

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 91 Spat Collection

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

CONCISE SUMMARY:
The Department of Marine Resources has adopted a new chapter of regulation for the collection of scallop spat under the spat collection license (12 MRS 6074-A). The rules create a maximum size for the possession and sale of scallop spat of 2 inches. It limits a license holder to no more than 15 vertical lines, with a maximum of 30 spat collection bags per line. The rule limits the size of bags that may be used, and specifies marking requirements. It requires that all collection equipment is removed from the coastal waters during the month of July, and specifies the records a license holder must retain.

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.

APPROVED FOR PAYMENT _____					DATE: _____
FUND	AGENCY	S-UNIT	APP	OBJT	AMOUNT
<i>Please forward invoice to: Natural Resource Service Center, 155 SHS, Augusta</i>					
010	13A	1120	10	4946	regulations

DEPARTMENT OF MARINE RESOURCES

Chapter 91 Spat Collection

91.01 Spat Collection Limitations

1. Species

The holder of a spat collection license may fish for, take, possess, or sell the spat of *Placopecten magellanicus* (sea scallop). It is unlawful to sell, or to place onto a lease or license site, any other species taken as bycatch when fishing for scallop spat.

2. Maximum Size

It is unlawful to possess or sell scallop spat whose shells are more than 2 inches in the longest diameter.

3. Gear

A. The holder of a spat collection license may deploy up to 15 vertical lines, with a maximum of 30 spat collection bags on each line. The holder of a spat collection license may not deploy lines horizontally.

B. Spat bags may be constructed using mesh no larger than 1 cm, with settlement components inside the bags such as fine meshed material that increase the surface area inside the bags.

C. Bags may be no larger than 4 feet by 4 feet, when laid flat on a surface.

D. Each surface buoy must be marked with letters "SC", the license number, and the number of the vertical line (numbered consecutively, up to a maximum of 15).

E. The holder of a spat collection is exempt from any closures established in 11.08, 11.09, and 11.12 for the purpose of scallop spat collection.

F. Vertical lines must be rigged to conform to whale take reduction protocols specified in Chapter 75.

4. Season

A. The holder of a spat collection license is exempt from the scallop season established in 11.11 for the purpose of scallop spat collection.

B. It is unlawful to have any have spat collection lines and bags in the coastal waters during the month of July.

5. Record Keeping

The holder of a spat collection license must maintain records pertaining to their collection activities and spat sales on forms supplied by the Department. These records must be made available to the Department upon request and must comply with the following:

A. The records must be complete, accurate and legible;

B. The records must be retained for a minimum of three years.

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: 91 Spat Collection

STATUTORY AUTHORITY: 12 MRS 6074-A

DATE AND PLACE OF PUBLIC HEARING(S):

October 3, 2018, 6:00 PM, Rockland Ferry Terminal, 517A Main Street, RT. 1, Rockland, ME

October 4, 2018, 6:00 PM, Community Room, Yarmouth Town Hall, 200 Main Street, Yarmouth, ME

COMMENT DEADLINE: October 15, 2018

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [see §8057-A(1)(A)&(C)] The principal reason for proposing the rule is to specify the limitations that will apply to spat collection under the spat collection 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)]

The proposed rules would create a maximum size for the possession and sale of scallop spat of 2 inches. It would limit a license holder to no more than 15 vertical lines, with a maximum of 30 spat collection bags per line. The proposed rule limits the size of bags that may be used, and specifies marking requirements. It requires that all collection equipment is removed from the coastal waters during the month of July, and specifies the records a license holder must retain.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE: Input from individuals who have been conducting scallop spat collection under the authority of a Special License, and Maine Marine Patrol.

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.

Basis Statement:

The Department of Marine Resources has adopted a new chapter of regulation for the collection of scallop spat under the spat collection license (12 MRS 6074-A). The rules create a maximum size for the possession and sale of scallop spat of 2 inches. It limits a license holder to no more than 15 vertical lines, with a maximum of 30 spat collection bags per line. The rule limits the size of bags that may be used, and specifies marking requirements. It requires that all collection equipment is removed from the coastal waters during the month of July, and specifies the records a license holder must retain.

Summary of Comments:

Notice of this proposed rulemaking appeared on September 12, 2018 in the five major daily newspapers as published by the Secretary of State. On September 12, 2018, the rule was posted on the DMR website, and electronic messages were sent to individuals who subscribe to DMR notices. Public hearings were advertised in compliance with the procedures outlined in the Maine Administrative Procedures Act and were held as follows: October 3, 2018, 6:00 PM, Rockland Ferry Terminal, 517A Main Street, RT. 1, Rockland, ME; October 4, 2018, 6:00 PM, Community Room, Yarmouth Town Hall, 200 Main Street, Yarmouth, ME. The comment period closed October 15, 2018.

Attendance at the Rockland Public Hearing:

Members of the Public	Department Staff
Phoebe Jekielek, Travis Fogg, Fiona de Koning, Alex de Koning, and Gordon “Skip” Connell	Deirdre Gilbert, Angel Wilson, Jon Lewis, Flora Drury, and Amanda Ellis

Attendance at the Yarmouth Public Hearing:

Members of the Public	Department Staff
Charles Tetreau, Will Owen, Thomas Henninger, Bill Ferdinand, Stewart Hunt, and Ivy Frignoca.	Deirdre Gilbert, Angel Wilson, Jon Lewis, and Amanda Ellis

At the public hearings, the Department explained the proposed rule and answered questions. However, no one wished to provide a comment on the proposal. The Department did not receive any comments during the comment period. Based on the lack of feedback, the Department did not make any modifications to the rule as originally proposed.