

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 8 Mussel Harvester Reporting

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

CONCISE SUMMARY:
This rule establishes mandatory monthly trip-level harvester reporting for individuals who hold a mussel boat license or a hand-raking mussel license. Required reporting elements are specified in the rule.

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

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

8.20 Harvester Reporting

T. Mussel Harvest

Effective January 1, 2022, any person that holds a hand-raking mussel license or a mussel boat license issued under 12 M.R.S. §6745 or §6746 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 & landed
5. Number of crew (including captain)
6. Gear type and quantity
7. Number of sets/tows
8. Set time (average time fished per set/tow or average time raking)
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
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:

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CHAPTER NUMBER AND RULE: Chapter 8 Mussel Harvester Reporting

STATUTORY AUTHORITY: 12 MRS §6173

DATE AND PLACE OF PUBLIC HEARING(S): September 21, 2021, 4 pm, DMR's Augusta Office (Marquardt Building), 32 Blossom LN, Rm. 118, Masks are required for those who are not fully vaccinated. A remote option via Microsoft Teams will also be available. For information on how to join the hearing remotely, please visit: www.maine.gov/dmr. Instructions will be posted on DMR's homepage under meetings and events.

COMMENT DEADLINE: October 1, 2021

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [see §8057-A(1)(A)&(C)] On August 13, the Department received a request from the Maine Mussel Fishery Improvement Project to implement mandatory harvester reporting for the wild mussel fishery as a means of providing information to better monitor the health of the mussel resource and fishery. The collection of effort and location information from harvesters is a standard practice to provide information necessary for fisheries management.

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)] Information will be provided by license holders to the Department's Landings Program on a monthly basis, in either paper or electronic formats.

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]: In addition to the letter received from the Maine Mussel Fishery Improvement Project, the Department considered input from the Landings Program and the Bureau of Public Health, which has responsibility for mussel management.

ESTIMATED FISCAL IMPACT OF THE RULE: [see §8057-A(1)(C)]
Collection of this additional data can be done within the Department's existing resources.

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.

Basis Statement

This rule establishes mandatory monthly trip-level harvester reporting for individuals who hold a mussel boat license or a hand-raking mussel license. Required reporting elements are specified in the rule. The purpose of having harvesters report their activity is to better monitor the health of the mussel resource and fishery.

Summary of Comments

Notice of this proposed rulemaking appeared on September 1, 2021 in the five major daily newspapers as published by the Secretary of State. On September 1, 2021, the rule was posted on the DMR website, and electronic messages were sent to individuals who subscribe to DMR notices. Electronic notice was provided to mussel boat license and hand-raking mussel license holders, who provided the Department with an email address. A public hearing was held at 4:00 p.m. on September 21, 2021. In-person and remote participation options were offered for the hearing. No members of the public attended the hearing in-person, so the persons listed below elected to participate remotely. The comment period closed on October 1, 2021.

September 21, 2021 public hearing

DMR staff: Deirdre Gilbert, Director of State Marine Policy; Kohl Kanwit, Director, Bureau of Public Health; Robert Watts, Director, Landings Program; Amanda Ellis, Resource Management Coordinator. Members of the public: Nathan Jewell, Samantha Tipton, Jefferson Oranellas, Adam Baukus, and Kyle Foley.

Jefferson Oranellas, Cape Cod Shellfish and Seafood

I work for Cape Cod Shellfish and Seafood. We are a seafood distributor out of Boston, Massachusetts. I'm here to voice support for the proposed rule on behalf of the Maine Mussel Fishery Improvement Project working group. In addition to myself and my company, our working group includes Nathan Jewell and Samantha Tipton. The seafood category managers from Hannaford supermarkets. Fiona de Koning, from Acadia Mussel Farms, who owns a mussel farm in Trenton, Maine. Ralph Smith of Moosabec Mussels, a mussel harvester and dealer in Jonesport and has a mussel farm in Lamoine, Maine. John Young from Euclid Fish Company, a seafood distributor in Cleveland, Ohio. Stats Armstrong from seafood distributor Atlantic Aquafarms formally JP shellfish and finally Jim Marcos from Maine shellfish company.

