

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 45.05 Shrimp Season Closure Clarification-Emergency Regulations

CONCISE SUMMARY:

In November 2014, the Atlantic States Marine Fisheries Commission's (ASMFC) Northern Shrimp Section approved a moratorium for the 2015 fishery. This action was taken in response to the findings of the 2014 Stock Status Report, indicating current fishable biomass is the lowest on record. A suite of indicators were used in the 2014 Stock Status Report. These include abundance and biomass indices from fishery independent surveys for 2012-2014, which were at all-time lows, and recruitment indices for the 2010-2012 year classes, which were well below average. The Northern Shrimp Technical Committee considers the stock to have collapsed with little prospect of recovery in the immediate future. For these reasons, the Department did not adopt a season for the 2015 fishery and the last season in regulation was for 2013. This emergency rule-making is adopted for the purpose of clarifying that there is no opportunity for harvest in 2015, whether for commercial or personal use purposes.

EFFECTIVE DATE: March 20, 2015

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DEPARTMENT OF MARINE RESOURCES

Chapter 45 – Shrimp

45.05 Shrimp season

1. Shrimp Season 2013

A. Harvest and transport

(1) Closed season.

There is no season for shrimp.

~~It shall be is unlawful to fish for, or take by any method, or to land, ship, transport, sell or possess any shrimp harvested from Maine's coastal waters, except during the period from December 1 through May 31 of any year.~~

~~(2) Fishing Season~~

~~(a) It is unlawful for any person or vessel to fish for, take, land, transport or to have in possession any Northern Shrimp (*Pandalus borealis*) except as specified in this section:~~

~~Individuals may participate in either the trap or trawl fishery but cannot land shrimp with more than one gear type in the season. Participation in the fishery (i.e. landing shrimp) with one gear type forfeits an individual the opportunity to land with the other gear type for the remainder of the shrimp fishing season.~~

~~Trawl Fishery: The total allowable catch for trawl vessels is 539.02 metric tons. The season shall open January 22, 2013 and vessels are prohibited from fishing for and/or landing shrimp on any day other than Mondays and Wednesdays. On authorized trawl fishing days, it shall be lawful to fish for or take shrimp between sunrise (as defined in 12 M.R.S. § 6001(45)) and 1100 hours. Shrimp fishing must be stopped and nets secured no later than 1100 hours on such authorized trawl fishing days. Vessels are prohibited from landing shrimp more than once per calendar day and there is no daily trip limit for trawl vessels. Notwithstanding Chapter 45.05(1)(A)(1) above, the season will end at any time when the ASMFC Northern Shrimp Section (Section) has determined that 85% of the 539.02 metric ton catch level for the trawl fishery has been reached.~~

~~Trap Fishery: The total allowable catch for trappers is 80.54 metric tons. Vessels may set baited traps beginning 0001 hours on February 3, 2013 but may not haul or land shrimp until 0001 hours February 5, 2013 when the trap season opens. Vessels are prohibited from hauling and/or landing shrimp on any day other than Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday. Vessels are prohibited from landing more than 800 lb. per calendar day. Notwithstanding Chapter 45.05(1)(A)(1) above, the Northern shrimp trap season will end at any time when the Section has determined that 85% of the total 80.54 metric tons catch level for the trap fishery has been reached.~~

~~The Commissioner may implement additional adjustments to the effort control measures (days out, trip limits, time limits, trap limits, etc.) based upon pre-season research surveys and updated landings information. License holders shall be~~

~~informed by public notice in a statewide newspaper of general circulation regarding the season end date or adjustments to effort controls.~~

~~(b) Shrimp traps must be removed from the water no later than 5 days after the season is closed and no shrimp may be retained from traps hauled after the close of the season.~~

~~(c) On non-landing days, it is unlawful to fish for or land any shrimp during the entire 24 hour day; and it shall be prima facie evidence that any shrimp landed or possessed by harvesters during that period were taken during a closed day.~~

~~(d) It shall be unlawful to cull, grade, separate or shake shrimp, aboard any vessel, except by implements operated solely by hand. It is illegal to possess, aboard any vessel, any powered mechanical device used to cull, grade, separate or shake shrimp.~~

~~(3)~~ (2) Exception;

Any shrimp may be possessed, transported or sold during the closed periods or seasons by dealers provided the shrimp were legally obtained and the dealer is properly permitted or licensed to engage in that activity.

B. Processing

It shall be unlawful to process shrimp in Maine except during the fishing season established in Chapter 45.05(1)(A)(2).

(1) Exception.

A processor may process shrimp outside of the fishing season established in Chapter 45.05(1)(A)(2) upon obtaining a permit from the Maine Department of Marine Resources.

(2) Documentation.

The Department of Marine Resources shall issue a permit to a shrimp processor for processing of shrimp outside of the fishing season established in Chapter 45.05(1)(A)(2) if that processor produces documented evidence proving that the shrimp to be processed were lawfully harvested.

