

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 55 Gear Restrictions

CONCISE SUMMARY: 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 Outdated references are removed.

ADOPTED RULE NUMBER:

(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

EFFECTIVE DATE:

(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

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DEPARTMENT OF MARINE RESOURCES

CHAPTER 55 - GEAR RESTRICTIONS

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DEPARTMENT OF MARINE RESOURCES

Chapter 55 - Gear Restrictions

55.01 Definitions

1. Bait gillnet: a gillnet that has less than 3.5 inches diamond or square stretch mesh throughout the entire net, is suspended in the water column, and has a maximum length of 2,000 feet, as defined in Chapter 34.01.
2. Fish weir: any fixed type of fishing equipment that consists of fences made of wooden stakes or out of other materials constructed in such a manner so as to intercept or attempt to intercept finfish. The fences form successive enclosures called the heart, pound and pocket into which the fish are directed by a prolonged fence known as a leader.
3. Pound net or trap net: a type of entrapment gear that consists of an arrangement of netting or wire supported upon stakes or piles and has the head ropes or lines above water or in a frame that is supported by floats and anchors. A pound net or trap net may consist of an enclosure known as the pound proper, crib or pocket which has a netting floor and section known as the heart from the entrance of which a straight wall known as the leader or runner extends outward. There may be several combinations of hearts, pounds or pockets. Finfish are voluntarily directed by the leader towards and into the heart and/or pound, and then into the crib or pocket where they are removed periodically by various devices and methods, such as dip nets.

55.02 Pound Net and Fish Weir Fishing Provisions

1. It is unlawful to remove fish from a pound net or fish weir gear that is not permanently marked with a Commercial Pelagic and Anadromous or Commercial Menhaden License-holder's name and DMR landings number.
2. Pound net or fish weir gear markings must be legible and clearly visible for inspection at all times.
3. Pound net or fish weir gear used under a Commercial Menhaden License must be marked with a single license-holder's name and DMR landings number for the duration of the license year.
4. It is unlawful for a person, other than the license-holder whose name and DMR landings number is marked on the pound net for fish weir gear, to remove fish from the pound net or fish weir gear.
5. Pound nets shall be set in a manner whereas the net leader is at no time within the intertidal zone.
6. Pound nets and fish weirs shall be tended and any non-retainable bycatch released every 24 hours.

55.04 ~~Maine~~ Gillnet Bait Fishing Regulations

A. License Requirement.

It shall be unlawful to gillnet bait fish without a Commercial Pelagic and Anadromous Fishing License or a Menhaden Fishing License from the Department of Marine Resources (DMR).

B. Gear and Marking Requirements.

Except as further restricted in the Menhaden fishery (Chapter 41), it shall be unlawful to fish more than 2000 feet of bait gillnet in territorial waters. Bait gillnet shall have less than 3.5 inches diamond or square stretch mesh throughout the entire net. Bait gillnets must be clearly marked at each end with buoy sticks at least 4 feet in length. The license-holder's name, homeport and Commercial Pelagic and Anadromous Fishing License number or Menhaden Fishing License number must be clearly displayed on every marking buoy.

C. Reporting: See Chapter 8.20(P)(M)(Q)(R) Landings Program

D. New Meadows River Restrictions

It shall be unlawful to use a bait gillnet in any tidal waters north of a line drawn from the shore side end of the footbridge at Hopkins Island in Harpswell, thence following the bridge to the southern tip of Hopkins Island, thence east to the southern tip of Sheep Island, thence 90 degrees due east (true) to the Phippsburg shore south of the entrance to Basin Cove. The Western Boundary is the Gurnet Bridge on Rt. 24 in Harpswell.

Exception: Bait gillnets may be fished in these waters if the net is hauled back and tended at least once every four hours.

55.05 Use of purse, drag or stop seines in certain waters prohibited; ~~regulation of fishing therein~~

A. In Kennebec River above a line drawn across said river from Fort Popham in the Town of Phippsburg to a point opposite at the lower end of Long Island in the Town of Georgetown.

