

DEPARTMENT OF MARINE RESOURCES - PROCEDURAL RULES

CHAPTER 5

CONFIDENTIALITY OF FISHERIES STATISTICS

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DEPARTMENT OF MARINE RESOURCES

Chapter 5 - Confidentiality of Fisheries Statistics

5.01 Definitions

In addition to the definitions set forth in 12 M.R.S.A. §6001, the following definitions shall apply in interpretation of Chapter 5.

- A. "Commissioner" means the Commissioner of the Maine Department of Marine Resources.
- B. "Department" means the Maine Department of Marine Resources.
- C. "Data", "statistics", and "information". The terms are used interchangeably and mean fisheries data reported to, or collected by, the Commissioner in accordance with the provisions of 12 M.R.S.A. §6173.

5.05 Definitions

- A. The definitions set forth in section 6001 of Title 12, Maine Revised Statutes shall apply to terms used in this chapter.
- B. Aggregate or summary form shall be used to identify data or information submitted by three or more persons and summed or assembled in such a manner as not to reveal, directly or indirectly, the identity of any person or vessel.
- C. Commissioner refers to the Commissioner of the Maine Department of Marine Resources.
- D. Data, statistics, and information are used interchangeably.
- E. Department means the Maine Department of Marine Resources.

5.10 Collection and Maintenance of Statistics

A. Submission of statistics

All statistics reported by any dealer, harvester, business, person or vessel to the Commissioner shall be provided to authorized personnel of the Department.

B. Collection agreements

1. The Commissioner may enter into an agreement with a state or federal agency authorizing that agency to collect statistics on behalf of the Commissioner.
2. The Department shall not enter into a cooperative collection agreement with another state or federal agency unless that agency has authority to protect the statistics from disclosure to the public in a manner similar to that of the Department and in a manner consistent with these regulations.

C. Safeguards

Appropriate safeguards and a control system as specified by Department directives or other Department internal procedures, shall apply to the collection and maintenance of all statistics so as to insure their confidentiality.

1. The control system instituted to protect the confidentiality of statistics shall:
  - (a) Identify those persons who have routine access to the statistics;
  - (b) Contain procedures to identify non-routine users and their use of data; and
  - (c) Provide for safeguarding the data.

#### 5.15 Collection and Maintenance of Statistics

- A. Submission of statistics. All statistics required to be submitted to the Commissioner under a federal or state fishery management plan or reporting regulation shall be provided to authorized personnel of the Department of Marine Resources.
- B. Deletion of identifying particulars. After receipt of the statistics submitted to authorized Department personnel, the appropriate Department officials shall delete all identifying particulars from the statistics at the first practicable opportunity consistent with the needs of the Department and good scientific practices.
- C. Appropriate safeguards. Appropriate safeguards as specified by Department directives or other Department internal procedures, shall apply to the collection and maintenance of all statistics, whether separated from identifying particulars or not, so as to insure their confidentiality.
- D. Collection agreements.
  1. The Commissioner may enter into an agreement with a state or federal agency authorizing that agency to collect statistics on behalf of the Commissioner.
  2. The Department shall not enter into a cooperative collection agreement with another state or federal agency unless that agency has authority to protect the statistics from disclosure to the public in a manner similar to that of the Maine Department of Marine Resources and in a manner consistent with these regulations.

#### 5.20 Access to Statistics

- A. Authorized Department personnel  
Statistics, which may reveal the identity of any dealer, harvester, business, person or vessel, shall only be accessible to:
  1. Department personnel responsible for the collection, processing and storage of the statistics;
  2. Department personnel performing research that requires routine access;
  3. Other Department personnel on a demonstrable need-to-know basis; and
  4. Department contractors who require access in order to perform functions authorized by the state contract.
- B. Access to statistics pursuant to collection agreement  
Personnel of a state or federal agency, which is a party to a collection agreement with this Department may have access to statistics collected pursuant to that collection agreement, provided that the statistics will be protected from disclosure to the public in a manner consistent with these regulations.

### 5.30 Release of Statistics

- A. The Commissioner shall not disclose to the public any statistics in other than aggregate or summary form. Disclosure as required by court order shall be made only after approval of the Attorney General.
1. Data, statistics, or information in aggregate or summary form means the combined data of three or more submitters. The data shall be assembled in such a manner as not to reveal the identity of any dealer, harvester, business, person or vessel.
  2. When data is such that it cannot be provided in aggregate or summary form, then that data may only be released to the extent it is determined, by authorized Department staff, that its release will not reveal the identity of any dealer, harvester, business, person or vessel, or written permission for the release of the data has been obtained from the submitter(s).
- B. All requests for statistics submitted shall be processed consistent with the Maine Freedom of Access law (1 M.R.S.A. §401 et seq.).
1. Authorized Department personnel have the authority to issue initial denials of requests subject to the Maine Freedom of Access law for statistics.
  2. Appeals from initial denials should be addressed to the Commissioner, Department of Marine Resources, State House Station 21, Augusta, Maine 04333-0021.

### 5.35 Prohibitions

Persons having access to confidential data are prohibited from unauthorized use or disclosure of such data.

### 5.40 Identification and Tagging of Shellfish

Each harvester licensed by the Department shall securely affix to each container he has harvested a tag which will contain all information necessary to trace the shellfish back to a specific harvest area.

- A. The harvester's tag shall contain legible information arranged in the order that follows:
1. the harvester's name
  2. the harvester's Department license number
  3. the date of harvesting
  4. the most precise identification of the harvest area
    - a. for clams, oysters, and mussels, identification must be by town and geographic area (rivers, coves or bays)
    - b. off-shore vessels fishing mahogany quahogs must provide identification as to the bay (if appropriate)and/or harvesting zones described by the Department
- B. The harvester shall affix the tag to each container of shellstock. This shall be done prior to landing unless the harvest has occurred at more than one harvest location; then each container shall be tagged at the harvest location.

- C. The tag shall be fabricated from durable waterproof material and be no less than 2-5/8 by 5-1/4 inches in size. The harvester is responsible for providing his own tags.
- D. In the instance where a certified dealer is also a harvester; the dealer's shipping tag may also be used as the harvester's tag.

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