

**13 Department of Marine Resources**

13-188 Department of Marine Resources

2024-020: Chapter 11, Scallops

<b>Statutory Authority:</b>	12 M.R.S. § 6171(3)(A)
<b>Type:</b>	Routine Technical
<b>Emergency?:</b>	Yes
<b>Fiscal impact:</b>	<i>Enforcement of this amendment would not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.</i>
<b>Principal purpose:</b>	<i>The Commissioner adopts this emergency rulemaking to establish scallop conservation closures in Cobscook, Whiting &amp; Dennys Bay (Zone 3), Upper Frenchman Bay, Toothacher and Upper Swans Island rotational areas (RA) and expanded closures in Addison and Englishman Bay RA (Zone 2). The Department is concerned that continued harvesting for the remainder of the 2023-2024 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallops that were observed in the 2023 Scallop surveys that are essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in five important scallop harvest areas.</i>
<b>Basis Statement:</b>	<i>The Department is taking emergency rulemaking action to include targeted conservation closures in Chapter 11.08, Targeted Closures: (8) Upper Englishman Bay Rotational Area; (9) Upper Addison Rotational Area; (10) Cobscook, Whiting &amp; Dennys Bay; (11) Upper Frenchman Bay; and (12) Toothacher and Upper Swans Island Rotational Area</i>

<b>Statutory Authority:</b>	12 M.R.S. § 6671
<b>Type:</b>	Routine Technical
<b>Emergency?:</b>	No
<b>Fiscal impact:</b>	<i>Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.</i>
<b>Principal purpose:</b>	<i>The primary purpose of proposing this rule is to amend the process for Municipal Shellfish Conservation Warden applicants and their Performance Standards. Specifically, it would allow Municipal Shellfish Conservation Warden applicants to attend the MDMR Municipal Shellfish Conservation Warden Certification Course prior to receiving a formal nomination from an appointing municipality. It adds enforcement of minimum sizes of all shellfish species included in a municipality's ordinance into the Performance Standards of Municipal Shellfish Conservation Wardens. The proposed rule makes other minor clarifying changes.</i>
<b>Basis Statement:</b>	<i>The rule amends the process for Municipal Shellfish Conservation Warden applicants and their Performance Standards. Specifically, it allows Municipal Shellfish Conservation Warden applicants to attend the MDMR Municipal Shellfish Conservation Warden Certification Course prior to receiving a formal nomination from an appointing municipality. It adds enforcement of minimum sizes of all shellfish species included in a municipality's ordinance into the Performance Standards of Municipal Shellfish Conservation Wardens. The rule makes other minor clarifying changes.</i>

13-188 Department of Marine Resources

2024-064: Chapter 7: Requirements for Municipalities Having Shellfish Conservation Programs

<b>Statutory Authority:</b>	12 M.R.S. § 6671
<b>Type:</b>	Routine Technical
<b>Emergency?:</b>	No
<b>Fiscal impact:</b>	<i>Enforcement of this rule will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.</i>
<b>Principal purpose:</b>	<i>This rulemaking is proposed to modify and clarify the requirements of Municipal Shellfish Programs so that the Department of Marine Resources can consistently apply the same standards to all programs. These changes including amending current definition of “period of issuance” and providing a new definition for the effective license year. Additionally, regulations regarding holding and removing shellfish on and from Municipal Limited Purpose Aquaculture licenses (LPAs) sites held by Shellfish Committees have been developed. The process for requesting permission to complete a shellfish resource survey in a closed area and the requirements for such surveys have been defined. Finally, the length of the comment period for Shellfish Programs to provide recommendations on intertidal mussel dragging has been increased from 21 to 30 days.</i>
<b>Basis Statement:</b>	<i>This rulemaking modifies and clarifies the requirements of Municipal Shellfish Programs so that the Department of Marine Resources can consistently apply the same standards to all programs. These changes include amending the current definition of “period of issuance” and providing a new definition for the effective license year. Additionally, regulations regarding holding and removing shellfish on and from Municipal Limited Purpose Aquaculture license sites held by Shellfish Committees have been developed. The process for requesting permission to complete a shellfish resource survey in a closed area and the requirements for such surveys have been defined. Finally, the length of the comment period for Shellfish Programs to provide recommendations on intertidal mussel dragging has been increased from 21 to 30 days.</i>

