

Notice of Agency Rule-making Proposal

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 34.07 Atlantic Halibut

PROPOSED RULE NUMBER *(leave blank; to be assigned by Secretary of State)*:

BRIEF SUMMARY:

In order to remain within the State Waters Sub Annual Catch Limit, and to prevent the Allowable Biological Catch from being exceeded and Accountability Measures being triggered, the Department is proposing to reduce catch in the state waters halibut fishery by the following measures: 1) reducing the length of the state waters halibut season by ten days at each end of the season (resulting in a season of May 11-June 20); 2) reducing the number of hooks from 450 to 250; and 3) imposing a prohibition on possession of halibut by those license holders who have been issued state commercial halibut tags when operating seaward of the territorial waters boundary. These limitations were adopted for the 2018 season through an emergency rule-making effective April 23, 2018. This regular rule-making is being proposed concurrently.

Date, time and location of PUBLIC HEARING *(if any)*: **June 5, 2018, 5:00 PM** DMR Conference Room 118, Marquardt Building, 32 Blossom Lane, Augusta, ME; **June 6, 2018, 5:00 PM** University of Maine Machias, Science Building (Rm 102), 116 O'Brien Avenue Machias, ME; **June 7, 2018, 5:00 PM**, Ellsworth City Hall (Council Chambers), One City Hall Plaza, Ellsworth, ME

COMMENT DEADLINE: June 18, 2018

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 M.R.S. §6171

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.*

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				

DEPARTMENT OF MARINE RESOURCES
Chapter 34 Groundfish

34.07 Atlantic Halibut (*Hippoglossus hippoglossus*)

A. Season for Maine's Territorial Waters.

The open season to fish for Atlantic Halibut in Maine's territorial waters shall begin at sunrise May ~~4th~~ 11th and end at sunset June ~~30th~~ 20th.

B. License Requirements.

1. Commercial Halibut fishermen must obtain an Atlantic Halibut endorsement on their Department of Marine Resources (DMR) Commercial Fishing License. Commercial Fishing license holders must declare the vessel at the time of license issuance or renewal, to which that license holder's tags will be allocated pursuant to the endorsement. The license holder may only fish for halibut from the vessel that was declared at the time of license issuance or renewal and to which that license holders' tags were allocated.
2. Recreational fishermen are not required to obtain a commercial license and endorsement to fish for Atlantic Halibut but must declare a vessel for which their recreational landings tags will be assigned.

C. 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.
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.

D. Prohibitions.

1. It shall be illegal to possess or land marine species other than Atlantic Halibut while fishing for Atlantic Halibut aboard commercial vessels in Maine's territorial waters. Other marine species caught while fishing for Atlantic Halibut shall be immediately liberated.
2. It shall be unlawful to transfer Atlantic Halibut between vessels.
3. It shall be illegal to fish for Atlantic Halibut in Maine's territorial waters by any method other than using size 14/0, 15/0 or 16/0 circle hooks.
4. No vessel may fish for Atlantic Halibut using more than ~~450~~ 250 circle hooks.
5. Recreational fishermen or commercial fishing license holders without the halibut endorsement may Halibut fish, for personal use, using a tub-trawl and are limited to 100 hooks in total.
6. No individual may possess more than one type of landing tag per year. In addition, it shall be illegal for more than one type of landing tag to be assigned to any one vessel. The full allotment of landing tags will be issued to individuals one time per year.

7. It shall be illegal to possess a Halibut tag on a vessel that the tag is not registered to.
8. For vessels which have been assigned State commercial landings tags for Atlantic Halibut, it shall be illegal to possess Atlantic Halibut when operating seaward of Maine's territorial waters.

E. Halibut Gear Marking Requirements

1. All persons fishing for Atlantic Halibut with an endorsement issued in accordance with Chapter 34.07 B-1 must have marking buoys on each end of the trawl clearly labeled with their name and Maine Commercial Fishing license number.
2. All persons recreationally tub trawling for Atlantic Halibut must mark the trawl buoys with their name and the words "Halibut Trawl" or other DMR specified marking.

F. Total Allowable Catch

1. Commercial, party, or charter vessels may land no more than 25 Atlantic Halibut per year.
2. Recreational vessels may land no more than 5 Atlantic Halibut per year.

