

DEPARTMENT OF MARINE RESOURCES

Chapter 34 - Groundfish Regulations

34.10 Maine Groundfish Management Plan

1. Groundfish Management Plan

B. Size, Possession and Gear Restrictions

(1) Commercial - size, possession and gear restrictions

(a) All commercial vessels are subject to the following minimum fish sizes:

Minimum Fish Sizes (TL)	
Species	Size Inches (cm)
Atlantic halibut.....	38 (96.5 cm) <u>41 (104.1 cm)</u>

(2) Recreational - size, possession and gear restrictions

(a) Persons aboard charter, party and recreational fishing vessels are subject to the following minimum fish sizes:

Minimum Fish Sizes (TL)	
Species	Size Inches (cm)
Atlantic halibut.....	38 (96.5 cm) <u>41 (104.1 cm)</u>

(4) Commercial and Recreational Effort Restrictions

(b) Atlantic halibut (*Hippoglossus hippoglossus*)

(i) Season. East: The open season to fish for Atlantic halibut east of a line from Schoodic Point due South Magnetic in territorial waters shall begin at sunrise May 1st and end at sunset July 31st. West: The open season to fish for Atlantic halibut west of Schoodic Point due South Magnetic in territorial waters shall begin at sunrise April 1st and end at sunset June 30th.

Note: This season is effective through calendar year 2010.

~~Season. East: The open season to fish for Atlantic halibut east of a line from Schoodic Point due South Magnetic in territorial waters shall begin at sunrise May 1st and end at sunset July 31st. West: The open season to fish for Atlantic halibut west of Schoodic Point due South Magnetic in territorial waters shall begin at sunrise April 1st and end at sunset June 30th.~~

Note: This season becomes effective January 1, 2011.

(ii) Size Limit. It shall be illegal to land, sell or possess Atlantic halibut less than ~~38 inches head-on or head-off~~ 41 inches in total length head-on or 32 inches head-off except for the purpose of tagging pursuant to Chapter 34.10(1)(B)(4)(b)(vi). ~~The measurement for a 38-inch fish head-off would be made from the pectoral fin to the tip of the tail. The measurement for a 32 inch fish head-off would be made from the base of the pectoral fin where it joins the fish's body to the tip of the tail. Any head-off fish found to be less than 32 inches in pectoral length will be considered illegal to possess.~~

Atlantic halibut raised by means of aquaculture shall be exempted from this size limit. However, persons may not possess, buy or sell undersize Atlantic halibut raised by means of aquaculture unless each fish is clearly identified by a bill of sale indicating numbers of fish purchased, dates of purchase and point of origin of all fish purchased; or for Atlantic halibut currently being cultivated in an aquaculture facility, records of the origins of those cultured Atlantic halibut.

(iii) Possession Limits. It shall be illegal to possess or land marine species other than Atlantic halibut while fishing for Atlantic halibut aboard commercial vessels. Other marine species caught while fishing for Atlantic halibut shall be immediately liberated. ~~No more than one (1) Atlantic halibut may be landed per day from recreational, party or charter vessels.~~ Commercial, ~~recreational,~~ party or charter vessels may land no more than ~~50~~ 25 Atlantic halibut per season-year. ~~Recreational, party or charter vessels may land no more than 5 Atlantic halibut per year.~~ It shall be unlawful to transfer Atlantic halibut between vessels. No individual or vessel will be issued more than 25 landing tags per (calendar) year (see exception for Federal Multispecies Permit holders below).

All legal size Atlantic Halibut caught and intended to be retained by a Commercial Fishing license holder or recreational fisherman regardless of when or where taken either inside the

Three Mile Limit or in Federal Waters, shall be immediately tagged with a landing tag approved by the Department of Marine Resources (DMR). Three types of landing tags will be issued: Maine State Commercial for individuals who do not possess a federal multispecies permit and are therefore restricted to territorial waters; Commercial Federal for individuals who possess a Federal multispecies permit allowing access to Federal waters (these individuals may also access territorial waters if they hold the proper licenses); and Recreational for halibut caught by party/charter or recreational vessels in either Federal or territorial waters. 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. Landings tags will be issued in increments of ten (10), up to a maximum of fifty (50) per year, per vessel.

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. The tag 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. Any person in possession of Atlantic halibut without a DMR landings tag shall not be in violation of the possession limits 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 34.10(1)(B)(4)(b)(ii). 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.

• 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 owner of a declared vessel will be given priority in the issuance of tags. 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.

• 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.

• Recreational fishermen when requesting Landings landing tags must declare the registration number of the vessel the tags will be assigned. Recreational fishermen shall contact the DMR Recreational Fishing Program to order Landings tags at (207) 633-9500. Federal permit holders

All persons wishing to order landing tags shall contact the DMR Licensing Division to order tags at (207) 624-6550.

- (iv) Gear Type and Limits. It shall be illegal to fish for Atlantic halibut by any method other than using size 14/0, 15/0 or 16/0 circle hooks. No vessel may fish for Atlantic halibut using more than 450 circle hooks. Recreational fishermen or commercial fishing license holders with out the halibut endorsement when fishing for personal use, using a tub-trawl, are limited to 100 hooks.

