

**Notice of Agency Rule-making Proposal**

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 5: Confidentiality of Fisheries Statistics

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 rule-making clarifies that any statistics collected by the Department of Marine Resources from a dealer, harvester, business, person or vessel as a result of compliance with reporting requirements, or an agreement by that dealer, harvester, business, person or vessel to participate in a Department led project to develop or test new methodologies or technologies for the reporting of fisheries statistics, is confidential data as provided by 12 MRS 6173.

Date, time and location of PUBLIC HEARING (*if any*): July 7, 2021, 4:00 p.m., held remotely via Microsoft Teams. For information on how to join the hearing, please visit: [www.maine.gov/dmr](http://www.maine.gov/dmr). Instructions will be posted on DMR’s homepage under meetings and events.

COMMENT DEADLINE: July 19, 2021

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, e-mail*):

NAME: Amanda Ellis

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Hearing facilities: If you require accommodations due to disability, please contact Meredith Mendelson at 207-624-6553.

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 6173

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

AGENCY WEBSITE: <http://www.maine.gov/dmr/rulemaking/>

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: [dmr.rulemaking@maine.gov](mailto:dmr.rulemaking@maine.gov)

\* 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.

**Please approve bottom portion of this form and assign appropriate AdvantageME number.**

APPROVED FOR PAYMENT \_\_\_\_\_ DATE: \_\_\_\_\_

(*authorized signature*)

FUND	AGENCY	ORG	APP	OBJ	PROGRAM	FUNDING	FUND Pri JVC	FUND
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## 5.10 Collection and Maintenance of Statistics

### A. Submission of statistics

1. All statistics reported by any dealer, harvester, business, person or vessel to the Commissioner shall be provided to authorized personnel of the Department.
2. All statistics reported by any dealer, harvester, business, person or vessel to the Commissioner to comply with reporting requirements, or under an agreement to participate in a Department led project for the purpose of developing or testing new methodologies or technologies to provide pertinent data with respect to the fisheries, are confidential data as provided by 12 MRS 6173.

### B. Collection agreements

1. The Commissioner may enter into an agreement with a state or federal agency authorizing that agency to collect statistics on behalf of the Commissioner.
2. The Department shall not enter into a cooperative collection agreement with another state or federal agency unless that agency has authority to protect the statistics from disclosure to the public in a manner similar to that of the Department and in a manner consistent with these regulations.

### C. Safeguards

Appropriate safeguards and a control system as specified by Department directives or other Department internal procedures, shall apply to the collection and maintenance of all statistics so as to insure their confidentiality.

1. The control system instituted to protect the confidentiality of statistics shall:
  - (a) Identify those persons who have routine access to the statistics;
  - (b) Contain procedures to identify non-routine users and their use of data; and
  - (c) Provide for safeguarding the data.

# Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6573; web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 5: Confidentiality of Fisheries Statistics

STATUTORY AUTHORITY: 12 MRS 6173

DATE AND PLACE OF PUBLIC HEARING(S): July 7, 2021, 4:00 p.m., held remotely via Microsoft Teams. For information on how to join the hearing, please visit: [www.maine.gov/dmr](http://www.maine.gov/dmr). Instructions will be posted on DMR's homepage under meetings and events.

COMMENT DEADLINE: July 19, 2021

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

This rule is proposed to provide clarity that fisheries statistics that are collected through compliance with reporting requirements, or any Department led projects intended to develop or test new technologies or methodologies to collect and submit data to the Department, is confidential as provided by 12 MRS 6173,

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 rule will ensure the Department is able to hold such data as confidential data, as provided by 12 MRS 6173,

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]: Department staff within the Landings Program.

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)]

*Note: If necessary, additional pages may be used*