G. Tagging Requirements.

1. All legal size Atlantic Halibut caught in Maine's coastal waters and intended to be retained by a Commercial Fishing license holder or recreational fisherman shall be immediately tagged with a landing tag approved by the Department of Marine Resources (DMR). Landing tags shall be attached in a manner for which the tag was designed tightly around or through the tail just before the tail fin.
2. Landings tags must remain on the fish until the fish has reached its final destination as a legal-sized fish that is not offered or intended for sale, trade, or barter by a recreational fisherman or prior to retail sale by a Commercial Fishing license holder or Wholesale Seafood Dealer. It is illegal to possess Atlantic Halibut which are not properly tagged. Any person in possession of Atlantic Halibut without a DMR landings tag shall not be in violation of this Chapter if that person is in possession of a bill of lading showing the Atlantic Halibut were lawfully obtained from an origin outside the State of Maine or identified in accordance with the exception for Atlantic Halibut raised by means of aquaculture in Chapter 34.07 C-3. The absence of a bill of lading shall be prima facie evidence that the Atlantic Halibut were landed in Maine i.e., not shipped into Maine.
3. No individual or vessel will be issued more than 25 landing tags per (calendar) year except that commercial fishing license holders who also hold a Federal Multispecies Permit shall be exempted from the individual tag limit provided that no one federally permitted vessel is assigned more than 25 landing tags per year.
4. Three types of landing tags may be issued:
 - (a) State Commercial tags will be issued to endorsement holders without a Federal permit fishing in Maine's territorial waters.
 - (b) Federal Commercial tags will be issued to endorsement holders who possess a Federal multispecies permit authorizing access to Federal waters.
 - (c) Recreational tags will be issued to party/charter or recreational vessels which fish in either Federal or territorial waters.

H. Observers.

When fishing for Atlantic Halibut, all commercial, recreational, party and charter boat vessels must accept observers aboard their vessels upon request from the DMR or National Marine Fisheries Service (NMFS).

I. Sampling.

Atlantic Halibut fishers may be requested to preserve stomach, gonad, otolith, scale or other biological samples for analyses by DMR and NMFS scientists. Any training necessary for compliance with such a request would be provided by DMR and/or NMFS personal.

J. Reporting: See Chapter 8.20(F) Landings Program.

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): **June 5, 2018, 5:00 PM** DMR Conference Room 118, Marquardt Building, 32 Blossom Lane, Augusta, ME; **June 6, 2018, 5:00 PM** University of Maine Machias, Science Building (Rm 102), 116 O'Brien Avenue Machias, ME; **June 7, 2018, 5:00 PM**, Ellsworth City Hall (Council Chambers), One City Hall Plaza, Ellsworth, ME

COMMENT DEADLINE: June 18, 2018

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

In recent years, state waters catch of Atlantic halibut has been steadily increasing. Federal waters catch has also been increasing, but the overall Allowable Biological Catch (ABC) has remained relatively static. Maine exceeded its State Waters Sub-Annual Catch Limit (ACL) in 2015 and 2016, and in 2016, total catch nearly exceeded the ABC, which would have triggered implementation of restrictive Accountability Measures for the federal groundfish fishery. As a result, new Accountability Measures have been imposed that would restrict all federal permit holders from possessing halibut (in the year subsequent) should the ABC be exceeded. In 2017, the halibut stock assessment was also updated, and resulted in a lower ACL of 104 mt, or 21.8 mt for the State Waters Sub-ACL (a reduction from 25 mt in 2017). The new ACL will be effective at the start of the federal fishing year and state waters season on May 1, 2018. In order to remain within the State Waters Sub-ACL, and to prevent the ABC from being exceeded and Accountability Measures being triggered, the Department took emergency action under 12 M.R.S. 6171(3)(C) to reduce catch in the state waters fishery by the following measures: 1) reducing the length of the state waters halibut season by ten days at each end of the season; 2) reducing the number of hooks to 250; and 3) imposing a prohibition on possession of halibut by those license holders who have been issued state commercial halibut tags when operating seaward of the territorial waters boundary. The emergency rule went into effect on April 23, 2018. Consistent with what was adopted as an emergency regulation, the Department is proposing these changes as a regular rule to ensure long-term compliance with the ACL.

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)]

The adopted rules will shorten the halibut season, reduce the number of hooks and improve enforcement to allow the state to stay within the Sub-ACL and avoid triggering accountability measures.

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 2017 halibut stock assessment, the new ACL, and the accountability measures. The Department held a meeting with industry members on April 9, 2018 to develop the specific recommendations for the proposed rule changes.

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.