

Notice of Agency Rule-making Proposal

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 8 Landings Program: Scallop, Herring, Lobster, and Pelagic and Anadromous

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 rulemaking makes changes to the reporting requirements for scallop, herring, lobster, and pelagic and anadromous license holders. It changes the frequency of reporting for scallop license holders from trip level data reported monthly to trip level data reported weekly (no later than 11:59 pm Sunday) and requires that reports are submitted via an approved electronic mechanism. The data elements in the scallop harvester report remain unchanged. The proposed rule also extends the time frame for which daily reporting is required in the herring fishery, from September 30 to December 30 annually. The data elements in the herring harvester report remain unchanged. The proposed rule requires all lobster license holders (except apprentice and noncommercial license holders) to report trip level data monthly, and requires reports to be submitted via an approved electronic mechanism. The data elements required in the lobster harvester report remain unchanged. Finally, the proposed rule clarifies that pelagic and anadromous license holders only need to report those species authorized under the pelagic and anadromous license.

Date, time and location of PUBLIC HEARING (*if any*): August 30, 2022, 5:00 p.m., in-person at the Marquardt Building, room 118, 32 Blossom Lane, Augusta; or remotely via Microsoft Teams. Remote access information is posted to DMR's website under "Meetings."

COMMENT DEADLINE: September 9, 2022

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

* 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 Profile JVC	FUND Pri JVC	FUND Line JVC
010	13A	1120	10	4946				

8.20 Harvester Reporting

N. Lobster Harvest

- A. ~~Ten percent of the lobster and crab fishing license holders, except lobster apprentices, during a given calendar year will be randomly selected to report the listed data elements for the following calendar year with the exception that all (100%) of lobster and crab fishing license holders, except lobster apprentices, of the Monhegan Island Lobster Conservation Area must report each year. With the exception of lobster and crab fishing license holders of the Monhegan Island Lobster Conservation Area, no individual can be selected to report in two consecutive years.~~

~~Any person that holds a Class I, II, or III, student or noncommercial lobster and crab fishing license issued under 12 M.R.S. §6421(A, B, C, E, F and G) and is selected for reporting license that authorizes that person to fish for lobster except for noncommercial and apprentice licenses, must report trip level fishing activity on forms supplied by the Department. The following data elements must be reported to the DMR on approved paper forms or through approved electronic reporting mechanisms:~~

1. Harvester name (as it appears on the harvesting license) and license number
2. Boat name and hull ID
3. Designate negative report period if no harvesting activity occurred
4. Date fished
5. Number of crew
6. Gear type and number of traps hauled
7. Set time (hours the gear soaked)
8. Total gear in water
9. Depth
10. Primary Statistical area, lobster zone and 10 minute square where gear hauled this trip was fished
11. Sea time (including travel)
12. Pounds of species landed
13. License of dealer sold to or if not sold to a licensed dealer, disposition of catch and whether catch was carried

14. Port landed
 15. Signature, written or electronic
 16. Number of strings hauled. For purposes of this section, a string means a single trap or multiple traps connected by a groundline.
 17. Number of endlines – Count of total endlines in the water
- B. All data sent to DMR must be legible, coherent and in conformance with DMR specified standards.

O. Scallop Harvest

Any person that holds a ~~scallop (hand fishing) license, scallop boat license, or nonecommercial scallop license issued under 12 M.R.S. §6701, §6702 or §6703~~ license that authorizes that person to fish for scallops must report trip level fishing activity once per week no later than 11:59 pm Sunday for any landings occurring from Monday 12:01 am through Sunday 11:59 pm on forms supplied by the Department. If no landings occur during the week, a negative landing report is required. The following data elements must be reported to the DMR ~~on approved paper forms or~~ through approved electronic reporting mechanisms:

1. Harvester name (as it appears on the harvesting license) and license number
2. Boat name and hull ID
3. Designate negative report period if no harvesting activity occurred
4. Date fished & landed
5. Number of crew (including captain)
6. Gear type and quantity
7. Number of sets/tows/dives
8. Set time (average time fished per set/tow or average dive time)
9. Average depth
10. Latitude/longitude
11. Sea time (including travel)
12. Pounds of species landed
13. License of dealer sold to, or if not sold to a licensed dealer, disposition of catch and whether catch was carried

