposes of sale or barter;

4. A vessel that is used, or is intended to be used, to land, on an individual trip basis, and for the purposes of sale or barter, more than 100 pounds of menhaden taken by bait net or other authorized gear;

5. A purse seine carry vessel that is used, or is intended to be used, to land, on an individual trip basis, and for the purposes of sale or barter, more than 100 pounds of menhaden taken from State or Federal waters; and

6. A purse seine catch vessel that functions as a purse seine carry vessel and that is used, or is intended to be used, to land, on an individual trip basis, and for the purposes of sale or barter, more than 100 pounds of menhaden taken from State or Federal waters.

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(f) A purse seine catch vessel that does not function as a purse seine carry vessel is exempt from licensure as a Menhaden Landing vessel. However, the owner or operator of a purse seine carry vessel that works in conjunction with a purse seine catch vessel shall identify the purse seine catch vessel on the landing report.

(g) No purse seine carry vessel or purse seine catch vessel functioning as a purse seine carry vessel shall hold a Menhaden Landing License to land menhaden taken from State waters, unless the vessel is 90 feet or less in overall length. Nothing at (a) above shall prohibit the licensure of a purse seine carry vessel or purse seine catch vessel that is greater than 90 feet in overall length, as long as the vessel lands menhaden taken only from Federal waters.

(h) A Menhaden Landing License shall be issued:

1. In the name of the vessel and the vessel's owner or operator. If a purse seine carry vessel or a purse seine catch vessel functioning as a purse seine carry vessel is operated by a person who is not the owner of the vessel, the vessel operator shall be licensed separately and apart from the vessel owner; or

2. For bait net licensees, if no vessel will be used in the landing or sale of menhaden, in the name of the person applying for the license.

- (i)** Any Menhaden Landing License issued pursuant to this section shall specify the types of gear that may be used by the licensee in the taking of menhaden to be landed thereby.

(j) The holder of a Menhaden Landing License shall not use, have on board the licensed vessel, or work in conjunction with any other vessel that uses any type of fishing gear other than the type of gear specifically identified in the license.

(k) A Menhaden Landing License shall remain on board the licensed vessel, or, if no vessel is used, in the possession of the licensee at all times.

(l) A person with a valid Menhaden Personal Use and Limited Sale License who intends to use a gill net to take menhaden from State waters for personal use as bait, with the option to sell or barter 500 pounds or less in excess of the amount needed by the person for bait per day, shall obtain a Menhaden Personal Use and Limited Sale License and comply with the following:

1. The applicant shall hold a valid gill net license and a pot fishery license;

2. The applicant must:

- i.** Complete the application form each year and submit it by December 31;

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ii. Provide an email address to receive notifications from the Department; and

iii. Submit the correct fee, as follows:

(1) The fee for a New Jersey resident using a purse seine is \$ 150.00;

(2) The fee for a New Jersey resident using a gear type other than a purse seine is \$ 50.00;

(3) The fee for a non-resident using a purse seine is \$ 750.00 or an amount equal to the non-resident fee charged for the landing of menhaden in the non-resident's state, whichever is greater; or

(4) The fee for a non-resident using a gear type other than a purse seine is \$ 250.00 or an amount equal to the non-resident fee charged for the landing of menhaden in the non-resident's state, whichever is greater;

3. A person who is issued a Menhaden Personal Use and Limited Sales License may only take menhaden with a gill net. The use of any other gear type is prohibited; and

4. Except for the excess 500 pounds or less that may be sold or bartered, the licensee shall only make personal use of menhaden as bait for the licensee's commercial fishing pots and shall not use menhaden for any other purpose.

(m) A Menhaden Landing License and Menhaden Personal Use and Limited Sale License issued pursuant to this section shall be valid only for the calendar year for which it is issued and shall be renewed on an annual basis. The failure of a licensee to annually renew a Menhaden Landing License or a Menhaden Personal Use and Limited Sale License by December 31 in the year the license is valid shall result in forfeiture of the right to obtain such a license in future years, except as provided at (n) below.

(n) A licensee who is eligible for renewal of the licensee's Menhaden Landing License or Menhaden Personal Use and Limited Sale License may request an extension of time to renew the license.

1. A licensee seeking a license renewal extension shall complete and submit the application to the Department at:
Division of Fish and Wildlife
PO Box 420
Trenton, NJ 08625

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2. The application shall:

- i.** Include the name of the licensee and licensed vessel, if any;
- ii.** Include the licensee's Menhaden Landing License or Menhaden Personal Use and Limited Sale License number;
- iii.** Include a detailed explanation as to why the extension is needed, including a statement specifying the type and degree of hardship that prevented the timely renewal of the license, and the hardship that will result to the licensee if the license is not renewed;
- iv.** Include any other appropriate documentation as may be necessary to support the application; and
- v.** Be submitted by no later than December 31 in the year the license would be valid if purchased by December 31.

