



The Commonwealth of Massachusetts

Division of Marine Fisheries

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MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)
FROM: Daniel McKiernan, Director 
DATE: November 15, 2024
SUBJECT: **Commercial Menhaden Management Proposal for Public Hearing**

Overview

This memorandum serves to advise the MFAC of several proposals to revise the commercial menhaden fishery's management that I plan to take to public hearing this winter for possible implementation in 2025. These proposals consider the following: 1) rescinding or revising the 90% quota use trigger; 2) applying previously-established control dates for participation; and 3) establishing a pilot program for active fishery participants to share their catch. These proposals are informed by an industry scoping meeting held on October 16, 2024.

Trip Limit Trigger Adjustment

Proposal: Rescind the 90% quota-use trigger that drops the limited entry fishery's trip limit from 25,000 lb to 6,000 lb, OR revise it to be in the range of a 95–98% quota-use trigger.

Background/Rationale: DMF's quota management approach includes trip limits for the limited entry fishery that scale down as quota is consumed to prolong the open season. These triggers and limits have been modified over time in response to interstate management plan changes, quota level, and fishery performance. At present, Menhaden Permit Endorsement holders begin the directed fishery with a 120,000-lb trip limit, which drops to 25,000 lb at 50% quota use, then drops to 6,000 lb at 90% quota use (provided these quota-use levels occur prior to August 30).

The 6,000-lb limit for the remaining 10% of quota was added when purse seines were removed from the Incidental Catch/Small-Scale Fishery (IC/SSF) allowance—meaning that purse seines become a prohibited gear once a state's quota is consumed—whereas DMF's goals for the fishery include allowing small-scale purse seining to continue throughout the season of local menhaden availability. This change in the IC/SSF allowance co-occurred with Massachusetts receiving a larger quota allocation, which collectively prompted DMF to revise its quota management approach to try to live within that quota and not rely on other plan provisions to keep the fishery open longer. In making this decision, DMF considered how these other plan provisions—quota transfers from other states and drawing quota through the ASMFC that is reserved in the so-called "Episodic Event Set-aside"—are not guaranteed to be available (i.e., under the interstate quota reallocations, there became less latent quota for possible transfer; and EESA is a shared pool of quota that could be consumed by other eligible state(s) first).

While the 6,000-lb limit is effective at precluding premature cessation of small-scale purse seining, having it occur at 90% quota use at current quota and fishery participation levels is likely to result in unused quota by season's end. Ten percent of our 2023–2025 quota is roughly 1.08 million lb, which at a 6,000-lb trip limit translates to 180 trips (at a minimum), far more than needed to guarantee steady small-scale fishery access. Our history of state landings under the IC/SSF allowance when it included purse seine use is limited (2020–2022) but potentially informative; at most, nearly 600,000 pounds were reported as IC/SSF landings. A 95% trigger would leave about 542,000 lb remaining for the 6,000-lb limit (90 full trips), whereas a 98% trigger would leave about 217,000 lb or 36 full trips (Table 1). In addition to being perceived as “wasted” quota, incomplete quota utilization also sparks industry concerns about future reallocation efforts that could result in a lower share for Massachusetts.

Industry members are also interested in DMF accessing the EESA while it remains a plan provision and other states continue to utilize it. This necessitates the state exhaust its entire quota prior to September 1, which speaks to eliminating the 6,000-lb trip limit entirely. There is some inherent risk in establishing rules aimed to fully utilize the quota earlier in the season and banking on the EESA's availability, i.e., all purse seining must end if the EESA is already used up and a quota transfer isn't offered. However, there is reason to believe that DMF could continue to be successful at getting a transfer to continue small-scale purse seining after the quota is taken. In instances where the EESA is available, DMF could establish trip limits that prolong its consumption and/or seek a quota transfer after the EESA's full utilization.

DMF plans to take both of these options—eliminating the 90% trigger or revising it to within the range of a 95–98% quota use—to public comment before selecting the preferred approach for 2025.

Table 1. Remaining quota and maximum trip count under alternative quota use triggers to reduce trip limit to 6,000 lb.