Our group came together several years ago to form a formal fishery improvement project because wild mussels do not currently meet the sustainable seafood sourcing criteria of some major buyers, including Hannaford supermarkets. Hannaford like many other buyers in the marketplace have criteria in place requiring a management plan and data in monitoring that

support management programs. Wild mussels from Maine do not meet the criteria because there's not a full management plan in place and no regular assessment of mussel populations, which puts the fishery at risk of losing access to many markets. The risk goes beyond Hannaford since other major buyers have similar criteria in place for their buying practices.

Over the last few years we've probably focused our attention on the research and data collection needs of the fishery our key goals for this fishery are for the better ongoing data collection to be put in place and ultimately for a fishery management plan to be put in place. However, right now, we're focused on increasing the data availability about the fishery. We are here in strong support for the proposed rule for mandatory harvester reporting in the mussel fishery.

Our original vision was for both wild mussel harvester landings and the harvest of drag caught mussels to be reported in order to give the Department a broader picture of what is removed from wild mussel resource and to provide some indicators around recruitment. We understand that reporting seed harvest is a more complicated request and we plan to continue to work with the Department on that issue. We support the proposed rule as written and believe it is an important step forward to implement harvest reporting for wild mussel landings. Without consistent fishery independent surveys or assessments of mussel populations fishery dependent data can provide some important indicators and trends over time to better monitor the health of the fishery. Knowing when where and how many mussels are being removed as well as the effort involved to harvest them override a more consistent source of data that can be analyzed and tracked.

A key priority in requesting harvest reporting is our interest in the Department capturing harvest location data and tracking it over time. Currently it is our understanding that mussel landings are only reported to the state by dealers and they report, which port the mussels were landed in. But not the location where the mussels were harvested. The dealers involved in our group have been voluntarily sharing the harvest location data they receive from fishermen which they keep on file. But do not normally report to the Department. Our group has collected this data to establish a baseline to inform other research to be conducted but we are not the right home for all this specific data in the long term.

The harvest location data from fisherman is very valuable because it provides a data set over time of the footprint of the commercial fishery and how it changed seasonally in the year to year. Understanding the key commercial areas from mussel fishing and how they might change over time is important for guiding any research or data collection and informing further management of the fishery. Given the limited resources dedicated to studying mussel populations in the state this knowledge is very important.

Finally, landings data from the harvesters can be used by the Department to assess other indicators like catch per unit effort and how it changes over time. Even if the Department is unable to make such indicators publicly available due to confidentiality rules and reporting, it will be important information for the Department to use in making management decisions about the fishery. Ultimately, we would like to see the harvest location data collected from mussels on a monthly basis, similar to other fisheries in the state and we are in support of the proposed rule. Thank you all for your time.

David Dunton, received via mail, September 29, 2021

I've been a commercial mussel harvester in Frenchmans Bay for more than 15 years and a

shellfish harvester for 50 years. I have run my roadside clam shop for nearly 50 years as well as served many restaurants on MDI. My restaurants are required to fill out the enhanced retailer shellfish receiving log as well as I fill out my harvester tags. Many of my fellow harvesters as well statewide do this, requiring us to do this seems unnecessary. I feel we should be exempted from this requirement since it is already done. Also requiring GPS measurements, something other harvester tags do not require, seems to be very unnecessary as well. I have a recreational scallop license that requires this and without a GPS it makes it all but impossible. My elver reporting does not require GPS measurements, thank God. Unlike my softshell clams, mussel propagation seems to be handling climate change quite well, wild populations have expanded tremendously almost everywhere in Hancock County that I harvest softshell clams.

DMR's Response:

The commenter in opposition to the proposal noted that information must already be provided on harvester tags or provided to buyers, which implies DMR is asking harvesters and buyers to report the same information or that all of the information outlined in the proposal is currently being collected. Harvester tag information is not provided to the Department but is required to accompany the product through the distribution chain so that the information is available in the event of an illness requiring traceback to determine where the shellfish were harvested. Persons that hold any applicable buyer permit are reporting details specific to the transaction with the harvester, but not information specific to the harvest activities, the Department does not receive copies of the harvest logs from buyers. Without harvester reporting, the Department does not have any landings information pertaining to location, or effort. Enacting this proposed change would not result in reporting redundancies. The purpose of having harvesters report their activity is to better monitor the health of the mussel resource and fishery.

If a harvester is unable to provide certain data elements (e.g. lat/long) due to not having the necessary technology to collect that information, they can contact DMR staff within the landings program and they can help provide the information the harvester needs to properly report.