13-188 Department of Marine Resources

2024-065: Chapter 32, Eel Regulations

<b>Statutory Authority:</b>	12 M.R.S. §§ 6505-A, 6575-L
<b>Type:</b>	Routine Technical
<b>Emergency?:</b>	No
<b>Fiscal impact:</b>	<i>Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.</i>
<b>Principal purpose:</b>	<i>Each year, the method of calculating annual elver quota must be specified for the upcoming season. In addition, the Legislature has authorized the temporary medical transfer of elver quota, and this rule specifies the parameters under which such transfers may be requested.</i>
<b>Basis Statement:</b>	<p><i>This rulemaking establishes the elver quota allocations for the 2024 season for individuals licensed under §§6505-A and 6302-A, and the method of calculating individual elver quota allocations for individuals licensed under §6505-A. The quota for the Passamaquoddy Tribe has been adjusted in accordance with their overage in the 2023 season. 2024 allocations for individuals who held a license in 2023 will be the same as their 2023 allocations, plus any quota associated with licenses not renewed in 2023, or licenses suspended for the duration of the 2023 season, in excess of that which is allocated to new license holders authorized through the lottery, which will be distributed evenly to all existing license holders. In addition, the rulemaking specifies the parameters for a temporary medical transfer of elver quota.</i></p> <p><i>In response to comments received, the Passamaquoddy quota for 2024 was further adjusted to accurately reflect the overage in 2023 to include elvers originally libeled by Maine Marine Patrol, but which were subsequently awarded to the Passamaquoddy harvesters. In addition, the rule was amended for consistency with a legislative change from last session, which allows crew members of individuals holding fyke net with crew licenses to empty the cod end of the fyke net, provided they are under the direct supervision of the license holder.</i></p>

13-188 Department of Marine Resources

2024-066: Chapter 36, Atlantic Herring

<b>Statutory Authority:</b>	12 M.R.S. § 6171
<b>Type:</b>	Routine Technical
<b>Emergency?:</b>	No
<b>Fiscal impact:</b>	<i>Enforcement of these proposed amendments will not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.</i>
<b>Principal purpose:</b>	<i>This regulation amends language clarifying the default closing and open dates for spawning closures, and strikes language within section D(3)(b)(ii)(A) as all harvest schedules are updated annually through the ASMFC Days Out Program. It clarifies that reporting requirements apply to all fish landed or retained.</i>
<b>Basis Statement:</b>	<i>This regulation amends language clarifying the default closing and open dates for spawning closures, and strikes language within section D(3)(b)(ii)(A) as all harvest schedules are updated annually through the ASMFC Days Out Program. It clarifies that reporting requirements apply to all fish landed or retained.</i>  <i>Based on comments received, the Eastern Maine spawning closure has been amended to recognize the terminus at the Lubec International Bridge for clarity.</i>

13-188 Department of Marine Resources

2024-067: Chapter 40, Smelt Regulations

<b>Statutory Authority:</b>	12 M.R.S. § 6171
<b>Type:</b>	Routine Technical
<b>Emergency?:</b>	No
<b>Fiscal impact:</b>	<i>Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.</i>
<b>Principal purpose:</b>	<i>This rule is proposed by request of smelt fishermen who wish to be able to continue to fish for smelt after December 31 in those years where ice has not yet formed to allow fishing through the ice.</i>
<b>Basis Statement:</b>	<i>This rule-making reorganizes and clarifies existing regulations pertaining to fishing for smelt in Zones 1, 2, and 3. Regulations in Zone 2 and Zone 3 are unchanged, but rewritten for greater clarity and consistency. In Zone 1, the regulation extends the period of time during which smelt fishing may occur prior to the formation of ice from October 1 to December 31 to October 1 to January 31. All other management measures in Zone 1 remain unchanged. A clarification is provided that fishing for smelts in Zone 3 using gill nets or bag nets requires a commercial pelagic and anadromous license.</i>

