

**Notice of Agency Rule-making Proposal**

AGENCY: 13-188-Department of Marine Resources  
 CHAPTER NUMBER AND TITLE: Chapter 75 Protected Resources Regulations  
 PROPOSED RULE NUMBER *(leave blank; to be assigned by Secretary of State)*:

BRIEF SUMMARY: There is an existing regulatory requirement for persons fishing lobster gear and trap/pot gear to mark their buoy lines with specific red marks in the sliver area and in federal waters. This proposed regulation removes the requirement for the red marks and would instead require persons fishing lobster gear and trap/pot gear in all Maine coastal waters to mark their buoy line with three purple 12-inch marks: one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. In addition, each buoy line must be marked with a 36-inch purple mark in the top two fathom of buoy line. Finally, all lobster gear and trap/pot gear fished from head of tide out to the Exemption line would be required to have an additional green mark of a minimum of 6-inches in the top two fathom of buoy line. The new marking requirements would be required to be in place by April 1, 2020.

Date, time and location of PUBLIC HEARING *(if any)*: October 2, 2019 4:00 PM, DMR Offices Marquardt Building Room 118

COMMENT DEADLINE: October 14, 2019

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

NAME: Amanda Ellis  
 MAILING ADDRESS: 21 State House Station, Augusta, Maine 04333-0021  
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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 M.R.S.A. §6171

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

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

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: dmr.rulemaking@maine.gov

\* Check one of the following two boxes.

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 Profile JVC	FUND Pri JVC	FUND Line JVC
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## DEPARTMENT OF MARINE RESOURCES

### Chapter 75 – Protected Resources

#### 75.02 Trap/Pot Fisheries Gear Restrictions

##### A. The following trap/pot fishing gear restrictions shall apply:

###### 1. Universal requirements in coastal waters

All persons who fish lobster gear and trap/pot fisheries (including but not limited to all crab species, hagfish, finfish, whelk, and shrimp) within Maine's coastal waters shall comply with the following ~~federal universal requirements for the ALWTRP~~:

(a) No floating line at the surface; ~~and~~

(b) No wet storage of gear over 30 days; ~~and~~

(c) Effective April 1, 2020 buoy lines must be marked with three (3) purple 12-inch marks: one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. In addition, each buoy line must be marked with a 36-inch purple mark in the top two fathom of buoy line. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

###### 2. Waters to the Exemption Line

1. All persons who fish lobster gear in Maine's coastal waters from the head of tide to the Exemption Line shall comply with one of the following ALWTRP options:

(a) Option 1: All buoys must be attached to the buoy line with a weak link having a breaking strength no greater than 600 pounds (272.4 kg). Weak links may include swivels, plastic weak links, rope of the appropriate breaking strength, hog rings, rope stapled to a buoy stick, or devices approved in writing by the NOAA Fisheries Assistant Administrator (See contact information in 75.01 (A)(3)). In addition, the weak link must be designed so that the bitter end of the buoy line is clean and free of knots when the weak link breaks; or

(b) Option 2: All buoy lines must be made entirely of sinking line; or

(c) Option 3: All ground lines must be made entirely of sinking line.

2. Effective April 1, 2020, in addition to the universal marking requirements in coastal waters, buoy lines in Maine's coastal waters from the head of tide to the Exemption Line must be marked with an additional green mark of at least 6 inches in the top two fathom of buoy line.

###### 3. Sliver Area

All persons who fish lobster gear and trap/pot fisheries (including but not limited to all crab species, hagfish, finfish, whelk, and shrimp) in the Maine Sliver Area, shall comply with each the following ALWTRP requirements:

(a) All buoys, floatation and/or weighted devices must be attached to the buoy line with a weak link having a breaking strength no greater than 600 pounds (272.4 kg). Weak links may include swivels, plastic weak links, rope of the appropriate breaking strength, hog rings, rope stapled to a buoy stick, or devices approved in writing by the NOAA Fisheries Assistant Administrator (See contact information in Chapter 75.01(A)(3)). In addition, the weak link must be designed so that the bitter end of the buoy line is clean and free of knots when the

weak link breaks plus each weak link must be installed as close to the buoys, floatation and/or weighted device as possible.