Basis Statement

Chapter 45.05 Shrimp Season Closure Clarification Emergency regulations

In November 2014, the Atlantic States Marine Fisheries Commission's (ASMFC) Northern Shrimp Section approved a moratorium for the 2015 fishery. This action was taken in response to the findings of the 2014 Stock Status Report, indicating current fishable biomass is the lowest on record. A suite of indicators were used in the 2014 Stock Status Report. These include abundance and biomass indices from fishery independent surveys for 2012-2014, which were at all-time lows, and recruitment indices for the 2010-2012 year classes, which were well below average. The Northern Shrimp Technical Committee considers the stock to have collapsed with little prospect of recovery in the immediate future. For these reasons, the Department did not adopt a season for the 2015 fishery and the last season in regulation was for 2013. This emergency rule-making is adopted for the purpose of clarifying that there is no opportunity for harvest in 2015, whether for commercial or personal use purposes.

As authorized by 12 M.R.S §6171(3), the Commissioner of Marine Resources adopts this emergency regulation due to the risk of unusual damage and imminent depletion of the shrimp resource that would occur if any fishing were to occur during a necessary closed season.

In accordance with [5 M.R.S. §8052, sub-§5-A](#) a statement of the impact on small business has been prepared. Information is available upon request from the DMR Commissioner's office, State House station #21, Augusta, Maine 04333-0021, telephone (207) 624-6553.

Rulemaking statement of impact on small business
5 MRS §8052, sub-§5-A and §8053, sub-§3, ¶F, and
Executive Order 20 FY 11/12, August 24, 2011 (replaces EO's 09, 13 & 14)

Agency: Department of Marine Resources

Chapter Number and Title of Rule: Chapter 45.05 Shrimp Season Closure Clarification-Emergency Regulations

1. An identification of the types and an estimate of the number of the small businesses subject to the proposed rule; and EO20 1.A. The impact of the proposed rule on job growth or creation:

No licensed shrimp harvesters would be affected by this emergency rule as the shrimp season has been closed this season and in 2014 as well. This emergency rule just clarifies this reality in order to provide clearer enforcement authority and compliance understanding by all parties.

2. The projected reporting, record-keeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record; and EO20 1.C. The cost to the public in terms of time and money required to comply with the rule and EO20 1.B. The burden imposed by any fees included in the rule:

Currently, no reporting, record-keeping or other administrative costs are incurred by the shrimp industry as the season is closed.

3. A brief statement of the probable impact on affected small businesses; and EO20 1.D. The extent to which other laws and regulations already address the subject matter of the rule:

There will be no impact to the shrimp industry as the season has been closed in 2014 and 2015 and no authorized commercial or recreational shrimp fishing is currently being undertaken.

4. A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed rule; and EO20 1.E. The relevant Federal standards, if any and the specific need for Maine's rules to differ from them if such a need exists:

None.

5. Indicate where a copy of the statement of impact on small business pursuant to section 8052, subsection 5-A may be obtained: Information is available upon request from the DMR Commissioner's Office, State House Station #21, Augusta, Maine 04333-0021, telephone (207) 624-6553.

Rule-Making Fact Sheet

(5 M.R.S.A., §8057-A)

AGENCY: Department of Marine Resources

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CHAPTER NUMBER AND RULE: Chapter 45.05 Shrimp Season Closure Clarification-Emergency Regulations

STATUTORY AUTHORITY: 12 M.R.S. §6171(3)

DATE AND PLACE OF PUBLIC HEARING: None, Emergency rulemaking

COMMENT DEADLINE: None, Emergency rulemaking

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:

In November 2014, the Atlantic States Marine Fisheries Commission's (ASMFC) Northern Shrimp Section approved a moratorium for the 2015 fishery. This action was taken in response to the findings of the 2014 Stock Status Report, indicating current fishable biomass is the lowest on record. A suite of indicators were used in the 2014 Stock Status Report. These include abundance and biomass indices from fishery independent surveys for 2012-2014, which were at all-time lows, and recruitment indices for the 2010-2012 year classes, which were well below average. The Northern Shrimp Technical Committee considers the stock to have collapsed with little prospect of recovery in the immediate future. For these reasons, the Department did not adopt a season for the 2015 fishery and the last season in regulation was for 2013. This emergency rule-making is adopted for the purpose of clarifying that there is no opportunity for harvest in 2015, whether for commercial or personal use purposes.

As authorized by 12 M.R.S §6171(3), the Commissioner of Marine Resources adopts this emergency regulation due to the risk of unusual damage and imminent depletion of the shrimp resource that would occur if any fishing were to occur during a necessary closed season.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

The expected operation of the rule is to ensure enforceability of complete closure of the shrimp fishery for 2015, to prevent any removal of the resource and provide for the greatest opportunity for recovery of the stock.

FISCAL IMPACT OF THE RULE:

Enforcement of the proposed regulation would not require measurable additional activity in this Agency. Existing enforcement personnel would monitor compliance during their routine patrols.