All persons fishing for Atlantic Halibut with an endorsement issued in accordance with Chapter 34.10(1)(B)(4)(b)(vi) must have marking buoys on each end of the trawl clearly labeled with their name and Maine Commercial Fishing license number. 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.

Note: No changes are proposed to sub-sections (v), (vi) or (vii)

Basis Statement

Chapter 34.10(1)(B) Atlantic halibut regulations

Amendments to the halibut regulations are adopted to reduce effort and for greater conservation of the resource. These amendments include: a minimum size of 41 inches; a 32-inch pectoral length for head-off conversion; a single coast wide 2 month season from May 1 –June 30; lower possession limits - commercial 25 halibut per year and recreational 5 halibut per year; all halibut must be tagged whether caught in territorial or federal waters throughout the year; tags would be issued separately for halibut caught recreationally, commercially by state-only permit holders or commercially by individuals who hold a Federal multispecies permit; only one type of tag would be issued per person, per vessel, per (calendar) year; and personal use / recreational tub trawlers for halibut would be limited to 100 hooks.

A change to the regulations has been made based on the comparison that party/charter vessels are engaged in fishing for economic purposes (e.g. not just for personal consumption of the owner/operator) the Department concurs that it is reasonable for party/charter vessels to have an equivalent annual limit of 25 halibut. See applicable changes to the regulations in Ch. 34.10(1)(B)(4)(b)(iii) whereby party or charter vessels would not be struck from the 25 fish possession limit. The party/charter boat commercial operators would be issued the maximum 25 tags per calendar year at the same level as commercial harvesters. The term "East" would also be struck from sub-section (1)(B)(4)(b)(i) Season as the season has been consolidated to a single coast wide season. These additional amendments are not considered substantive changes based on the comments received.

Summary of Comments

Chapter 34.10(1)(B) Atlantic halibut regulations

Public hearings were held in Ellsworth, Machias and West Boothbay Harbor on January 11, 12 and 14th, 2010 respectively. In general persons were opposed to the season limit being decreased from 50 to 25 halibut per season and opposed the increase in the minimum size from 38 to 41 inches. The summary of comments with the Department's responses is followed by the individual summarized hearing and written comments.

Hearing Attendees – Ellsworth:

Ben Weed, Stonington
Gerald Weed, Deer Isle, lobsterman
Gene Thurston, SW Harbor, lobsterman
Rusty Reed, SW Harbor
Lewis Bishop, Frenchboro, lobsterman
Wyatt Beal, Frenchboro, lobsterman
Jim Dow, Bass Harbor, lobsterman
Fred Backman, Winter Harbor, lobsterman
Steve Rappaport, reporter - Ellsworth American
John L. Chipman, Sr., Bunker's Harbor
Jerry Weed,
DMR: Togue Brawn, L. Churchill

Hearing Attendees – Machias:

Kevin L. Beal, Beals, lobster/commercial fisher
Chris Bartlett, Eastport
Dan Albee, Columbia Falls
Ed French, reporter – Quoddy Tides
DMR: Kohl Kanwit, Togue Brawn, L. Churchill

Hearing Attendees – West Boothbay Harbor:

Barry Gibson, East Boothbay
Steve Rosen, Vinalhaven
Bob Baines, S. Thomaston
Jeff Ritter, East Boothbay
DMR: Kohl Kanwit, Trisha DeGraff, L. Churchill

Summarized comments and responses:

Season

- Is the proposed reduced season only for commercial take; there is no recreational season?

Response:

Incorrect. The season applies to the fishing activity, commercial or recreational, within territorial waters (State waters).

- Dropping April should have meant adding or keeping July in the season; this should be 3 months from May through July.

Response:

The season was reduced to two months as a conservation measure. The intent is to prevent a dramatic increase in effort. Because May and June are the most traditionally “active” months for halibut fishing, the removal of July allowed us to guard against an increase in effort while minimizing the impact on currently active fishermen.

- The season should be only 2 months per year for everyone; there are too many loopholes by allowing the landing of fish 12 months a year. Versus: Recreational fishermen only catch 1-2 halibut in the months of May and June; recreational fishermen should be allowed to land their limit year round like the federal permit holders.

Response:

Federally-permitted fishermen are bound by both state and federal rules. Currently, they are bound by a one-fish per trip (Federal) regulation, and if this rule passes they will also be bound by a 25 fish per year (state) regulation. Since all fish must be tagged and only fish with “Federal” tags will be legally landed outside the season from federal waters, the Department feels these regulations are sufficient.

Recreational fishermen are likewise limited by the season in territorial waters, they would be allowed however to take fish from federal waters outside of the season and up to their annual limit of 5 assuming they hold applicable permit(s).

- A person can apply for an open access federal permit to fish groundfish and you’re allowed one halibut [per trip]. You can fish anytime of year and land that one fish [up to the proposed 25 per year if landed in Maine] versus state rules with a 2 month season. A person may apply for a federal permit, get it as often as they want, cancel it, get it again, catch fish, no season, etc. If I fish under a federal permit in March I can get a bigger fish, get more money for them, then state waters open, cancel the federal permit, I can get the state permit, then I’m allowed whatever I am a day up to the amount of tags. So it is hard to enforce plus there is no enforcement to begin with.