3. An application for license renewal extension shall be approved if the Department determines that:

- i.** By reason of extraordinary hardship or exceptional situation or condition, the licensee was precluded from complying with the renewal requirements;
- ii.** Strict compliance with the renewal requirements provided by law would result in exceptional and undue hardship to the licensee;
- iii.** The circumstances supporting the conclusions made at (n)3i and ii above were not created by the licensee or persons under the licensee's control; and
- iv.** Approval of the extension will not unreasonably interfere with the orderly administration of the directed bait or whole frozen human food fishery for menhaden.

4. Within 30 days after receipt of a completed application for an extension of a license renewal, the Department shall approve or deny the application, and shall provide written notice of this determination to the licensee. A licensee whose application for extension is denied may appeal the decision by submitting an adjudicatory hearing request to the Department at the address listed below, with a copy to the Division of Fish and Wildlife at the address at (n)1 above:

New Jersey Department of Environmental Protection
Office of Administrative Hearings and Dispute Resolutions

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Attention: Adjudicatory Hearing Requests
Mail Code 401-07A
PO Box 420
Trenton, New Jersey 08625-0420

(o) The holder of a Menhaden Landing License or Menhaden Personal Use and Limited Sale License shall complete and submit, on or before the 10th day of the month, the monthly report electronically or on a form to the Department at:

Nacote Creek Marine Fisheries Office

PO Box 418

Port Republic, NJ 08241

The licensee shall attest to the validity of the information contained in the monthly report. If no landing, sale, or barter of menhaden occurred during the month, the licensee shall submit a report to that effect to the Division.

(p) The monthly report shall include, at a minimum, the following information, which shall be reported on an individual trip basis:

1. The name of the licensee and licensed vessel, if any;
2. The licensee's Menhaden Landing License or Menhaden Personal Use and Limited Sale License number;
3. The name of the purse seine catch vessel, if any, which was used in conjunction with the licensed vessel;
4. The total amount, in pounds, of menhaden landed by the licensee or licensed vessel;
5. The total amount, in pounds, of menhaden discarded by the licensee or licensed vessel;
6. The location of harvest;
7. The type of gear used for harvest;
8. The ports used for the landing of menhaden;
9. The date on which, and the dealer to whom, any landed menhaden was sold or bartered by the licensee; and
10. Any other information required by the Division.

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(q) Any licensee who fails to submit a monthly report on or before the 10th day of the month following the month of record shall be subject to a fine of \$ 50.00 for a first offense, \$ 100.00 for a second offense, and \$ 200.00 for any subsequent offense.

(r) No refuse, litter, or garbage of any kind shall be thrown overboard or released from the vessel or its net(s). Dead fish shall not be thrown overboard or otherwise released from the vessel or its net(s), except incidental amounts of dead fish released during fishing operations. The licensee shall immediately notify the Division's Marine Enforcement Unit at (609) 748-2050 of a release.

1. Menhaden Landing licensees are responsible for cleaning up any fish, fish-part, refuse, litter, or garbage of any kind that is released during any fishing operation or as a result of a fishing operation and must initiate such cleanup no later than 24 hours after the release begins.
2. If the licensee fails to initiate such cleanup within the 24-hour period, the Department may conduct or arrange for the performance of the cleanup. In addition to any other penalties and remedies provided by law, the licensee shall be liable for all costs associated with such cleanup, including any administrative costs incurred by the Department. Such cleanup shall include, but not be limited to, the marine and estuarine waters of the State and adjacent beaches, shorelines, and marshes.

7:25-22.6 Transferability of certain licenses

(a) Upon application to and approval by the Division, the holder of a Menhaden Purse Seine Fishing Vessel License, a Menhaden Landing License, or a Menhaden Personal Use and Limited Sale License may transfer the license as follows:

1. To a replacement vessel when the vessel named in the license is replaced by the licensee;
2. To a new owner of the vessel named in the license when the vessel is sold or otherwise transferred to another person; or
3. If the Menhaden Landing licensee uses a bait net and has no vessel, to any person.

(b) The following limitations shall apply to a license transfer:

1. A license shall only be transferrable to a replacement vessel that employs the same type of fishing gear identified in the original license;
2. A license that is applicable to a purse seine catch vessel, including the Menhaden Landing License designated as a purse seine-catch, shall only be

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transferrable to a replacement purse seine catch vessel, and a license that is applicable to a purse seine carry vessel shall only be transferrable to a replacement purse seine carry vessel;

3. A license that is applicable to a purse seine catch vessel or a purse seine carry vessel shall be transferrable to a replacement vessel only if the replacement vessel is not more than 10 percent larger in overall length and has an engine no more than 20 percent more powerful in terms of horsepower, than the originally licensed vessel.

4. A license that is applicable to a purse seine carry vessel shall be transferrable to a replacement carry vessel only if the replacement carry vessel has a hold capacity no more than 10 percent larger than the originally licensed carry vessel.

i. Hold capacity for both the current carry vessel and the new carry vessel shall be determined by one of the persons or entities listed at N.J.A.C. 7:25-22.4(b)2vi. Proof of the hold capacity shall be in the form of a certification and shall be submitted to the Division at the time of application for a license transfer.

(c) A person who transfers a Menhaden Landing License or Menhaden Personal Use and Limited Sale License shall no longer be eligible to obtain a Menhaden Landing License or a Menhaden Personal Use and Limited Sale License based upon the landing history of the vessel being sold.