14. Port landed
15. Signature, written or electronic

R. Herring Harvester Permit

Any person that holds a ~~Commercial Pelagic and Anadromous Fishing License issued under 12 M.R.S. §6502-A and a Herring Harvester Permit under that license~~ license that authorizes that person to fish for herring must submit ~~daily trip level~~ catch reports by 11:59 pm daily during between June 1 and ~~September~~ December 30; and, monthly outside of the season. Catches from fixed gear must be included in these reports. Any person that holds more than one ~~Commercial Pelagic and Anadromous Fishing License with the Herring Harvester Permit~~ license that authorizes that person to fish for herring must report for each license they hold. Reports are required even if the herring caught during the week have not been landed. The report shall include the following data elements:

1. Harvester name (as it appears on the harvesting license) and landings number
2. Boat name and state vessel registration number or Coast Guard number (if a boat was used)
3. Designate negative report period if no harvesting activity occurred
4. Date fished & landed
5. Number of crew (including captain)
6. Gear type and quantity
7. Number of sets/tows
8. Set time (the average time your gear fished)
9. Average depth
10. Latitude and longitude
11. Sea time (including travel)
12. Pounds by species of all species caught (including discards)
13. Landings number of dealer sold to, or if not sold to a licensed dealer, disposition of catch and whether catch was carried
14. Port landed
15. Signature written or electronic

Atlantic herring reports are not required from Atlantic herring carrier vessels.

Q. Pelagic and Anadromous Fishing Harvest

Any person who holds a ~~Commercial Pelagic and Anadromous Fishing License issued under 12 M.R.S. §6502 A~~ license that authorizes that person to fish for the species authorized by the Commercial Pelagic and Anadromous fishing license must report trip level fishing activity on forms supplied by the Department. The following data elements must be reported to the DMR on approved paper forms or through approved electronic reporting mechanisms:

1. Harvester name (as it appears on the harvesting license) and landings number
2. Boat name and state vessel registration number or Coast Guard number (if a boat was used)
3. Designate negative report period if no harvesting activity occurred
4. Date fished & landed
5. Number of crew (including captain)
6. Gear type and quantity
7. Number of sets/tows
8. Set time (the average time your gear fished)
9. Average depth
10. Latitude and longitude
11. Sea time (including travel)
12. Pounds by species of all species authorized by the Commercial Pelagic and Anadromous license caught (including discards)
13. Landings number of dealer sold to, or if not sold to a licensed dealer, disposition of catch and whether catch was carried
14. Port landed
15. Signature written or electronic

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 8 Landings Program: Scallop, Herring and Lobster

STATUTORY AUTHORITY: 12 MRS 6173

DATE AND PLACE OF PUBLIC HEARING(S): August 30, 2022, 5:00 p.m., in-person at the Marquardt Building, room 118, 32 Blossom Lane, Augusta; or remotely via Microsoft Teams. Remote access information is posted to DMR's website under "Meetings."

COMMENT DEADLINE: September 9, 2022

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

The purpose of this proposed rulemaking is to update the harvester reporting requirements for scallop, herring, lobster, and pelagic and anadromous license holders. For scallop license holders, the frequency of reporting is changed from monthly to weekly, and reports must be submitted through an approved electronic reporting mechanism. For herring license holders, the period of time for which daily reports are required is extended from September 30 to December 30. For lobster license holders, the requirement to report is changed from 10% of license holders to all license holders, and reports must be submitted through an approved electronic reporting mechanism. For pelagic and anadromous license holders, a clarification is provided that they only need to report those species authorized under the pelagic and anadromous license.

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 proposed rule is expected to increase the frequency of reporting by scallop harvesters from monthly to weekly, aiding in the submission of timely harvester reports to DMR and improved landings monitoring by DMR policy staff. The proposed rule will also ensure that all herring harvesting will be reported on a daily basis. The proposed rule will increase the lobster license holders providing harvester reports from 10% to 100% and will require reports be submitted through an approved electronic reporting mechanism.

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]:

Information considered during development of this rulemaking includes the Atlantic States Marine Fisheries Commission American Lobster Addendum XXVI, input from the Scallop Advisory Council, and input from the DMR 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.

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.