- (b) Unless marked as required by A. 1. (c) in advance of April 1, 2020, Buoy buoy lines must be marked with three (3) red 12-inch (30.48 cm), colored marks: one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

This paragraph sunsets March 31, 2020.

- (c) The attachment of buoys, toggles or other floatation devices is prohibited on ground lines.
- (d) Ground lines. All ground lines must be composed entirely of sinking line.
- (e) Sink rope means, for both ground lines and buoy lines, line that has a specific gravity greater than or equal to 1.030, and, for ground lines only, does not float at any point in the water column.
- (f) Multiple traps only – no single traps allowed. See section 5 below for minimum number of traps per trawl. Trawls with less than or equal to 5 traps may only possess 1 buoy line.
- (g) Fishermen are encouraged, but not required, to maintain knot-free buoy lines.

#### 4. Federal waters

All persons who fish lobster gear and trap/pot fisheries (including but not limited to all crab species, hagfish, finfish, whelk, and shrimp) in Maine's coastal waters southerly of the Three Mile Limit, or as shown on NOAA, National Ocean Survey nautical charts, and within Area 1, must comply with each of the following ALWTRP requirements:

- (a) All buoys, floatation and/or weighted devices must be attached to the buoy line with a weak link having a breaking strength no greater than 600 pounds (272.4 kg). Weak links may include swivels, plastic weak links, rope of the appropriate breaking strength, hog rings, rope stapled to a buoy stick, or devices approved in writing by the NOAA Fisheries Assistant Administrator (See contact information in Chapter 75.01(A)(3)). In addition, the weak link must be designed so that the bitter end of the buoy line is clean and free of knots when the weak link breaks plus each weak link must be installed as close to the buoys, floatation and/or weighted device as possible.
- (b) Unless marked as required by A. 1. (c) in advance of April 1, 2020, Buoy buoy lines must be marked with three (3) red 12-inch (30.48 cm), colored marks: one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

This paragraph sunsets March 31, 2020.

- (c) Multiple traps only – no single traps allowed; See section 5 below for minimum number of traps per trawl; trawls of 5 or fewer traps must have only one buoy line.
- (d) The attachment of buoys, toggles or other floatation devices is prohibited on ground lines.
- (e) Ground lines. All ground lines must be composed entirely of sinking line.

- (f) Sink rope means, for both ground lines and buoy lines, line that has a specific gravity greater than or equal to 1.030, and, for ground lines only, does not float at any point in the water column.
- (g) Fishermen are encouraged, but not required, to maintain knot-free buoy lines.

## 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) 624-6579 web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 75 Protected Resources Regulations

STATUTORY AUTHORITY: 12 M.R.S.A. §6171

DATE AND PLACE OF PUBLIC HEARING(S): October 2, 2019 4:00 PM, DMR Offices Marquardt Building Room 118

COMMENT DEADLINE: October 14, 2019

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

This regulation is intended to replace an existing gear mark (red) used only in the sliver area and federal waters with a Maine specific gear mark (purple) that will be used in all Maine coastal waters, and an additional mark in the top two fathom of endline beginning by April 1, 2020. It will also require any gear fished within the Exemption area to have an additional green mark.

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)]

The rule will require all persons fishing lobster and other trap/pot gear to mark their buoy lines in accordance with the regulation by April 1, 2020.

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]: The Department considered the April 2019 Atlantic Large Whale Take Reduction Team meeting, information provided by NOAA Fisheries regarding any colors for gear marking not already in use, and input from members of the Maine lobster industry provided at meetings held in June and July 2019.

ESTIMATED FISCAL IMPACT OF THE RULE: [*see* §8057-A(1)(C)] Persons fishing lobster and trap/pot gear in Maine's coastal waters will bear the costs associated with marking their gear as the regulation requires.

**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)]