

**NOTICE OF AGENCY RULE-MAKING ADOPTION**

**AGENCY:** Department of Marine Resources

**CHAPTER NUMBER AND TITLE:** Chapter 34.07 Atlantic Halibut Size Limit

**ADOPTED RULE NUMBER:**  
(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

**CONCISE SUMMARY:**

**Basis Statement:**

This rule allows charter and party boat operators to fillet Atlantic halibut at sea. Possession for Atlantic halibut is limited to one fish per boat. This rule ensures the fish can be measured and is greater than the minimum size limit of 41 inches total length or 32 inches from the pectoral fin if the head is removed. This rule allows charter/party boat captains to fillet Atlantic halibut at sea if the halibut carcass (rack) remains in their possession until all customers have landed on shore. This rule allows a single Atlantic halibut to be shared with several fishing customers instead of one customer retaining the entire fish. Marine patrol officers will be able to measure Atlantic halibut carcasses (racks) to ensure fish of legal sizes are possessed.

**EFFECTIVE DATE:**  
(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

**AGENCY CONTACT PERSON:** Amanda Ellis (207) 624-6573  
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*Please approve bottom portion of this form and assign appropriate MFASIS number.*

APPROVED FOR PAYMENT _____					DATE: _____
FUND	AGENCY	S-UNIT	APP	OBJT	AMOUNT
010	13A	1120	10	4946	regulations

*Please forward invoice to: Natural Resource Service Center, 155 SHS, Augusta*

## DEPARTMENT OF MARINE RESOURCES

### Chapter 34 Groundfish

#### 34.07 Atlantic Halibut (*Hippoglossus hippoglossus*)

##### A. Size Limit.

1. It shall be illegal to land, sell, or possess any Atlantic Halibut which measures less than 41 inches in total length or for a fish with the head removed, 32 inches in pectoral length. Except for removing the fish's head, Atlantic Halibut must remain intact until reaching the point of sale at a dealer facility or at the consumer's property.

Exception: Federally permitted Charter or Party Boats taking passengers for hire may fillet legal size halibut at sea under the following conditions:

- a. Fillets must come from a legal sized Atlantic Halibut;
  - b. Fillets must remain whole with skin left on;
  - c. Atlantic Halibut carcasses must be tagged and retained until the boat has been landed;
  - d. Fillets must match with the Atlantic Halibut carcass.
2. Atlantic Halibut caught at sea which measure less than the minimum legal size, may be tagged with DMR issued research tags and then immediately released.
  3. Atlantic Halibut raised by means of aquaculture shall be exempted from the size limit if accompanied by proper documentation identifying the origin of the fish and verification that the fish are an aquaculture product.

**Basis Statement:**

This rule allows charter and party boat operators to fillet Atlantic halibut at sea. Possession for Atlantic halibut is limited to one fish per boat. This rule ensures the fish can be measured and is greater than the minimum size limit of 41 inches total length or 32 inches from the pectoral fin if the head is removed. This rule allows charter/party boat captains to fillet Atlantic halibut at sea if the halibut carcass (rack) remains in their possession until all customers have landed on shore. This rule allows a single Atlantic halibut to be shared with several fishing customers instead of one customer retaining the entire fish. Marine patrol officers will be able to measure Atlantic halibut carcasses (racks) to ensure fish of legal sizes are possessed.

**Summary of Comments:**

Notice of this proposed rulemaking appeared on December 19, 2018 in the five major daily newspapers as published by the Secretary of State. On December 19, 2018, the rule was posted on the DMR website, and electronic messages were sent to individuals who subscribe to DMR notices. The public hearing was advertised in compliance with the procedures outlined in the Maine Administrative Procedures Act and was held as follows: January 9, 2019, 3:00 PM, DMR Laboratory, West Boothbay Harbor, ME. The comment period closed January 21, 2019.

**Attendance at the Public Hearing:**

Name	Affiliation (if specified)
Mike McKay	Not Specified
Peter Ripley, Peter Fallon, Barry Gibson	Charter Boat Captains
Brian Rhea	Native Fish Coalition
Don Kleiner	Maine Professional Guides Association
Deirdre Gilbert, Nick Popoff, Amanda Ellis	DMR Staff

*The Department did not receive any written comments concerning the proposal. The following comment was provided at the public hearing.*

**Favor (1)**

**Mike McKay, Boothbay Public Hearing, January 9, 2019**

I agree with it entirely. I just wish in the future you might give some thought for this being extended to recreational fishermen. Otherwise, it's a great idea.

**DMR Response:**

This rule is being proposed to meet a specific need for a very small niche in this fishery. This same need, the ability to filet at sea on the vessel, does not exist for the recreational fishing community.

## 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 34.07 Atlantic Halibut

STATUTORY AUTHORITY: 12 M.R.S. §6171

DATE AND PLACE OF PUBLIC HEARING(S): 3:00 PM January 9, 2019, DMR Laboratory, West Boothbay Harbor, ME. (Snow date 3:00 PM January 10, 2019, DMR Laboratory, West Boothbay Harbor, ME)

COMMENT DEADLINE: January 21, 2019

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

Charter and party boats often catch Atlantic halibut on excursions offshore while fishing for groundfish species such as haddock and cod. Possession for Atlantic halibut is limited to one fish per boat. Often, these charter boats have many customers and there is a desire and willingness to share the harvest of halibut among fishing participants. The current rule does not allow fisherman or charter/party boat captains to fillet Atlantic halibut on a vessel in transit. This rule is in place to ensure the fish can be measured and is greater than the minimum size limit of 41 inches or 32 inches to the pectoral fin if the head is removed. However, Department Marine Patrol officers have indicated that accurate measurements can be taken from a halibut carcass with the fillets removed. This proposed change would allow charter/party boat captains the ability to fillet Atlantic halibut at sea if the halibut carcass remains in possession on the vessel through transit until the fishing customers have departed the boat. This change will allow a single Atlantic halibut to be shared with several fishing customers instead of one customer retaining the entire fish. Marine patrol officers would still be able to enforce Atlantic halibut minimum size and possession limits.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? \_\_\_ YES \_\_\_ X NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [*see* §8057-A(1)(B)&(D)]

This rule will allow charter and party boat captains the ability to filet Atlantic halibut and share fillets with multiple customers. Enforcement of Atlantic halibut rules will not be hindered by this rule change.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE

Department staff have received comments and requests from charter and party boat captains. Consultation occurred with Department Marine Patrol to ensure enforcement would not be hindered.

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.

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