

VIRGINIA MARINE RESOURCES COMMISSION
“PERTAINING TO ATLANTIC MENHADEN”
CHAPTER 4VAC20-1270-10 ET SEQ.

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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 and 28.2-204.1 and §§ 28.2-400.1 through 28.2-405 of the Code of Virginia. The effective date of this chapter is April 1, 2013. The provisions of this chapter expire on January 1, 2015.

4VAC20-1270-10. Purpose.

The purpose of this chapter is to comply with the Interstate Fishery Management Plan for Atlantic menhaden, including the mandated 20 percent reduction in total allowable commercial landings of Atlantic menhaden from the average of the 2009 through 2011 landings.

4VAC20-1270-20. Definitions.

“Non-purse 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.

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“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.

4VAC20-1270-30. Total allowable landings for menhaden; allocation, accountability and overages.

A. Section § 28.2-400.2 of the Code of Virginia establishes the total allowable commercial landings for menhaden in 2013 and 2014 in metric tons equivalent to 318,067,167 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 286,396,768 pounds of allowable menhaden landings; the purse seine menhaden bait sector a 26,648,870-pound quota of allowable menhaden landings; and, the non-purse seine menhaden bait sector a 5,021,529-pound quota of allowable menhaden landings.

B. Any menhaden landings on and after January 1, 2013 count towards that particular sector’s 2013 commercial quota.

C. Any overages of a sector’s commercial quota shall be deducted from the following year’s quota for that sector.

4VAC20-1270-40. 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, landings reports or other requested reports as proof of

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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.

4VAC20-1270-50. Non-purse seine menhaden bait sector quota; allocation and bycatch provisions.

A. For 2013 and 2014, the non-purse seine commercial bait sector’s allocation shall be, by gear type, as follows:

- 1) by cast net: 1,930 pounds;
- 2) by dredge: 3,069 pounds;
- 3) by fyke net: 2,115 pounds;
- 4) by gill net: 1,521,108 pounds;
- 5) by hook and line: 234 pounds;
- 6) by pot gear: 2,064 pounds;
- 7) by pound net: 3,412,019 pounds;
- 8) by seines: 20,103 pounds;
- 9) by trawl: 58,847 pounds; and,
- 10) by trot line: 39 pounds

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

4VAC20-1270-60. Reporting requirements by menhaden fishery sector.

A. For the purse seine menhaden reduction sector and purse seine menhaden bait sector, the minimum reporting requirement is the submission to the Commission of the Captain’s Daily Fishing Report produced by the National Marine Fisheries Service on each non-weekend or non-holiday day that either sector is open for harvest.

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

C. When the Commissioner announces that 90 percent of the non-purse seine menhaden bait quota has been reached, each harvester of this sector is required, at a minimum, to report his previous 10 days of landings to the Commission’s Interactive Voice Recording System, and every 10 days after the date of the announcement. The Commission may also implement other harvest conservation measures such as trip limits.

4VAC20-1270-70. 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

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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 March 26, 2013.

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION**

By: _____
**Jack G. Travelstead
Commissioner**

Subscribed and sworn to before me this _____ day of March 2013.

Notary Public