Response:

All Maine fishermen will be limited to 25 fish per year, regardless of whether or not they hold a federal permit, and regardless of whether this permit was held for a full or partial year.

Reduced size limit

- Where does the halibut population data come from or how do you know how many are there?

Response:

It is a combination of data collecting from our tagging survey, the past 2 years we’ve had a long line survey, federal survey data and the Maine – New Hampshire Inshore Trawl survey, which each give the Department some indications of the population.

- Are the proposed rules based on data from 2008 or 2009; is any data available from 2009?

Response:

The most recent complete landings data from 2008 were used. Only partial data are available from 2009 due to late reporting.

- The size limit should be 36 inches where it started, not 38 or 41 inches.
- My dealer/market doesn’t want or doesn’t pay as much for the larger fish; they pay more for the smaller 38-41 inch size fish. It is tougher to market the larger size. Don’t increase the size.
- It is not good enough if the only reason to increase the minimum size to 41 inches is to match the proposed federal rules.
- By increasing the size to 41 inches, this would force fisherman to target fish that are already proven brood stock. 50% of the landed halibut last year would no longer be eligible for landing, therefore targeting the very fish that you want to protect. Therefore how beneficial would the

proposed 41 inch minimum be if they are not mature until 40 inches and according to the department's data the last year reported 50% of the halibut landed were under 41 inches?

Response:

Groundfish Amendment 16 now requires a 41" minimum size for all federal permits and the Department strongly supports complimenting this measure in state waters for both biologic and enforcement measures. The estimate of length at 50% maturity (L_{50}) (commonly used in fisheries management worldwide) is to insure that half of a population is likely to spawn before they are recruited into the fishery. Based on Sigourney et al (2006), the L_{50} for female halibut in the Gulf of Maine is 41 inches and was therefore recommended by the Northeast Fisheries Science Center and adopted by the New England Fishery Management Council. While there is scientific evidence to support not forcing a fishery to select larger individuals, there is also evidence to support the use of L_{50} estimates as the basis for a minimum size, which is why it is commonly used as a management tool. Additionally, Maine Marine Patrol strongly supports a common minimum size as the most effective statewide enforcement measure.

- The size increase to 41 inches is too drastic while Canada still has a 32 inch minimum size; this would create a 9 inch size difference. In reality the value of the larger fish now to be thrown back is much greater than the \$150 fine and therefore becomes the cost of doing business.
- It is frustrating to throw fish back here knowing they can catch them legally just across the border. Why doesn't Canada and Maine get together on this fishery?

Response:

Regarding the difference in minimum size between the Canadian 32 inch size limit and the increase to 41 inches for Maine fishermen landing in Maine, see regulations in Chapter 34.10(1)(B)(4)(iii) paragraph 2. The proposed regulation would therefore require Canadian caught Atlantic halibut being sold in Maine to be 41 inches.

Note: In accordance with 12 MRSA §6002 (3) ... These laws do not apply to marine organisms passing through the State under the authority of the laws of the United States....

The State of Maine makes every attempt to coordinate management with the (US) Federal government. Coordinating regulations between countries is an entirely different and far more complicated matter. The Department has addressed this issue to the extent possible by ensuring that undersized halibut may not be legally sold in Maine.

Reduced possession limit / number of tags

- The increase to 41 inches is understandable and should be sufficient without decreasing the limit from 50 to 25.

Response:

The Department is aware that increasing the minimum size will potentially result in a landings reduction if all other factors remain stable. However, the potential increase in effort is a great concern. Currently, there are very few fishermen landing more than 25 halibut per year. The Department believes it is better to reduce the limit now, when it will impact few fishermen, than to wait until effort increases and more fishermen become accustomed to landing more. The intent is to be proactive and shape the fishery in a responsible manner that will prevent the need for further reductions, rather than wait until it is too late and be forced to implement even greater restrictions.

- Economics: The limit of 25 is not enough; many depend on the money they would make from this limited fishery to fill in between when lobster fishing is down and 50 is not a lot anyway.

Response:

The Department has collected halibut fishery landings data from harvesters since 2002. In 2008, 11 fishermen landed 25 or more fish. As noted above, the Department believes it is better to reduce the limit now, when it will impact few fishermen, than to wait until effort increases and a reduction directly impacts more fishermen.

- Biology: Reducing to 25 tags per year will unintentionally target bigger fish that have more spawn, healthier eggs and are healthier fish so this is not about science; stay with 50 fish per year.

Response:

While larger fish may be targeted through this regulation change the expectation is that the smaller fish that are released will have a chance to spawn before they are also recruited into the fishery. Additionally, given the difficulty of catching halibut, the fact that very few fishermen have historically caught more than 25 fish per year, the increase in minimum size and the reduction in season length, the Department does not believe that decreasing the annual limit to 25 fish will result in problematic targeting of larger fish.