<b>13-188 Department of Marine Resources</b>	
<b>2024-068: Chapter 41, Menhaden</b>	
<b>Statutory Authority:</b>	12 M.R.S. §§ 6171, 6502-C
<b>Type:</b>	Routine Technical
<b>Emergency?:</b>	No
<b>Fiscal impact:</b>	<i>Enforcement of these proposed amendments will not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.</i>
<b>Principal purpose:</b>	<i>This rulemaking establishes limitations for the 2024 menhaden season. It establishes an annual end date for the fishery of November 30. It creates a new program in which two commercial menhaden license holders may enter into a Designated Partnership Agreement, which will allow either vessel to remove fish from a purse seine that has been set by one of the vessels in the Designated Partnership Agreement. A definition is provided for “fish box” or “tank” so that harvesters may use fish boxes or tanks to meet the requirement to store fish upon harvest. It clarifies that reporting requirements apply to all fish landed or retained. It creates an incidental bycatch limit of 1,050 lbs for individuals operating a pound net or fish weir during periods when the commercial menhaden fishery is paused by the Commissioner or when the commercial fishery is closed prior to the opening of the Episodic Event Set Aside Program. It amends the weekly limit for the State Allocated Fishery from 18,000 pounds to 17,850 pounds and amends the Small Scale Fishery daily limit from 6,000 to 5,950 pounds. The fishing and landing days for the Episodic Event Set Aside Program are proposed to be Monday and Thursday and the daily limit is increased from 6,000 lbs to 7,000 lbs.</i>
<b>Basis Statement:</b>	<i>This rulemaking establishes limitations for the 2024 menhaden season. It establishes an annual end date for the fishery of November 30. It creates a new program in which two commercial menhaden license holders may enter into a Designated Partnership Agreement, which will allow either vessel to remove fish from a purse seine that has been set by one of the vessels in the Designated Partnership Agreement. A definition is provided for “fish box” or “tank” so that harvesters may use fish boxes or tanks to meet the requirement to store fish upon harvest. It clarifies that reporting requirements apply to all fish landed or retained. It creates an incidental bycatch limit of 1,050 lbs for individuals operating a pound net or fish weir during periods when the commercial menhaden fishery is paused by the Commissioner or when the commercial fishery is closed prior to the opening of the Episodic Event Set Aside Program. It amends the weekly limit for the State Allocated Fishery from 18,000 pounds to 17,850 pounds and amends the Small Scale Fishery daily limit from 6,000 to 5,950 pounds. The fishing and landing days for the Episodic Event Set Aside Program are proposed to be Monday and Thursday and the daily limit is increased from 6,000 lbs to 7,000 lbs. For clarity, section 41.06 was amended to specify that previous landing reports must be from the Maine commercial menhaden fishery.</i>



13-188 Department of Marine Resources

2024-069: Chapter 55, Gear Restrictions

<b>Statutory Authority:</b>	12 M.R.S. § 6171
<b>Type:</b>	Routine Technical
<b>Emergency?:</b>	No
<b>Fiscal impact:</b>	<i>Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.</i>
<b>Principal purpose:</b>	<i>This rulemaking establishes standard practices for operating pound nets and fish weirs in Maine’s territorial waters. Bait gillnet requirements while harvesting under menhaden licenses are clarified. Outdated references are removed.</i>
<b>Basis Statement:</b>	<i>This rulemaking establishes standard practices for operating pound nets and fish weirs in Maine’s territorial waters. Bait gillnet requirements while harvesting under menhaden licenses are clarified. Outdated references are removed.</i>

