

Notice of Agency Rule-making Proposal

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 55 Gear Restrictions

TYPE OF RULE (*check one*): Routine Technical Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY: This proposed rulemaking provides clarification of the pound net definition specifying that harvest from pound nets is by hand operated gears only, as also described in Chapter 41.

Date, time and location of PUBLIC HEARING (*if any*): None.

COMMENT DEADLINE: March 21, 2025

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CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*): Same

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS 6171

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different*): Same

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* *Check one of the following two boxes.*

X The summary provided above is for publication in both the newspaper and website notices.

The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rule-making notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.

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, that are solely operated by hand.

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.

55.03 Special Area Closures to Fishing

Except as provided by further regulation of the Commissioner, the following waters are closed to fishing:

Dams with fishways.

The area within 150 feet of any dam in which a fishway is located and/or 150 feet of any part of any fishway.

This regulation shall not apply to the taking of river herring under 12 M.R.S. §6131.

55.04 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(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

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.

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 34.10, 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).

55.07 Seasonal Net Restriction

It shall be illegal to set or maintain any net in any tidal river, brook or stream or other watercourse or any territorial waters of the State of Maine between noon February 1 and noon March 22, both days inclusive.

Exceptions: Chapter 40.12B (2) and rules established under Chapter 45.

55.08 Method of mechanical harvest prohibited

It shall be unlawful to fish for, take or transport to the surface any marine organism by pump, vacuum, suction or any type of mechanical pumping.

Exceptions:

1. Atlantic Herring
2. Menhaden
3. Seaweed harvesting
4. Marine organisms raised on and removed from an aquaculture lease or license site pursuant to 12 M.R.S. 6072, 6072-A, 6072-B, and 6072-C.

55.14 Fishing in the Presumpscot River

It shall be unlawful to use purse, drag, or stop seines in the Presumpscot River upstream of the Interstate 295 bridge.

It shall be unlawful to use a gill net in the Presumpscot River upstream of the US Route 1 bridge between Martin Point in Portland and Mackworth Point in Falmouth.

55.15 Fishing in the Bagaduce River and its tributaries in Castine, Penobscot and Brooksville

- A. No person shall use any weir, seine, trap or any other contrivance in catching, fishing for or taking fish in the Bagaduce River or any of its tributaries, in the Towns of Castine, Penobscot and Brooksville, Hancock County, except by the use of gill nets, and permanent weirs, with not less than 50 poles, constructed of laths, brush, wire or twine.
- B. The trapping of eels in the Bagaduce River shall be lawful.
- C. Fishing in the Bagaduce River Upstream of the North Brooksville Sedgwick Bridge

Notwithstanding the provisions of DMR Regulations 55.15(A) and (B), it is unlawful to fish for, take or possess fish from April 1 through November 30 of any year from the Bagaduce River or any of its tributaries upstream of the North Brooksville-Sedgwick Bridge in the towns of Penobscot, Brooksville and Sedgwick, except that this regulation shall not apply to fish taken by hook and line and baited eel pots.

55.30 Fishing in the Sheepscot River, Lincoln County

It shall be unlawful to use any type of net or seine in the Sheepscot River and its tributaries between the WiscassetNorth Edgecomb Bridge and the so-called Headtide Dam at Alna.

Exceptions:

1. The fishing of lamprey eels within these waters shall be under the direction of the Commissioner of Marine Resources who may issue permits to take lamprey eels at places and by means designated by him or her.
2. This section does not apply to the taking of river herring under any other law or regulation.

3. Elver fyke or dip nets may be fished in the Sheepscot River for the harvest of elvers only. Persons issued an elver license in accordance with 12 M.R.S. §6505-A or §6302-A and who fish in accordance with current elver laws and regulations are not in violation of this regulation.

55.35 Use of draggers in Sheepscot Bay, Lincoln County

It shall be unlawful between the first day of November and the first day of the following February, to use a dragger or any other dragging apparatus, except standard scallop drags, for the taking of fish or lobsters from those parts of Sheepscot Bay, Sagadahoc and Lincoln Counties, in-shore from a line drawn from the southern end of Small Point to the southern end of Seguin Island; thence to the southern end of Pumpkin Island; thence to Ocean Point.

55.40 Fishing for cod and other ground fish in Sheepscot Bay, Lincoln County

It shall be unlawful to fish for or to take, except with tub or line trawls or by ordinary hook and line, any cod or other ground fish from the waters of Sheepscot Bay that border on the Town of Georgetown, Sagadahoc County, and the Town of Southport, Lincoln County, from Griffith's Head in an easterly direction to lower Mark Island, thence in a southerly direction to the Cuckholds, thence in a northeasterly direction to Ocean Point.