- To my knowledge there is only one party vessel catching halibut on a regular basis in Maine, i.e., making a living as a charter boat operator versus recreational tub trawlers or individual recreational fishermen taking halibut for personal consumption. Why are these rules targeting a single recreational party, charter boat as there are no other similar recreational halibut party or chart boats that these impact? Could the number of tags be increased from 5 to 12 for the party, charter boats, which would be at least be almost half of the commercial fishing allotment of 25 tags?

Response:

Because party/charter vessels are engaged in fishing for economic purposes (e.g. not just for personal consumption of the owner/operator) the Department concurs that it is reasonable for party/charter vessels to have an equivalent annual limit of 25 halibut. See applicable changes to the regulations in Ch. 34.10(1)(B)(4)(b)(iii) whereby party or charter vessels would not be struck from the 25 fish possession limit. The party/charter boat operators would be issued the maximum 25 tags per calendar year.

- Allow the people who have been providing data to the state by voluntarily tagging be allowed an extra 5 or 10 fish per season.

Response:

At this point, the Department does not favor this proposal. It would encourage people to obtain tags, but there would be no way of knowing if they were actually deployed appropriately. This could negatively impact the tagging program by interfering with return rates and/or data accuracy.

Recreational fishing requirements

- The recreational tub trawlers should be required to hold a fishing license possibly like the proposed salt water license for anglers. This would be one more way to keep control of this fishery to make sure this resource isn't over fished.

Response:

This was not proposed and would require legislative action as the department does not have the authority to create a new license as described.

- When recreational fishing by tub trawl the halibut must be caught by a certain size circle hook; if a person catches a halibut not using a circle hook, such as catching it incidentally through cod fishing or other means, is that fish illegal to possess?

Response:

If you're catching Atlantic halibut in federal waters, then the federal hook limit and hook rules would apply to how you are catching the fish.

- If recreationally caught by J hook, not a circle hook, when that halibut is brought into territorial waters, is it an illegally caught fish?

Response:

It wouldn't be if you caught it according to federal rules for recreational fishing in federal waters.

- What about recreational size and bag limits when caught in federal waters?

Response:

The size and bag limits are and can be enforced in Maine because these are landing regulations.

- If we have to tag fish when recreational fishing could we be issued more than one tag at a time?

Response:

This is proposed to be changed. Tags are proposed to be handled entirely through the licensing staff in Hallowell and persons would be able to order the full allocation at one time.

Alternatives to the reductions

- Restrict new halibut licensed fisherman to a somewhat lower catch limit than those who have been fishing and providing data to the state for several years now.

Response:

The Department does not feel it would be prudent to create two classes of license holders. In addition, the Department does not have the authority to treat individuals holding the same license (the halibut endorsement) differently based on their previous fishing history, without legislative approval.

- A dip net should be required to land halibut aboard a boat safely with less damage to them if they are to be measured and thrown back without being hooked and preventing unnecessary mortality.

Response:

While this is a good suggestion there is no way of enforcing the use of a dip net. Therefore, it would be considered a meaningless regulation and have no measurable biological benefit.

Enforcement

- There is no secret that rampant violations have occurred in the halibut fishery but proposing new regulations that do nothing to deter these violations are just a waste of time. If the rules are passed this year that do not change the enforcement habits of the Marine Patrol then more honest halibut fishermen will become dishonest and I fear that the fishery could be deemed out of control and shut down.

Response:

This rule involves a clarification to facilitate enforcement of the requirement that all fish be tagged. While it will never be possible to catch everyone who breaks the rules, Marine Patrol does their very best to enforce thousands of federal and state regulations. Marine Patrol personnel have been involved in all stages of this rule's development, and their input should enhance its enforceability.

Federal waters/permit related questions

- Is the federal size going to increase?

Response:

Yes, when Amendment 16 passes, which is expected by May 1, 2010 the National Marine Fisheries Service has stated they will increase the minimum size of halibut to 41 inches. For more information on Amendment 16 and the proposed 41 inch federal rules, see the proposed action section, labeled page 139, at the following web site: <http://www.nefmc.org/nemulti/index.html>

- If the state limit drops from 50 to 25 fish per season am I stuck with that amount (25) if I only fish in federal waters?

Response:

Yes, if you want to land those fish in Maine under the provision of your Maine commercial fishing license.

- If you have a federal permit can you only fish in federal waters?

Response:

You can fish either state territorial waters or federal waters. If you have a federal permit you have to comply with the most restrictive regulations, meaning you can fish in state waters, but you have to abide by the season and the 1 fish/trip limit.

- If a halibut is caught in federal waters in July or August is it ok to land it in Maine?

Response:

Yes, provided that you hold a federal permit, it is tagged with the appropriate landing tag issued by the licensing staff in Hallowell, and would not exceed the yearly federally permitted vessel or individual limit (25) per calendar year.

Individual summarized comments:

Ellsworth:

Togue Brawn – Introduction

The Gulf of Maine Atlantic halibut resource is overfished and we are on the borderline of overfishing. The number of Maine harvesters and the number of Maine halibut being landed are increasing each year. We are really concerned about a potential explosion of effort. Right now we have almost 1,000 people that qualify for an endorsement and we're expecting a couple hundred more to qualify this spring.