2024-070: Chapter 115, *Vibrio parahaemolyticus* Control Plan

<b>Statutory Authority:</b>	12 M.R.S. § 6171-A
<b>Type:</b>	Routine Technical
<b>Emergency?:</b>	No
<b>Fiscal impact:</b>	<i>Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.</i>
<b>Principal purpose:</b>	<i>This rule is proposed in order to expand the application of the existing <i>Vibrio parahaemolyticus</i> (Vp) control plan from certain areas, to all of Maine’s territorial waters for oysters. The purpose of this change is to reduce the likelihood that American and European oysters (<i>Crassostrea virginica</i> and <i>Ostrea edulis</i>) harvested from Maine territorial waters will cause <i>Vibrio</i> infections in consumers. Increasingly, Maine’s territorial waters have environmental characteristics (primarily water and air temperature and salinity) that potentially pose a threat to public health with regard to <i>Vibrio</i> infections. Research indicates that the most reliable way to minimize potential <i>Vibrio</i> illnesses is to utilize time and temperature controls.</i>
<b>Basis Statement:</b>	<i>Under current regulation, certain areas of Maine’s territorial waters are subject to a Control Plan for <i>Vibrio parahaemolyticus</i> between June 1 and October 15. This rule-making protects consumers from all species of <i>Vibrio</i> by extending these requirements for oysters to all of Maine’s territorial waters during these months. The requirements for hard clams are limited to the upper New Meadows River through this rule-making. With the extension of these restrictions, harvester sales of oysters and upper New Meadows River hard clams from their homes are prohibited during these months. The recreational harvest of oysters and upper New Meadows River hard clams is also prohibited during these months, except for holders of Limited Purpose Aquaculture licenses removing oysters from their license sites, or in municipalities providing mandatory <i>Vibrio</i> training to recreational harvesters prior to licensing. The rule eliminates a current requirement to submit an annual harvest/purchase plan. It requires mandatory annual Department provided training for all oyster and some hard clam harvesters and certified shellfish dealers purchasing oysters or upper New Meadows River hard clams. It provides two options for methods for harvesters to follow to reduce time to temperature for oysters and upper New Meadows River hard clams. Finally, it removes the option of wet storing to remediate product that has not been subject to the appropriate time to temperature controls.</i>

13-188A Department of Marine Resources

2024-134: Chapter 36, Atlantic Herring

**Statutory Authority:** 12 M.R.S. § 6171(3)(C)

**Type:** Routine Technical

**Emergency?:** Yes

**Fiscal impact:** *Enforcement of these proposed amendments will not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.*

**Principal purpose:** *The Days Out Commissioners have set zero landing days for June 1 through June 30, 2024, at 6:00 p.m. for Season 1 (Trimester 2; June 1 – September 30) of the Atlantic herring fishery. Beginning on Sunday, June 30, 2024, at 6:01 p.m., five landing days have been designated: Sundays at 6:00 p.m. through Fridays at 6:00 p.m. Weekly landing limit for Atlantic herring Category A permitted vessels is 320,000 pounds. Harvester vessels may not transfer herring at-sea to a carrier vessel. Carrier vessels may not receive herring from a harvester vessel while at-sea. The Commissioner has determined that it is necessary to take emergency action to comply with the changes to the interstate management of the Atlantic herring resource and to reduce the risk of an overage in the Area 1A sub-ACL that could deplete the supply of Atlantic herring.*

**Basis Statement:** *The Days Out Commissioners have set zero landing days for June 1 through June 30, 2024, at 6:00 p.m. for Season 1 (Trimester 2; June 1 – September 30) of the Atlantic herring fishery. Beginning on Sunday, June 30, 2024, at 6:01 p.m., five landing days have been designated: Sundays at 6:00 p.m. through Fridays at 6:00 p.m. The weekly landing limit for Atlantic herring Category A permitted vessels is 320,000 pounds (8 trucks). All vessels landing herring caught in Management Area 1A in any Maine port are limited to one landing per 24 hour period (6 pm to 6 pm).*

*Harvester vessels may transfer herring while at-sea to another harvester vessel. Harvester vessels may not transfer herring while at-sea to a carrier vessel. Carrier vessels may not receive herring from a harvester vessel while at-sea.*

*The Commissioner has determined that it is necessary to take emergency action to comply with the changes to the interstate management of the Atlantic herring resource and to reduce the risk of an overage in the Area 1A sub-ACL that could deplete the supply of Atlantic herring. The Commissioner hereby adopts this emergency regulation as authorized by 12 M.R.S. §6171(3)(C).*