Quota use trigger to reduce trip limit to 6,000 lb	Remaining quota under expected 2025 quota (10.84 mlb)	Maximum trips at 6,000-lb limit
90% (status quo)	10% = 1.08 mlb	180 trips
95%	5% = 542,000 lb	90 trips
96%	4% = 433,000 lb	72 trips
97%	3% = 325,000 lb	54 trips
98%	2% = 217,000 lb	36 trips

Effort Controls

Proposal:

- Limit the renewal of Menhaden Endorsements in 2026 to those that meet a minimum level of activity prior to the August 1, 2023 control date;
- Limit the renewal of CAP - Purse Seine Endorsements in 2026 to those issued prior to the August 1, 2023 control date;
- Supplement the CAP - Purse Seine Endorsement control date to be able to further affect endorsement holder participation/access level based on landings history (not just issuance date of endorsement) in the future if warranted.

Background/Rationale: In 2023, DMF established an August 1, 2023 control date for the Menhaden Regulated Fishery Permit Endorsement and the Coastal Access Permit (CAP) - Purse Seine

Endorsement.¹ This responded to concerns about the number of latent (limited entry) Menhaden Endorsements and the open access nature of the CAP-Purse Seine Endorsement amidst declining quotas for other bait fisheries (i.e., herring and mackerel) and the prospect of new effort in the menhaden fishery. The adoption of the control date served to: 1) advise all Menhaden Endorsement holders that they may be subject to additional eligibility criteria for determining access to or participation in the fishery after August 1, 2023, and 2) notify all persons that a CAP-Purse Seine Endorsement newly issued after August 1, 2023 may be denied access to the menhaden fishery or subject to eligibility criteria for determining the level of access.

The Menhaden Endorsement is required to participate in the commercial menhaden fishery in excess of the 6,000-lb open access limit. It was created in 2014 and initially offered only to those with at least one recorded trip of 6,000 lb or more of menhaden landed in Massachusetts during 2009–2011 (the interstate plan’s initial reference period for quota allocation), or who held an Inshore Net Permit, or who held a (limited entry) Coastal Access Permit, or who obtained an (open access) CAP-Purse Seine Endorsement before July 1, 2013 (the interstate plan’s implementation deadline). Under these criteria, 60 Menhaden Endorsements were issued in 2014. Issuance has been limited to renewals since then², and has declined over time, with 51 Menhaden Endorsements issued in 2024 (Table 2).

The CAP-Purse Seine Endorsement (distinct from the Coastal Access Permit) is an open entry permit that authorizes the use of purse seines in state waters (exclusive of the Inshore Restricted Waters). There were six issued in 2013 when the decision was made to issue Menhaden Endorsements to such permit holders. Since then, issuance of CAP-Purse Seine Endorsements was relatively steady through 2017 before increasing coincident with the increased availability of menhaden in Massachusetts waters (Table 2). Issuance has plateaued over the past three years, with 72 CAP-Purse Seine Endorsements issued in 2024.

At the industry scoping meeting, active fishery participants reiterated their concern about prospective new effort in the fishery, and asked DMF to consider applying the August 1, 2023 control date. Maintaining the current or similar effort levels serves to preserve our quota management approach, maintain historical user access levels, and limit user group conflict.

To further limit the issuance of Menhaden Endorsements, DMF will propose eligibility criteria for 2026 renewals based on historical landings (taking the form of: X lb landed during X reference period). Table 3 provides potential eligibility levels based on two landings thresholds and two reference period alternatives. Under any eligibility criteria, DMF will consider an exemption for weir permit holders. DMF is unable to effect permit issuance for 2025 at this time, hence the focus on 2026 permitting.

Regarding CAP-Purse Seine Endorsements, based on the regulatory wording of the control date, all DMF can do at this time is affect the participation or access level of such endorsements newly issued after August 1, 2023. Hence, the proposal is to, in 2026, cease the issuance of new CAP-Purse Seine Endorsements and not renew any CAP-Purse Seine Endorsements newly issued after August 1, 2023.

¹ 322 CMR 7.04: Commercial Fisheries Control Date. (2) (g) Menhaden. After August 1, 2023, any person issued a regulated fishery permit endorsement for a named individual and vessel to fish commercially for Atlantic menhaden may be subject to eligibility criteria for determining future access to or participation in this fishery. Future access may be limited based on historic landings by a permit holder or other criteria to be established by the Director.