We want to be proactive with this fishery. We want to keep it open access and have it be sustainably managed and we'd like to shape the fishery in such a way so that we won't have to lay the hammer down, down the line if the effort does increase as much as it is poised to do right now. Most of the rationale for what we're doing is within the document but the basic changes we're talking about are to increase the minimum size to 41 inches. The reason for that is to both match the federal regulations that will be implemented with amendment 16; as well as to allow 50% of the females to reproduce. There is a head-off conversion factor that relates to that. We also want to reduce the season to 2 months statewide. Both for conservation reasons as well as for enforcement reasons to have a statewide season as opposed to 2 separate seasons. We are proposing to reduce the possession limits to 25 halibut for commercial licenses and 5 for recreational; about having 3 different types of tags that would be to aid enforcement; and also limiting the number of recreational hooks.

Fred Backman, Winter Harbor

Question: [Are] they going to increase the federal [size]? [T. Brawn: Yes, when amendment 16 passes, which is expected to do; [by] May 1, 2010 is what we've been told.] If it is going to be 41 inches I'm screwed anyway because...I've got a federal fisheries permit and only allowed one fish a day anyway so it don't matter. If the state's going to do that it doesn't really matter on that part of it.

Opposed: On the state limit where they want to drop it to 25, what about where I don't fish in state waters for them? But they want to drop it to 25 for the state, am I still stuck with that where I fish all in federal waters? [T. Brawn: You are still limited to 25 if you want to land them in Maine.] We should leave that at 50 then. ...The federal limit is one halibut per trip because I've called and asked them on that and I've turned around and made two trips in one day before...and they never sent me a letter saying it was wrong.

Gene Thurston, SW Harbor

Question: If he has a federal permit can he only fish in federal waters, is that what he is saying, he can fish state and federal? [T. Brawn: You can fish either; there would be 3 types of tags, recreational, state waters only (commercial), and federal; and with the federal tags you can fish federal or state waters. You are bound by both rules but you would be bound by the 25 as well as the one per day.]

Jim Dow, Bass Harbor

The only issue I have is the 25 limit. I'm opposed to that. With the 41 inch, I agree with, I understand the reasoning behind that. But with that increase I don't agree with the 25 limit.

John L. Chipman, Sr., Bunker's Harbor

I've been fishing for halibut for 39 years. I've caught probably my share anywhere's from one-pound to 286 pounds. There's more halibut out there now than there's ever been; the bottom is covered with them. So I'm opposed to it. And 25 halibut isn't really very many for anybody that is trying to fill in a little bit from lobstering to make extra income.

Ben Weed, Deer Isle

I'm opposed to the 25 halibut a day. I agreed if you're doing it trying to make a little something extra in the summer time when lobsters aren't going it is not enough to make a go of it.
[Note: the proposal is 25 halibut per year, not per day.]

Lewis Bishop, Frenchboro

I'm opposed to the 25. I don't think it is enough. Just like the boys said, we really should be allowed to fish 50 fish. [In] 2 months, catch 50 fish, that's not a lot really.

Wyatt Beal, Frenchboro

I don't agree with the 25, I think we ought to have 50. I think we should have left the size limit down to 36 where it was to start with.

John Chipman, continued (2)

I agree with the 36 too. 41 inches is a pretty big fish.

Rusty Reed, SW Harbor

I agree with these guys on the 25 isn't enough they should keep it at 50. Like they said most people are trying to get a little extra income when lobstering is off.

Jerry Weed, Deer Isle

[Ditto] I agree with what they've been saying.

Ben Weed, Stonington, continued (2)

I just wanted to say that where I sell my fish at they really want the 38 – 41 or 42 inch. That is what they wanted was the smaller fish. The bigger fish they didn't really care about as much. Don't know if that makes a difference or not. But marketing them, the smaller fish is what they were really going for. [It is tougher to market the larger size, for he is selling his fish; and better price for the smaller fish.]

Fred Backman, Winter Harbor, continued (2)

Question: Where does the information on the number of halibut come from; or how many is on bottom? [T. Brawn: it is a combination of our tagging survey; that gives us some indication. The past 2 years we've had a long line survey and we also have federal data.] I took one day last year and I wrote everything down. I had two people with me and we baited hooks and hauled right back, right steady and we had 24 fish. Only 4 of them were legal size, 38 and over, and they were just up to 41-42 inches was the biggest. That is why I was wondering where they got their data from because there are plenty of small fish there. I don't know how much they grow in a year but in another couple of years all these fish are going to be plenty legal...[~4-8 inches growth per year...]

Audience Question: Do you have more data on fish caught in 2008 or 2009?

Audience Question: Why does Maine fight with Canada, we're tagging these fish...dropping them overboard and we know these fish go to Canada, I've had my tags caught in Canada... Why doesn't Canada and Maine get together on this fishery?

Machias:

Kevin Beal, Beals

I'll be neutral on this.