13-188A Department of Marine Resources

2024-162: Chapter 41, Menhaden

**Statutory Authority:** 12 M.R.S. §6171 (3)(A) and (B)

**Type:** Routine Technical

**Emergency?:** Yes

**Fiscal Impact:** *No fiscal impact anticipated.*

**Principal purpose:** *The State Allocation fishery for menhaden opened June 17, 2024 with an available quota of 23.9 million pounds. Harvest rates are higher than previous seasons and are likely to lead to a quota overage if not reduced. This harvest rate will also result in the fishery being closed in mid-August. To ensure a moderate harvest pace on the remaining quota and available biomass, harvesters are restricted to a daily landing limit of 5,950 pounds per vessel per day on Mondays, Wednesdays and Fridays.*

**Basis Statement:** *The State Allocation fishery for menhaden opened June 17, 2024 with an available quota of 23.9 million pounds. Harvest rates are higher than previous seasons and are likely to lead to a quota overage if not reduced. This harvest rate will also result in the fishery being closed in mid-August. To ensure a moderate harvest pace on the remaining quota and available biomass, harvesters are restricted to a daily landing limit of 5,950 pounds per vessel per day on Mondays, Wednesdays and Fridays. The Commissioner has determined that it is necessary to take emergency action to revert to a daily landing limit to minimize the risk of an overage of the available menhaden quota and to prevent the depletion of the supply of bait. The Commissioner hereby adopts this emergency regulation as authorized by 12 M.R.S. §6171(3)(A) and (B).*

13-188 Department of Marine Resources

2024-169: Chapter 41, Menhaden

**Statutory Authority:** 12 M.R.S. §6192(5)

**Type:** Routine Technical

**Emergency?:** No

**Fiscal Impact:** *No fiscal impact anticipated.*

**Principal purpose:** *On July 14, 2024 the Department of Marine Resources implemented an emergency regulation, which limited the commercial menhaden fishery to a daily limit of 5,950 lbs. and removed the weekly limit. DMR is now repealing that emergency regulation, which will restore the previous weekly limit of 17,850 lbs. available to be taken on Mondays, Wednesdays, and Fridays only.*

**Basis Statement:** *On July 14, 2024 the Department of Marine Resources implemented an emergency regulation, which limited the commercial menhaden fishery to a daily limit of 5,950 lbs. and removed the weekly limit. DMR is now repealing that emergency regulation, which will restore the previous weekly limit of 17,850 lbs. available to be taken on Mondays, Wednesdays, and Fridays only.  
The Commissioner hereby repeals the emergency regulation as authorized by 12 M.R.S. §6192(5).*

13-188 Department of Marine Resources

2024-173: Chapter 34, Groundfish Regulations

**Statutory Authority:** 12 M.R.S. 6171(3)(C).

**Type:** Routine Technical

**Emergency?:** Yes

**Fiscal Impact:** *Enforcement of this amendment would not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.*

**Principal purpose:** *For consistency with NOAA Fisheries federal rulemaking, the Department is implementing regulatory changes to the recreational fishing measures for Gulf of Maine cod and haddock. For cod, the emergency rulemaking modifies the recreational minimum size limit of cod to 23 inches. For haddock, the emergency rulemaking standardizes recreational measures across sectors with a 15 fish possession limit and a minimum size of 18 inches.*

**Basis Statement:** *The Commissioner adopts this emergency rulemaking to modify the recreational fishing measures for Gulf of Maine cod and haddock. Cod and haddock are regulated by NOAA Fisheries as part of the Northeast Multispecies Fishery Management Plan (FMP). NOAA Fisheries sets recreational sub-annual catch limits (sub-ACLs) for both species as well as a suite of effort controls to ensure catch stays within the sub-ACLs. With this objective in mind, NOAA fisheries issued a final rule to set the recreational measures for the 2024 fishing season. The rule increases the minimum size limit for Gulf of Maine cod and aligns the minimize size and bag limit for haddock between the private and for-hire sectors of the recreational fishery. This is in response to analysis from NOAA Fisheries which suggests these modifications are not expected to result in an overage of the sub-ACLs for the Gulf of Maine cod and haddock.*