~~B. Purse, drag or stop seines may be used, from May 15th to December 1st of each year in all bays, inlets, rivers and harbors east of the west shore of Penobscot Bay and River, except in which places where sections of this chapter are to the contrary, in which places purse seines, drag seines and stop seines may be used from May 15th to November 15th of each year for the purpose of catching herring.~~

55.06 Fish Passage Regulations

1. Any net or trap set in any tidal river, brook, stream or other watercourse must:

A. not occupy more than two-thirds (2/3) of the watercourse measured at any time of tide;

B. not exceed 30 feet in length, as measured from the opening of the net to the terminal portion of the end of the net;

C. not be located within 50 feet of any part of another net or trap;

D. not have a mesh size less than 1/8" diamond or square stretch mesh or greater than one inch;

E. be tended and the contents removed at least once every 24 hours; and

F. be clearly marked by a floating buoy or surface marker with the owner's commercial fishing or Commercial Pelagic and Anadromous Fishing license number and telephone number.

2. Exceptions:

- A. The holder of a Commercial Pelagic and Anadromous Fishing License, fishing in accordance with the bait gillnet regulations in Chapter 55.04, may use a net exceeding 30 feet in length and a mesh size of less than 3.5 inches diamond or square stretch mesh in accordance with Chapters 55.04(B) and ~~34.01-10(1)(A)(2)(b)~~; provided that all the other gear restrictions in Chapter 55.06(1) are met.
- B. Persons fishing in accordance with river herring fishing rights granted pursuant to 12 M.R.S. §6131 are not subject to the gear limitations of Chapter 55.06(1).
- C. Persons issued an elver license in accordance with 12 M.R.S. §6505-A and fishing in accordance with applicable elver fishing laws and regulations are not subject to the gear limitations of Chapter 55.06(1).
- D. Persons issued an aquaculture lease pursuant to 12 M.R.S. §6072 or §6072-A, a limited-purpose aquaculture (LPA) license pursuant to 12 M.R.S. §6072-C are not subject to the gear limitations of Chapter 55.06(1).
- E. Persons engaged in the traditional stop seine fishery for Atlantic Sea Herring or Atlantic menhaden are not subject to the gear limitations of Chapter 55.06(1).

Basis Statement

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.

Summary of Comments

Notice of the proposed rulemaking appeared on January 24, 2024, posted to DMR's website and also printed in the five major daily newspapers as published by the Secretary of State; and electronic messages were sent to individuals who subscribe to DMR's rulemaking notices and sent to industry members who provided their email address to DMR. A hybrid public hearing was held on February 15, 2024 in-person at DMR's Augusta office and offered remotely via Microsoft Teams.

The comment period closed February 26, 2024. No comments were received.

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

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CHAPTER NUMBER AND RULE: Chapter 55 Gear Restrictions

STATUTORY AUTHORITY: 12 MRS 6171

DATE AND PLACE OF PUBLIC HEARING(S): February 15, 2024: 4:30 p.m. at DMR's Augusta Office (Marquardt Building, 32 Blossom Lane, rm 118) and remotely via Microsoft Teams. If the February 15th hearing is cancelled due to inclement weather an alternate hearing will be held on February 16th at 3:30 pm in Room 224 of the same location, and Remotely via Microsoft Teams. Remote access information is posted to DMR's website under "Meetings."

COMMENT DEADLINE: February 26, 2024

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [see §8057-A(1)(A)&(C)]

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.

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)]

Standard measures for pound net harvesting will ensure efficient harvesting and the avoidance of protected species.

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]:

This rulemaking considered comments and feedback from the 2023 Atlantic menhaden season, harvesters skilled in the operations of pound nets and input from Maine Marine Patrol.

ESTIMATED FISCAL IMPACT OF THE RULE: [see §8057-A(1)(C)]

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