Boothbay Harbor:

Barry Gibson, East Boothbay

Question on circle hooks [regarding] recreationally caught flounders [meant halibut] in tub trawls must be taken by circle hooks, whatever size, of circle hooks. "It shall be illegal to fish for Atlantic halibut by any method other than using size 14/0, 15/0 or 16/0 circle hooks." My question is what happens if somebody catches a halibut who is not using a circle hook, catches it incidentally through cod fishing or whatever. Does that make that an illegal fish to possess? [K. Kanwit: I think it is meant for recreational tub trawling. LC: Will confirm with enforcement. K. Kanwit: If you're talking about it being caught in federal waters, then that means however [if] you're catching them in federal waters, then the federal rules, the federal hook limit and hook rules would apply to how you are catching the fish. The size of the fish, if you're bringing it in to Maine to land it is always applicable to Maine.] If caught by J hook not a circle hook, when that fish is brought into territorial waters, is it an illegally caught fish? [K. Kanwit: It wouldn't be if you caught it according to federal rules for recreational fishing in federal waters then you brought it in to state waters it wouldn't matter how you caught it in federal waters. We can't control how you catch it outside of territorial waters.] But size limits and bag limits? [K. Kanwit: We can because you're bringing it into shore to land...because it is a landing rule.]

Jeff Ritter, East Boothbay

I have a head boat in the harbor called the Sashimi. I've done a little informal survey checking with boats in Kennebunk and Ogunquit and everybody I know that has a private boat. It seems like I'm the only one that catches recreational halibut. So the rules seem to be pointed [at me]. Last year we got nine legal fish but the year before we got 23. We don't advertise halibut. I could catch a lot more of them than I do but I think 5 is kind of restrictive. I can go along with the size limit. I also had the same question as Barry, if you're going to get into gear restrictions we've got to know if a warden gets on the boats and says let me see you're 15/0 circle hook, that we're not going to get arrested. We went through this with the feds a few years ago when they said we could only keep 5 cod, 5 haddock and they had to be 2 feet long and the draggers right next to us [they] were taking 50,000 pounds of 19 inch fish. It is just a matter of fairness. I would think that maybe 5 would be a little restrictive for me anyway. ...I could go with a dozen (12).

Barry Gibson, E. Boothbay

I run a charter boat here in Boothbay for the last 39 years. I would agree with Mr. Ritter, I think that 12 fish or so would be a more appropriate number. I think that reducing it from 1 a day [federal rules]; I think that 1 fish a day in a party boat's season, which may be 90-100 days or maybe more than that we had the opportunity to catch 90 or 100 per year as of last year and before that; then to drop that 5 is an unreasonable reduction. I would also recommend 12.
[Note: Persons fishing under their federal permit were still limited to 50 per year in the existing regulations, not one per day as indicated could be caught for 90-100 or more days per year.]

Jeff Ritter, E. Boothbay, continued (2)

Question: If we have to tag all these fish recreationally could they send out more than one tag?
If we have to tag every fish and we can keep one fish a day with a 12 fish limit, could they send out more than one tag at a time because reapplication takes a week or two. If you're fishing every day and you tag one fish you can't keep one the next day. [K. Kanwit: The tags have been handled as a policy not regulation in the past and [this] has been changed. It would all go through licensing now. You would be able to order whatever the allocation comes out to per; recreationally you could order the full compliment at one time.]

Barry Gibson, E. Boothbay, continued (2)

Questions: On the reduced season, May 1 – June 30, that is the commercial season in territorial waters, correct? There is no season for recreational? [K. Kanwit: It is also for recreational fishing but again it is for the fishing activity within State waters.]
So it is ok to catch one in federal waters in July or August and land it?

Steve Rosen, Vinalhaven

I'm in favor of the season; I think it is enforceable. I'm in favor of these regulations if it is based on science but I feel like these are knee jerk reactions to what the feds want to do. I've been told that from the management part of DMR. We're just going along with the feds especially with the 41 inches. Canada has a 32 inch size limit and if someone fishing Downeast, some mid-coast, and we go to 41 inches that is quite a difference; especially if you are in Machias or Eastport or someplace if you're going to through a 9 inch difference in fish back. I don't think it is going to happen.
It ought to be an enforceable rule but it ought to be somewhere near what Canada is. It is 6 inches and guys are doing it now but when you add 3 more inches of length on you add a lot of weight on the fish. It is probably a 32 pound fish you're throwing back now at \$6-7 per pound. You have to figure that in and you've got a \$150 fine on a fish and you're going to throw a \$300 one back? It is not going to happen.

You're also targeting bigger fish by having 25 tags per year. I'm going to keep or pick the fish that is biggest. The biggest fish has more spawn and is a healthier fish and healthier egg so you're not doing this for science. You're doing this for a different reason here cutting us back in tags. You ought to keep the 50 tags we have had.

I've helped with the science part of this and all the science the feds have is stuff we've supplied over the past few years. Last year we did the tag program. We released 600 fish, 5 of us that did this program, so all the indicators say there is more fish every year that we did the program. So now you're reducing the tags and I don't understand why you're cutting the tags back. You ought to cut the season back and have one standard on the season like 2 months and that is it; if you're a recreational [boat] or dragger you don't get to land the fish. You've got 2 months like we've got to land fish. Something that is enforceable. There are too many loopholes landing fish 12 months a year.