*Specifically, for the 2024 fishing year, the minimum size limit for Gulf of Maine cod increased from 22 inches to 23 inches. The bag limit and season for cod are unchanged. For Gulf of Maine haddock, the bag limit is 15 fish and the minimum size limit is set at 18 inches. There is no change to the haddock season.*

*Importantly, this action ensures compliance with the federal fisheries management plan. It also simplifies regulations and enforcement for recreational fishing in Maine state waters. For these reasons, the Commissioner hereby adopts an emergency regulation to modify the recreational groundfish measures for Gulf of Maine cod and haddock in accordance with 12 MRS §6171(3)(C).*

<b>13-188 Department of Marine Resources</b>	
<b>2024-223: Chapter 26, Sea Urchins</b>	
<b>Statutory Authority:</b>	12 MRS §6749
<b>Type:</b>	Routine Technical
<b>Emergency?:</b>	No
<b>Fiscal Impact:</b>	<i>Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.</i>
<b>Principal purpose:</b>	<p><i>This regulation would establish open harvest days and tote limits for the taking of sea urchins by divers, rakers, trappers, and draggers in Zones 1 and 2 for the 2024-2025 season. For Zone 1, seasons are proposed for divers, trappers, rakers and draggers in 2024-2025, from which harvesters may only fish up to 15 days of their choosing, the same number of days allowed during the 2023-2024 season. For Zone 1, the daily tote limit is nine (9). For Zone 2, 40-day seasons are proposed for divers, trappers, rakers and draggers in 2024-2025, from which harvesters may only fish up to 30 days of their choosing. This proposal has the same number of fishing days and opportunity days as the 2023-2024 season. For the Whiting &amp; Dennys Bays Limited Access Area in Zone 2, a 12-day season is proposed for Zone 2 divers, trappers, rakers and draggers in 2024-2025, 3 days less than the 2023-2024 season due to the contraction of the calendars. For Zone 2, the daily tote limit is six (6).</i></p> <p><i>Harvesters are permitted to defer sale of daily catch and increase on-shore possession by the daily tote limit per zone multiplied by the number of open harvest days each week. All catch must be sold weekly on Fridays, 11:59 p.m. If there is no sale transaction, the harvester is required to report their daily landing electronically. All on-shore catch must be tagged by harvester, indicating landings number, harvester name and date of harvest.</i></p>
<b>Basis Statement:</b>	<p><i>This regulation establishes open harvest days and tote limits for the taking of sea urchins by divers, rakers, trappers, and draggers in Zones 1 and 2 for the 2024-2025 season. For Zone 1, seasons are established for divers, trappers, rakers and draggers in 2024-2025, from which harvesters may only fish up to 15 days of their choosing, the same number of days allowed during the 2023-2024 season. For Zone 1, the daily tote limit is nine (9). For Zone 2, 40-day seasons are established for divers, trappers, rakers and draggers in 2024-2025, from which harvesters may only fish up to 30 days of their choosing. This regulation has the same number of fishing days and opportunity days as the 2023-2024 season. For the Whiting &amp; Dennys Bays Limited Access Area in Zone 2, a 12-day season is established for Zone 2 divers, trappers, rakers and draggers in 2024-2025, 3 days less than the 2023-2024 season due to the contraction of the calendars. For Zone 2, the daily tote limit is six (6).</i></p> <p><i>Harvesters are permitted to defer sale of daily catch and increase on-shore possession by the daily tote limit per zone multiplied by the number of open harvest days each week. All catch must be sold weekly on Fridays, 11:59 p.m. If there is no sale transaction, the harvester is required to report their daily landing electronically. All on-shore catch must be tagged by harvester, indicating landings number, harvester name and date of harvest.</i></p>

*Based on summary of comments, the calendars for Zone 2 Early Dive and Zone 2 Early Dive Limited Access were updated to reflect the corrected calendar dates. This amendment did not impact the proposed rulemaking.*