55.50 Seining in Sasanoa River, Sagadahoc County

Fishing with the use of seines in the Sasanoa River below Bath from October 1st to April 1st is prohibited.

55.55 Fishing in Cathance and Abagadasset Rivers, Sagadahoc County

It shall be unlawful to use any type of net, seine, or trap in the tidal waters of the Cathance or Abagadasset Rivers and their tributaries in Sagadahoc County, from sunrise Saturday to sunrise the following Sunday during the period from iceout to June 1 of each calendar year. During the aforementioned period, any weirs located in the Cathance or Abagadasset Rivers and their tributaries shall be modified to prevent the catching of fish.

55.56 Fishing for Suckers in the Towns of Bowdoinham and Topsham

It shall be unlawful to use any type of gear to fish for or take suckers from March 15 to June 15 of any year in the following described coastal waters in the Towns of Bowdoinham and Topsham as illustrated in the chart attached (Appendix A):

1. Abagedasset River. All coastal waters upstream of a line located 100 feet south of the Maine Central Railroad Bridge;
2. West Branch Cathance River. All coastal waters upstream of a line located 100 feet south of the Maine Central Railroad Bridge;
3. Shingleman's Creek. All coastal waters upstream of a line located 1,000 feet east of the Maine Central Railroad crossing;
4. All other Cathance River tributaries. All coastal waters upstream of a line located 100 feet east of the Maine Central Railroad crossing; and

5. Main stem of the Cathance River. All coastal waters upstream of a line located 100 feet east of the Maine Central Railroad Bridge.

55.59 Penobscot River Tributaries Fishing Closures

To be closed to all fishing July 1 through September 30, both days inclusive:

1. Kenduskeag Stream:

From the downstream side of the Maine Central Railroad bridge in Bangor to the Harlow Street Bridge.

2. Felts Brook:

From the head of tide in Brewer downstream to the Penobscot River, and that portion of the Penobscot River on the easterly side of straight line drawn from a red painted rock situated on the downriver side of the mouth of Felts Brook to a red painted marker on the Bangor Dam fishway situated on the upriver side of the mouth of Felts Brook.

3. Meadow Brook:

In Bangor and the Penobscot River within a 250 foot radius of the Maine Central Railroad abutments at the mouth of Meadow Brook.

4. Eaton Brook:

From the head of tide in Brewer to the Penobscot River, and the Penobscot River within 250 feet of a red painted marker situated on the downriver side of the mouth of Eaton Brook.

55.60 Fishing in Narraguagus River, Washington County

- A. It shall be unlawful to use any type of net or seine in the Narraguagus River and its tributaries from May 1st to October 15th of each year in that portion of the river between the so-called Great Bridge in the Town of Milbridge and the bridge at U.S. Route 1 in Cherryfield.
- B. This section does not apply to the taking of river herring under 12 M.R.S. §6131, nor to the taking of river herring under any other law.

55.70 Fishing in Dennys River, Washington County

It shall be unlawful to use seine or gill nets in the Dennys River above a line drawn from Hinckley Point in the Town of Dennysville due south to a red painted post in the Township of Edmunds. A hand dip net with a bow not more than 2 1/2 feet in the largest diameter may be used between this line and the No. 1 Highway at the Upper Bridge, so-called, for the

purpose of catching river herring_during the open season and under the conditions and restrictions provided by the general laws of the State.

55.75 York County; otter trawling in Spruce Creek

It shall be unlawful to fish with or to use any otter trawl in the coastal waters and tributaries of Spruce Creek in the Town of Kittery, York County, northerly and upstream of the Kittery Point Bridge.

55.80 Fishing in Bond, Kennebec County

All tidal waters of Bond Brook, Augusta, shall be closed to all fishing from the head of mean high tide to the mouth of the brook where it meets the Kennebec River located 150 feet (more or less) southeast of the downstream side of the Route 104, Northern Avenue Bridge.

55.85 Fishing in the Damariscotta River

From March 15 through June 15 inclusive, it shall be illegal to fish within 150 feet downstream of either end of the Railroad Bridge located east of the Route 215 bridge in Damariscotta Mills. This closure extends westward to include all tidal waters.