Jeff Ritter, E. Boothbay, continued (3)

One comment that he made...Most of our fish are caught later in the summer and in the fall. So if you're going to put a recreational season on, in May very few recreational boats or even chart boats are fishing anyway. But if you put a May to June season we might get 1-2 fish during that period. Most of the fish we're getting, of course we're catching them in federal waters, but by what I understand if you stick us with the season then we can't bring them back into the State of Maine anyway. So I would object to a season for recreational fish that encompasses May and June. We released a lot of fish last year too, probably 50. There are quite a few fish out there, we don't target halibut and we're still catching them. Recreational boats should be allowed to bring in their 12 fish no matter what time of year it is. [K. Kanwit: right now that is the way it is. The way it is written it is fishing in territorial waters. So it is the activity of fishing applies to the season...]

Steve Rosen, Vinalhaven, continued (2)

I can apply for an open access federal permit to fish groundfish and you're allowed one halibut a day. You can fish anytime of year and land that one fish. So you have the state rules that say 2 months but I get a federal permit, get it as often as I want, cancel it, get it again, catch fish, I'm going to do this in March this year. I'll get a bigger fish, get more money for them, then state waters opens up, I can get or I have the state permit, cancel the federal, then I'm allowed whatever I am a day up to the amount of tags. So it is hard to enforce plus there is no enforcement to begin with.

Written comments:

Gary Libby, F/V Leslie & Jessica, Port Clyde

I think these rule changes are a step in the right direction, the only thing that I noticed was in the recreational tub trawlers not needing a fishing license.

I think that there should be a recreational fishing license like the proposed salt water license for anglers. This would be one more way to keep control of this fishery to make sure this resource isn't over fished.

Halibut doesn't have a catch allocation for federal permitted vessels and needs to be monitored closely; these new rules are a step in the right direction.

Thank you for the opportunity to comment on this issue

Jeff Ritter, Sashimi Sports Fishing, Boothbay Harbor

I would like to strenuously protest the proposed halibut bag limit of 5 fish per boat per year for charter, party vessels (recreational).

To my knowledge there is only one party vessel catching halibut on a regular basis in Maine namely me. I abide by the federal regulations of one fish per trip 36" or greater. To put a more restrictive bag limit on one vessel while previously allowing commercial vessels to take up to 50 fish in any number on any day seems overly discriminatory.

The practice of issuing a single recreational tag and forcing a boat fishing on a daily basis to reapply after each fish taken is also an onerous burden.

I'm sure you know that the head boat (groundfish) fleet east of Port Clyde has been destroyed due to a complete lack of conservation measures in the last 30 years. Why would DMR single out the last remaining party boat to put out of business?

Rick Trundy, Deer Isle

While I understand the concern for the "potential take" factor (due to people who hold halibut endorsements that are not currently fishing for halibut but who are eligible to apply for a halibut license), by reducing the number of tags per season, per fisherman you are only effecting a handful of fisherman (I can't remember the exact figure, but according to state data, the people who landed over 30 fish was less than 10), which ultimately, could have a negative effect regarding data collected by those such as myself who have been voluntarily tagging since receiving my endorsement.

I am concerned there is a "rush to judgement" regarding the rebounding halibut fishery. I feel allowing a few more years of data (both catch/release, number of license actually issued, landings and maybe even mandatory catch/release tagging for under-sized halibut) could be very beneficial and provide a better over-all view of the state of the halibut fishery.

1. Since the "potential take" factor could be a problem, why not restrict new halibut licensed fisherman to a somewhat lower catch limit than those who have been fishing and providing data to the state for several years now.

2. If there has to be a reduced catch limit, I feel it is only fair to allow the people who have been providing data to the state by voluntarily tagging be allowed an extra 5 or 10 fish per season.

I, also am wondering just how beneficial the new 41 inch rule will be as well. According to state data, halibut do not begin to breed until they reach 40 inches. Also according to state data, last year 50 % of halibut landed were under the 41 inch mark.

3. In my opinion, by increasing the size to 41 inches, you are forcing fisherman to target fish that are already proven brood stock. 50% of the landed halibut last year will no longer be eligible for landing, therefore targeting the very fish that you want to protect.

4. If you HAVE to increase the size to 41 inches due to federal regulations, you are already creating a lower catch reality (again, referring to state data that 50% of halibut landed were under 41 inches last year).

During an unofficial meeting in October, myself and several other of the halibut fishermen there brought up the proposal of eliminating an April halibut season (therefore eliminating the halibut illegally caught outside the 3 mile limit) and adding July on the other end. Somehow that sincere, unsolicited halibut protection idea has now taken April out of the season but July was not added on the other end.

Another halibut protection idea I had that received a luke-warm reception at best was requiring a halibut dip net. It is impossible to positively know if a halibut is legal size when coming up along side of your boat, especially since people are used to the 38 inch limit. A net would mean those halibut can be safely brought on board and measured. If too small they can be released back to the sea without being hooked and preventing unnecessary mortality.