<b>13-188 Department of Marine Resources</b>	
<b>2024-224: Chapter 36, Atlantic Herring</b>	
<b>Statutory Authority:</b>	12 M.R.S. § 6171(3)(C)
<b>Type:</b>	Routine Technical
<b>Emergency?:</b>	Yes
<b>Fiscal Impact:</b>	<i>Enforcement of these proposed amendments will not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.</i>
<b>Principal purpose:</b>	<i>The Days Out Commissioners have set zero landing days for October 1 through October 9, 2024 for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery. Two landing days have been designated beginning Thursday, October 10 at 12:01 a.m. through Friday, October 11 at 11:59 p.m. followed by zero landing days through to Monday, November 4. Four landing days have been designated starting Tuesday, November 5 at 12:01 a.m. through Friday at 11:59 p.m., weekly. The Commissioner has determined that it is necessary to take emergency action to comply with the changes to the interstate management of the Atlantic herring resource and to reduce the risk of an overage in the Area 1A sub-ACL that could deplete the supply of Atlantic herring.</i>
<b>Basis Statement:</b>	<p><i>The Days Out Commissioners have set zero landing days for October 1 through October 9, 2024 for Season 2 (Trimester 3; October 1 – December 31) of the Atlantic herring fishery. Two landing days have been designated beginning Thursday, October 10 at 12:01 a.m. through Friday, October 11 at 11:59 p.m. followed by zero landing days through to Monday, November 4. Four landing days have been designated starting Tuesday, November 5 at 12:01 a.m. through Friday at 11:59 p.m., weekly.</i></p> <p><i>The Eastern Maine spawning closure remains in effect until October 8, 2024. The Western Maine and Massachusetts/New Hampshire spawning closure remains in effect until November 3, 2024.</i></p> <p><i>The fishery will only move to four landing days, starting on November 5, 2024 if there is remaining Season 2 quota available at that time. Quota availability will depend on how much is landed during the prior two designated landing days of October 10-11 and if the 1,000 mt reallocation of the management uncertainty buffer to the Area 1A sub-ACL occurs.</i></p> <p><i>The Commissioner has determined that it is necessary to take emergency action to comply with the changes to the interstate management of the Atlantic herring resource and to reduce the risk of an overage in the Area 1A sub-ACL that could deplete the supply of Atlantic herring. The Commissioner hereby adopts this emergency regulation as authorized by 12 M.R.S. §6171(3)(C).</i></p>

13-188 Department of Marine Resources

2024-225: Chapter 34, Groundfish Regulations

**Statutory Authority:** 12 MRS 6171

**Type:** Routine Technical

**Emergency?:** No

**Fiscal Impact:** *Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.*

**Principal purpose:** *This rulemaking is intended to maintain consistent recreational fishing measures between state and federal waters for Gulf of Maine cod and haddock.*

**Basis Statement:** *On July 27, 2024, DMR adopted an emergency rule to align state recreational fishing regulations for Gulf of Maine cod and haddock with those adopted by NOAA Fisheries in federal waters. Consistent with the existing emergency rule, this rule-making maintains the existing season and bag limit for cod but modifies the size limit to 23 inches. For haddock, the rulemaking maintains the season but standardizes recreational measures across sectors with a 15 fish possession limit and a minimum size of 18 inches.*