(d) An applicant for a license transfer shall complete and submit the application to the Department at the address provided at N.J.A.C. 7:25-22.5(o), and no license shall be transferred without the prior approval of the Department.

(e) A license shall not be eligible for transfer if:

- 1.** The license is pending suspension or has been suspended; or
- 2.** The licensee is subject to court action for a violation.

7:25-22.7 Vessel boarding

The operator of, or any other person on board, a fishing vessel subject to this subchapter, shall immediately comply with the instructions and signals issued by any law enforcement officer and facilitate a safe boarding and inspection of the vessel, its gear, equipment, catch, and any area where fish may be stored.

7:25-22.8 Menhaden Dealer License

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(a) No person shall purchase or barter for menhaden landed in the State, as the first point of sale, unless the person is in possession of a Menhaden Dealer License. No menhaden landed in the State shall be sold or traded to any person who is not licensed under this section.

(b) Any person who intends to purchase or barter for menhaden landed in the State shall complete and submit an application for a Menhaden Dealer License to the Division. A Menhaden Dealer License issued pursuant to this section shall be valid only for the calendar year for which it is issued and shall be renewed on an annual basis.

1. An applicant shall:

i. Complete the application form each year and submit it by December 31;

ii. Provide an email address to receive notifications from the Department;
and

iii. Submit the correct fee, as follows:

(1) The fee for a New Jersey resident is \$ 100.00; or

(2) The fee for a non-resident is \$ 500.00 or an amount equal to the non-resident fee charged to a non-resident in the non-resident's state, whichever is greater.

(c) A person shall not act as a first point of sale for menhaden prior to the menhaden being landed. A person shall not act as the first point of sale for menhaden landed in the State unless the person is in possession of a Menhaden Landing or Menhaden Personal Use and Limited Sale License, and a Menhaden Dealer License. Any person in possession of a Menhaden Landing License or a Menhaden Personal Use and Limited Sale License and not selling landed menhaden to a licensed Menhaden dealer shall also possess a Menhaden Dealer License and shall report any sales on a weekly basis.

(d) The holder of a Menhaden Dealer License, issued pursuant to this section, shall not accept 100 pounds or more of menhaden per day from any person, unless that person is in possession of a Menhaden Landing License or a Menhaden Personal Use and Limited Sale License.

(e) The holder of a Menhaden Dealer License shall complete and submit the weekly report form either electronically or on a form provided by the Division to the Division at the address provided at N.J.A.C. 7:25-22.5(o). The licensee shall attest to the validity of the information contained in the weekly report. If no purchase or trade of menhaden occurred during the week, the licensee shall submit a report to that effect to the Department. For the purposes of this section, a week shall begin on Sunday and end on Saturday.

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(f) The weekly report shall include, at a minimum, the following information:

1. The name of the licensee;
2. The licensee's Menhaden Dealer License number;
3. The Menhaden Landing License number of each person selling or trading menhaden to the dealer during the preceding week;
4. The total amount, in pounds, of menhaden purchased or traded during the preceding week;
5. The location of harvest for menhaden purchased or traded during the preceding week;
6. The type of gear used for the harvest of menhaden purchased or traded during the preceding week;
7. The date of purchase or trade; and
8. Any other information required by the Department.

(g) If a licensed menhaden dealer fails to submit a weekly report either on or before noon on the Tuesday following the week of record, the licensee shall be subject to a fine of \$ 50.00 for a first offense, \$ 100.00 for a second offense, and \$ 200.00 for any subsequent offense.

7:25-22.9 Penalties

(a) A person who violates any provision of this section shall be subject to the penalties provided at N.J.S.A. 23:2B-14.

(b) In addition to the penalties at N.J.S.A. 23:3-14, if a licensee falsifies or misrepresents any information contained in a report submitted to the Division, fails to report a release, fails to initiate a clean-up of a release, or fishes in, or allows a purse seine to drift into, any restricted fishing area, the licensee shall be subject to the following periods of license suspension:

1. A 30-day suspension of the license for a first offense;
2. A 60-day suspension of the license for a second offense; and
3. A 180-day suspension of the license for a third or subsequent offense.

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(c) In calculating the period of suspension applicable pursuant to (b) above, the number of previous suspensions imposed shall be reduced by one for each three-year period in which the license holder does not commit any other violation subject to the suspension schedule at (b) above. If more than one suspension is imposed within a three-year period, only one of those suspensions may be forgiven under this subsection. Therefore, a license holder who incurs more than one suspension within a three-year period shall not be considered a first offender under this subsection regardless of the length of any subsequent period without a violation.

(d) The forgiveness of prior offenses provided for by this section shall apply only to those determinations that pertain to the calculation of applicable license suspension periods. All prior offenses shall be taken into account in the calculation of any monetary penalties.

(e) A license suspension imposed pursuant to this section shall be applicable to both the licensee and the licensed vessel, if any. (e) A license suspension imposed pursuant to this section shall be applicable to both the licensee and the licensed vessel, if any.