Another possible aspect to consider, while halibut is no one's primary source of income, it can be a welcomed financial boost after a long winter and a lean spring (and recently, lean fall as well). But, I feel the cost of bait and fuel could be a natural deterrent from fisherman fishing halibut too hard. If someone hauls hook after hook without being financially compensated, I don't believe they will continue fishing on a daily or regular basis.

In conclusion, I feel that halibut fisherman and the state, if willing to work together can closely monitor the halibut fishery and it can once again be a beneficial asset to both the fisherman and the state.

Jason Alley, Jonesport

I am writing this e-mail as a comment to the new proposed regulations for Atlantic halibut. I was unable to attend the meeting held on January 12th in Machias and after speaking with some in attendance I feel compelled to comment. I have been halibut fishing out of Jonesport since 2000, admittedly a relatively short amount of time in one fishery but I have caught a decent number of legal and sublegal fish in that time. Also for the last three years I have done tagging work for the DMR under the direction of Kohl Kanwit. During this short time since 2000 I have seen halibut regulations go from next to nothing to where they stand today and almost certainly to what the DMR is now proposing. I am very confused at the origin of these regulations. I have not seen any statewide surveys of halibut and very, very minimal dockside sampling. My landings reports are always submitted at the immediate end of halibut season but I know some of the other fishermen do not report until their license is due in the spring, therefore I can't understand how 2009 numbers can be tallied yet. So are these proposed new rules based on 2008 landings?

Halibut fishing has been my favorite activity of the year every year since I first felt a fish "pull back", since that first fish I have caught and released many fish and never once been stopped at sea or on the dock by Marine Patrol. I have obeyed every rule to the letter and watched many of my peers slip by undetected or ignored. I cannot blame Marine Patrol for fishermen's sins but I cannot support any new regulations that do not inspire enforcement by Marine Patrol. Raising the legal size of halibut to 41" will do nothing more than make the less than honest fisherman have to hide three more inches of halibut. When Kohl first informed me three years ago that the limit was to be raised from 36" to 38" my stomach dropped at all the fish I would be letting go and since that time I have returned maybe 20 fish in that size back to the ocean. But all the fishermen

(honest) did swallow that regulation essentially for the reason that we were given: that it was to possibly allow a fish to spawn once before it was captured. This new proposal of another 3" is too much to swallow. I looked back into my Dad's logs (not on state landings reports but in rusty spiral notebooks) and saw that on the same exact fishing grounds I fish now he was catching the same exact size fish back in the 1970s. If the purpose of the 3" increase is to raise the size of the fish in state waters, I can show through history it will fail. A 38" halibut will grow 3-6 inches in a year I have learned through some of my recaptures, so in three years theoretically I would be able to fish these areas that produce 30-40" halibut and find larger halibut. I really wish I could afford to do that and prove that the fish would remain the same size, but I can't. The only reason I have heard for the proposed increase in size is a follow in rule of the federal government. My only response to this is to ask you to look up the state motto.

As I said before I am from Jonesport, we may be a little more diverse in fisheries than the midcoast but not by much. We are all hanging on tooth and nail to every resource we have. To have our allowable catch reduced by 50% is startling. I have seen no indication that the resource is in a downswing and I have no proof but I can also say without hesitation that DMR has no proof either. The state of Alaska regulates some of their fisheries while they are happening, at best we are being regulated by 2008 landings. I can't see the fairness in this. My only suggestion is that if the allowable catch of halibut is reduced by 50% then the license fee also be reduced by that amount.

The last proposal I will comment on is the shortened season. I am very reluctant to accept any changes in halibut regulations at this time. Although in this recommended 2 month season I do see potential for enforcement and the possibility of a successful season for a serious fisherman.

I regret missing the meeting and have struggled to write my opinions but I urge you to consider the enforceability of any rule that is proposed. There is no secret that rampant violations have occurred in the halibut fishery but proposing new regulations that do nothing to deter these violations are just a waste of time. I truly feel that if rules are passed this year that do not change the enforcement habits of the Marine Patrol then more honest halibut fishermen will become dishonest and I fear that the fishery could be deemed out of control and shut down. As you heard at the Machias meeting fishermen will cut their own throat and without a Marine Patrol presence it is being shown that we are doing exactly that.

The halibut fishery is a very important piece of Washington county although very small economic wise. With these new rules especially the 41" legal limit I feel we are taking a below the belt hit. Many of my recaptures have swum east to Canadian fisherman's hooks and I understand that their life cycle will probably take them there anyway. I can tell you of the embarrassment I felt one day at the halibut buying station. I was selling one fish a barely legal 36" fish that weighed 13lbs while a Canadian was selling 1300 lbs of fish caught in one day. All the while he was laughing very loudly about how he couldn't believe we weren't allowed to catch these fish and he could fish all around Machias Seal Island alone. I want the halibut to have a chance to spawn but I cannot support a 41" legal limit while Canada works on a 32" limit and the fish I throw over with a yellow bow in his gill plate becomes a Canadian gift halibut.