1. Exception: This closure shall not apply to the taking of river herring under 12 M.R.S. §6131.

55.93 Fixed gill nets: Tending requirements: Kennebec/Androscoggin Rivers

A person may not use a gill net that is fixed or anchored to the bottom or shore in any tidal waters of the Kennebec River or the Androscoggin River or their tidal tributaries, including those tidal waters of Phippsburg, West Bath, Bath, Bowdoinham, Topsham, Dresden, Woolwich, Arrowsic, and Georgetown that are connected to the Kennebec River upstream from Fort Popham, unless that fixed gill net is tended continuously, hauled back and emptied at least once every 2 hours and is affixed with a floating marker that includes the name and address of the owner of the net.

55.94 Use of Gill Nets in the Kennebec and Androscoggin Rivers

It is unlawful to use a gill net in the Androscoggin River, Merrymeeting Bay and its tributaries, and the Kennebec River upstream of a line across the Kennebec River from Fort Popham in the Town of Phippsburg to a point opposite on the lower end of Georgetown.

Exceptions:

The use of gill nets which do not exceed a maximum stretch mesh measure of 3 1/2 inches for the taking of menhaden, river herring, blueback herring, sea herring, and mackerel is exempted from this rule.

55.95 Fishing in Royal River, Yarmouth

It shall be unlawful to obstruct in any way by any net, seine, weir or other contrivance for taking fish, more than 1/3 part of the channel of the Royal River at mean low water inside and westerly of a line drawn from the most northerly point of Parker Point to the most

easterly point of Browns Point in Yarmouth, Cumberland County. Furthermore, it shall be unlawful to take finfish from the coastal waters of the Royal River above the downstream side of the I-295 bridge except by dip net or hook and line.

55.96 Penobscot River Gear Restrictions.

- A. From May 1st through November 15th, both days inclusive, it is unlawful to use a gill net in the waters of the Penobscot River and its tributaries upstream of a line drawn from the old fertilizer plant dock at Sandy Point, in the Town of Stockton Springs, to the southernmost point of Verona Island, due east to a red painted post on the eastern shore of the Penobscot River in the Town of Orland.
- B. Exceptions:
 - 1. Municipalities which harvest river herring in accordance with the provisions of 12 M.R.S. §6131.
 - 2. The use of gill nets which do not exceed a maximum size stretch mesh measure of 3½" for the taking of menhaden and other bait fish in the Eastern Channel of the Penobscot River between Orland and Verona Island, upstream to a line drawn from the southern extremity of Gross Point in the Town of Orland, south- westerly to Verona Island. The taking of river herring from any part of the Orland River above its confluence with the Penobscot River shall require written permission from the Town of Orland.

55.97 Fishing in the Kennebec River above the Gardiner/Randolph Bridge

It shall be unlawful to use any type of net or seine in the tidal waters of the Kennebec River above the Gardiner/Randolph Bridge. This regulation shall not apply to the taking of smelts or elvers by hand dip net or hook and line in accordance with DMR regulations Chapter 40.

55.98 Fishing in the Androscoggin River above the Route #201 Bridge between Brunswick and Topsham

It shall be unlawful to fish or to possess fish or fish parts on the waters of the Androscoggin River from the upstream side of the Route #201 bridge between Brunswick and Topsham, upstream to the Central Maine Power Company dam, commonly known as the "Brunswick Hydropower Project." No person may have in his possession any fish spawn, grapnel, spear, hook and line, trawl, weir, gaff, seine, gill net, net, trap, or set line on the waters of the Androscoggin River within these boundaries.

55.99 Fishing in the Saco River above the Route 9/Main Street bridge between Saco and Biddeford

It shall be unlawful to fish the waters of the Saco River upstream of the Route 9/Main Street bridge between Factory Island, Saco and Mechanics Park, Biddeford, to the head of tide, commonly known as the "Cataract Dam".

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE: Chapter 55 Gear Restrictions

STATUTORY AUTHORITY: 12 MRS 6171

DATE AND PLACE OF PUBLIC HEARING(S): None.

COMMENT DEADLINE: March 21, 2025

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

This proposed rulemaking provides clarification of the pound net definition specifying that harvest from pound nets is by hand operated gears only, as also described in Chapter 41.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? YES NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [see §8057-A(1)(B)&(D)]

This proposed rule is expected to provide clarification on the operation of pound nets.

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 proposal considered comments and feedback from the 2024 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.

FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

[see §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: [see §8057-A(2)(B)]

BENEFITS OF THE RULE: [see §8057-A(2)(C)]