

“PERTAINING TO ATLANTIC MENHADEN”

CHAPTER 4 VAC 20-1270-10 ET SEQ.

PREAMBLE

This chapter establishes an allocation system for three fishing sectors of the commercial menhaden fishery, establishes a limited entry and individual transferable quota systems for the purse seine menhaden bait sector and establishes reporting requirements for the three sectors of the commercial menhaden fishery. This chapter is promulgated pursuant to the authority contained in §§ 28.2-201, 28.2-204 and 28.2-204.1 and §§ 28.2-400.1 through 28.2-400.5 of the Code of Virginia. This chapter amends and re-adopts, as amended, previous Chapter 4 VAC 20-1270-10 et seq., which was promulgated June 23, 2015 and made effective on July 1, 2015. The effective date of this chapter is August 1, 2017.

4 VAC 20-1270-10. Purpose.

The purpose of this chapter is to comply with the Interstate Fishery Management Plan for Atlantic menhaden.

4 VAC 20-1270-20. Definitions.

“*Nonpurse seine menhaden bait sector*” means those vessels that do not utilize a purse seine net to harvest menhaden and land menhaden only for use as bait in other fisheries.

“*Purse seine menhaden bait sector*” means those vessels that utilize a purse seine net to land menhaden only for use as bait in other fisheries.

“*Purse seine menhaden reduction sector*” means those vessels that utilize a purse seine net to land menhaden only at a qualified menhaden processing factory as described by § 28.2-400.3 of the Code of Virginia.

4 VAC 20-1270-30. Total allowable landings for menhaden; allocation, accountability, and overages.

A. In accordance with Section § 28.2-400.2 of the Code of Virginia the total allowable commercial landings for menhaden in 2017 and 2018 in metric tons shall be equivalent to 372,443,990 pounds, and that total amount of allowable landings shall be allocated as quotas among three sectors of the menhaden fishery, as described below, pursuant to § 28.2-400.3 of the Code of Virginia. The purse seine menhaden reduction sector is allocated a quota of 335,359,214 pounds of allowable menhaden landings; the purse seine menhaden bait sector a 31,204,766 pound quota of allowable menhaden landings; and, the nonpurse seine menhaden bait sector a 5,880,010 pound quota of allowable menhaden landings.

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B. If the total allowable landings specified in subsection A of this section are exceeded in any year, the total allowable landings for the subsequent year will be reduced by the amount of the overage. Such overage shall be deducted from the sector of the menhaden fishery that exceeded the allocation specified in subsection A of this section.

4 VAC 20-1270-40. Purse seine menhaden bait sector; limited entry criteria; Individual Transferable Quota System.

A. To qualify for limited entry to the purse seine menhaden bait sector, the applicant must:

1. Have held a purse seine license in 2011 and landed menhaden in Virginia in 2009, 2010 and 2011, while using purse seine gear to harvest menhaden in one of those three years; and,
2. Provide the Commission receipts and landings reports or other requested reports as proof of landings and gear usage to demonstrate that the criteria described in subdivision 1 of this subsection have been met.

B. The Commission shall establish an individual transferable quota (ITQ) system for each purse seine menhaden bait licensee that meets the limited entry requirements in subsection A of this section. The quota for this sector will be allocated according to each qualified licensee's rounded percentage share of the average of the 2007 through 2011 menhaden landings.

C. Each licensee qualified under the ITQ system may transfer quota to another licensee's ITQ upon approval of the Commissioner.

4 VAC 20-1270-50. Nonpurse seine menhaden bait sector quota; allocation and bycatch provisions.

A. The nonpurse seine commercial bait sector's allocation shall be by gear type as follows:

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| 1) Cast net: | 2,261 pounds. |
| 2) Dredge: | 3,595 pounds. |
| 3) Fyke net: | 2,477 pounds. |
| 4) Gill net: | 1,781,986 pounds. |
| 5) Pound net: | 3,997,201 pounds. |
| 6) Seine: | 23,550 pounds. |
| 7) Trawl: | 68,940 pounds. |

B. Pursuant to § 28.2-400.4 of the Code of Virginia, once the Commissioner announces the date of closure for the nonpurse seine bait fishery, any person licensed in the nonpurse seine menhaden bait sector may possess and land up to 6,000 pounds of menhaden per day.

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4 VAC 20-1270-60. Reporting requirements by menhaden fishery sector.

A. Each licensee of any purse seine vessel that harvests menhaden must submit a Captain’s Daily Fishing Report to the Commission on each nonweekend or nonholiday day that either purse seine sector is open for harvest. The Captain’s Daily Fishing report is produced by the National Marine Fisheries Service and provides preliminary estimates of harvest. Pursuant to § 28.2-204 of the Code of Virginia, those same licensees must submit to the Commission actual weekly harvest reports that include vessel name and exact weight of menhaden landed, in pounds, by Wednesday of the following week. Once ninety-seven percent of either purse seine sector’s quota is projected and announced to have been met, each licensee of that purse seine sector must provide daily harvest totals to the Commission’s Interactive Voice Recording System.

B. The nonpurse seine menhaden commercial bait sector shall submit daily reports according to the schedule and reporting requirements established by 4 VAC 20-610-10, “Pertaining to Commercial Fishing and Mandatory Harvest Reporting”.

C. When the Commissioner announces that 90 percent of the nonpurse seine menhaden bait quota has been reached, each harvester of this sector is required to report his previous 10 days of landings to the Commission’s Interactive Voice Recording System and must continue to report his additional landings every 10 days until it is announced that the nonpurse seine bait quota has been attained. More frequent reporting is permissible. The Commission may also implement other harvest conservation measures such as trip limits.

4 VAC 20-1270-70. Penalty.

As set forth in §28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor. A second and each subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Virginia Marine Resources Commission, pursuant to authority vested in the Commission by §28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission’s minute book, at its meeting held in Newport News, Virginia on July 25, 2017.

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COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

By: 
John M. R. Bull
Commissioner

Subscribed and sworn to before me this 27 day of July 2017.


Notary Public