<b>Statutory Authority:</b>	12 M.R.S. §6171
<b>Type:</b>	Routine Technical
<b>Emergency?:</b>	No
<b>Fiscal Impact:</b>	<i>Enforcement of this rule will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.</i>
<b>Principal purpose:</b>	<i>Scallop regulations must be updated for each new season to adjust the schedules and closure lines based on data from the previous season.</i>
<b>Basis Statement:</b>	<p><i>This rule-making establishes the 2024-2025 scallop fishing season. Daily possession limits of 15 gallons for Zone 1 and Zone 2, and 10 gallons for Zone 3 remain unchanged. For Zone 1, a 60-day season for draggers begins on December 9, 2024 and the last day of the season is March 20, 2025. For Zone 1, a 60-day season for divers begins on December 3, 2024 and the last day of the season is April 26, 2025. For Zone 2, a 70-day season for draggers begins on December 2, 2024 and the last day of the season is March 31, 2025. For Zone 2, a 70-day season for divers begins on November 19, 2024 and the last day of the season is April 12, 2025. For Zone 3, a 50-day season for draggers begins on December 2, 2024 and the last day of the season is March 25, 2025. For Zone 3, a 50-day season for divers begins on December 5, 2024 and the last day of the season is March 29, 2025.</i></p> <p><i>Existing limited access areas in the following areas are maintained: W. Casco Bay, Muscle Ridge, Whiting and Denny’s Bays. Additionally, the following existing targeted closures are maintained: Lower Muscle Ridge, Upper Sheepscot River, New Meadows River, Card Cove and Beals-Jonesport Bridge. Lower Sheepscot and Damariscotta Rivers in Zone 1 along with Upper Machias Bay, Moosabec Reach and Upper Cranberries in Zone 2 are new targeted closures for recovery and rebuilding. Gouldsboro and Dyers Bay along with Upper Blue Hill Bay are established as new limited access areas.</i></p> <p><i>Harvesting of scallops by hand (diving) is restricted to Rotation B (Second) only for the 2024-2025 season. Harvesting for scallops by dredge gear is restricted to Rotation C (Third) only for the 2024-2025 season. Rotation A is closed to all harvest.</i></p> <p><i>The proposed rule was modified based on comments received as follows:</i></p> <ul style="list-style-type: none"> <li><i>• Moosabec Reach Closure (11.08) was expanded to include Wohoa Bay, Indian and West Rivers.</i></li> <li><i>• Zone 1 Dive Calendar’s Limited Access Days (11.09) were amended to focus harvest on Tuesdays, Wednesdays and Thursdays, while drag harvesting is occurring in open waters. This change ensure divers have less spatial overlap with draggers on open water harvest days.</i></li> <li><i>• Zone 1 Dive Calendar (11.11) was amended to replace December 25 with December 23 as an open harvest day, removing harvest from Christmas Day.</i></li> </ul>

<b>Statutory Authority:</b>	12 MRSA §§ 6072, 6072-A, 6072-B, 6072-C
<b>Type:</b>	Routine Technical
<b>Emergency?:</b>	No
<b>Fiscal Impact:</b>	<i>Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.</i>
<b>Principal purpose:</b>	<i>This proposed rule is necessary to effectively communicate and implement the ownership interest exception pursuant to 12 M.R.S.A. §6072-C(2-B) and to provide clarification for consistency with statute.</i>
<b>Basis Statement:</b>	<p>12 M.R.S.A. §6072-C(2-B) allows a Limited Purpose Aquaculture (LPA) license holder to request certain exceptions to the requirement that the license holder provide direct supervision of unlicensed individuals assisting the LPA holder in the licensed activities at the license holder’s LPA site. Some of the exceptions are specific to the LPA holder having an ownership interest in an entity that holds or has applied for an experimental or standard lease. For purposes of implementing the exception in 12 M.R.S.A. §6072-C(2-B)(A), the regulation clarifies that the LPA holder needs to have a 50% or greater ownership interest in the entity, including as a shareholder in a company, that holds or has applied for an experimental and standard lease. In cases where multiple LPA holders have an ownership interest such that no one has a 50% or greater share, only one individual can claim the exception. The rule also exempts LPA upweller sites from the owner/operator requirement. As a matter of clarity, the regulation changes the name of Chapter 2 regulations from “Aquaculture Lease Regulations” to “Aquaculture Regulations.” Finally, the proposed regulation clarifies the application of the definition of “riparian owner”, consistent with statute.</p> <p><i>Based on comments received, the Department made two modifications to the rule:</i></p> <ol style="list-style-type: none"> <li><i>1. For purposes of implementing the exception in 12 M.R.S.A. §6072-C(2-B)(A), in consideration of situations where an entity is owned by multiple individuals such that no individual owns a 50% or greater share, the Department has modified the rule to allow one individual to claim the ownership interest exception.</i></li> <li><i>2. Sites that are for upwellers only have been exempted from the owner/operator requirement. Sites that were issued in 2024 for upwellers including unrelated gear are grandfathered (provided they are renewed after January 1, 2025), but any new LPA sites that are permitted after January 1, 2025 must be for upwellers only to qualify for the exemption.</i></li> </ol>