(2) (h) CAP Purse Seine. Access into the purse seine fishery may be limited in the future. Decisions to limit access may be based on permitting history, fishing activity with purse seine, landings attributable to purse seines, or other criteria to be established by the Director. Commercial fishers are hereby notified that any person obtaining a new CAP-Purse Seine regulated fishery permit endorsement after August 1, 2023 may not be provided future access to this fishery or may be subject to eligibility criteria for determining levels of future access based on this control date.

² In 2017 and 2018, a handful of new Menhaden Endorsements were issued to fish weir operators who were overlooked in the original issuance in 2024.

This will prevent an increase in the number of CAP-Purse Seine Endorsements issued, but do little to reduce the number. Accordingly, DMF will also propose to modify the CAP-Purse Seine Endorsement control date regulatory language to add a second date (e.g., May 14, 2025) that could be used with landings history criteria to further affect effort levels if so needed in the future. For example, a preliminary review of records suggests that about 25 CAP-Purse Seine Endorsements would be eligible for renewal if a 1-lb menhaden landings threshold in any year (2010–2024) were applied.

Table 2. Menhaden Endorsement and CAP-Purse Seine Endorsement Issuance, 2014–2024.

Endorsement Type	Year										
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Menhaden	60	58	58	61	62	62	61	57	55	52	51
CAP-Purse Seine	6	5	8	8	29	52	60	62	76	79	72

Table 3. Preliminary Number of Menhaden Endorsements Eligible for Renewal in 2026 Under Proposed Range of Landings Criteria. Permit holder landings history is based on dealer and harvester records.

Reference Period	Landings Threshold	
	1 lb sold in any year	One ≥6,000-lb trip sold in any year
January 1, 2014–August 1, 2023 (all years of Menhaden Endorsement issuance prior to the control date)	18	17
January 1, 2019–August 1, 2023 (most recent five years of Menhaden Endorsement issuance prior to the control date)	14	13

Menhaden Harvester Designated Partnership Pilot Program

Proposal: Establish a pilot program to authorize two similarly permitted and rigged vessels to share the catch from one of the vessels’ purse seine sets. The pilot program would initially be authorized by Letter of Authorization, but could lead to a regulatory adjustment in the future if program objectives are met.

Background/Rationale: At the industry scoping meetings (this and last years’), DMF received a request to consider an allowance for a second vessel to remove fish from a purse seine set made by another vessel, with each vessel being allowed to take the trip limit. The advocates argue that this will reduce the amount of gear in the water without increasing landings, with benefits of efficiency and minimizing user conflict. DMF has only occasionally authorized such activity on an ad hoc basis upon a call from a harvester to avoid the release of dead fish (“slippage”) near shore. Otherwise, state rules would consider the second vessel to be a carrier vessel for the harvester vessel, and the two vessels combined could not exceed a single trip limit.

The advocates reference the state of Maine’s Designated Partnership Agreement Pilot Program as an example of what DMF could allow. According to Maine DMR³, “the intent of the program is to allow two vessels the opportunity to share a harvest when needed to avoid slippage.” Importantly, each partner to an agreement must be capable of conducting the same level of harvest effort themselves, i.e., have the same level of access to the fishery and be similarly rigged to fish with purse seine gear. Prior authorization is required and permission will be denied if an applicant didn’t land menhaden the prior year themselves or has any menhaden quota violations from the prior season. The pilot program can be paused or terminated by ME DMR based on resulting landings rates or concerns about unlawful use or abuse of the program.

³ ME DMR bulletin: <https://content.govdelivery.com/accounts/MEDMR/bulletins/3959891>

I am willing to consider a similar pilot program in Massachusetts, contingent upon our further limiting the issuance of Menhaden and CAP-Purse Seine Endorsements as proposed above and restricting participation to active fishery participants as done by Maine. Without such controls, such an allowance would invite new effort and increase landings rate (effectively doubling a vessel's limit if any second vessel can be used), undermining our quota management approach and changing the character of the fishery.