

**Title 12: CONSERVATION**  
**Chapter 607: REGULATIONS**

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**Maine Revised Statutes**  
**Title 12: CONSERVATION**  
**Chapter 607: REGULATIONS**

Subchapter 1: REGULATION POWERS

**§6171. CONSERVATION AND PROPAGATION OF MARINE ORGANISMS**

**1. Commissioner's powers.** The commissioner may investigate conditions affecting marine resources and, with the advice and consent of the advisory council, may adopt or amend such regulations as he deems necessary to promote the conservation and propagation of marine organisms.

[ 1977, c. 661, §5 (NEW) .]

**2. Limitations.** A regulation authorized under this section may only limit the taking of marine organisms by one or more of the following:

- A. Time; [1977, c. 661, §5 (NEW).]
- B. Method; [1977, c. 661, §5 (NEW).]
- C. Number; [1977, c. 661, §5 (NEW).]
- D. Weight; [1977, c. 661, §5 (NEW).]
- E. Length; or [1977, c. 661, §5 (NEW).]
- F. Location. [1977, c. 661, §5 (NEW).]

[ 1985, c. 703, §1 (AMD) .]

**2-A. Management plans.** The commissioner may adopt a management plan or other policy on the conservation or regulation of marine organisms only after prior notice and public hearing and with the advice and consent of the Marine Resources Advisory Council under section 6024.

A. A management plan is a guidance document, which must seek to:

- (1) Establish management goals and a long-term vision for the relevant fishery;
  - (2) Ensure the long-term viability of the resource and the relevant fishery;
  - (3) Provide for the rebuilding of any depleted fisheries;
  - (4) Provide for future opportunities and access to the relevant fishery;
  - (5) Provide the greatest overall benefit to the State, including biological, economic and social considerations; and
  - (6) Preserve the legacy of the seafood industry in the State and its benefits to the people of the State.
- [ 2013, c. 287, §1 (NEW) .]

B. A management plan must include, to the degree possible:

- (1) Clearly articulated management goals and objectives;
- (2) A description of the biology of the relevant species;
- (3) A description of the relevant fishery;
- (4) Any available information regarding stock status;
- (5) Current management measures;

- (6) Any recommendations to achieve goals and objectives;
- (7) Findings of current research and future research needs; and
- (8) An ecosystem-based characterization of each species under consideration. [2013, c. 287, §1 (NEW).]

C. A management plan must be developed with advice and input from the advisory council for the species for which the plan is developed, if such an advisory council exists. [2013, c. 287, §1 (NEW).]

[2013, c. 287, §1 (RPR) .]

**3. Emergency rules.** The commissioner may adopt or amend rules under the emergency procedures provided in Title 5, chapter 375 in the following circumstances:

- A. Immediate action is necessary to protect or conserve any marine organism from unusual damage or imminent depletion; [2015, c. 80, §1 (NEW).]
- B. An unusually large concentration of fishermen might deplete the supply of any marine organism; [2015, c. 391, §1 (AMD).]
- C. Immediate action is necessary to comply with changes to federal or interstate fisheries management plans; or [2015, c. 391, §1 (AMD).]
- D. Immediate action is necessary pursuant to section 6302-B, subsection 4 to prohibit elver fishing. [2015, c. 391, §2 (NEW).]

[2015, c. 391, §§1, 2 (AMD) .]

**4. Procedure.** The procedures of subchapter II shall be used in adopting or amending regulations authorized by this section.

[1977, c. 661, §5 (NEW) .]

**5. Rules to limit taking of marine organisms.** The commissioner may adopt rules that limit the taking of a marine organism for the purpose of protecting another marine organism.

- A. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. [2007, c. 574, §1 (NEW).]
- B. If the commissioner determines that for biological reasons a rule adopted under this section must take effect prior to final adoption under paragraph A, the commissioner may adopt the rule as a routine technical rule pursuant to Title 5, chapter 375, subchapter 2-A. A rule adopted under this paragraph is effective until 90 days after the adjournment of the next regular session of the Legislature. Rules adopted pursuant to this paragraph must also be submitted to the Legislature under paragraph A. The commissioner may not adopt rules under Title 5, section 8054 pursuant to this paragraph. [2011, c. 598, §15 (AMD).]

[2011, c. 598, §15 (AMD) .]

#### SECTION HISTORY

1977, c. 661, §5 (NEW). 1979, c. 404, (AMD). 1983, c. 680, §1 (AMD).  
 1985, c. 703, §1 (AMD). 1997, c. 123, §2 (AMD). 2007, c. 157, §1 (AMD).  
 2007, c. 574, §1 (AMD). 2011, c. 598, §15 (AMD). 2013, c. 287, §1  
 (AMD). 2015, c. 80, §1 (AMD). 2015, c. 391, §§1, 2 (AMD).

## §6171-A. PROTECTION OF PUBLIC HEALTH AND SAFETY AND PREVENTION OF GEAR CONFLICTS

**1. Commissioner's powers.** The commissioner may investigate conditions affecting public safety, public health or property and conflicts among harvesters of marine organisms. The commissioner, with the advice and consent of the Marine Resources Advisory Council, may adopt or amend such rules as the commissioner considers necessary to:

- A. Protect public health; [ 2009, c. 528, §1 (NEW) . ]
- B. Protect public safety; [ 2009, c. 528, §1 (NEW) . ]
- C. Prevent property damage; or [ 2009, c. 528, §1 (NEW) . ]
- D. Prevent gear conflicts and promote the optimum development of marine organisms. [ 2009, c. 528, §1 (NEW) . ]

Rules adopted in accordance with this subsection may include, but are not limited to, rules governing area closures when necessary to address conflicts among persons who fish commercially that may cause a threat of harm to a person.

[ 2009, c. 528, §1 (RPR) . ]

**2. Limitations.** The limitations of section 6171, subsection 2 also apply to rules to prevent gear conflicts.

[ 2009, c. 528, §1 (RPR) . ]

**3. Considerations.** In adopting rules to prevent gear conflicts, the commissioner shall consider:

- A. Traditional uses of the marine organisms; [ 2009, c. 528, §1 (RPR) . ]
- B. Total economic benefits to the area in which the organisms are harvested; and [ 2009, c. 528, §1 (RPR) . ]
- C. Promotion of the optimum economic and biological management of marine resources. [ 2009, c. 528, §1 (RPR) . ]

In each case, the commissioner shall accommodate the needs of all interested parties to the maximum extent possible, through provisions for joint use, alternate use or other methods.

[ 2009, c. 528, §1 (RPR) . ]

### 4. Procedure.

[ 1987, c. 100, §1 (RP) . ]

**4-A. Emergency rules.** The commissioner may adopt or amend rules on an emergency basis if immediate action is necessary to protect the public health or public safety or to prevent property damage or serious economic harm to the area in which marine resources are harvested.

[ 2009, c. 528, §1 (RPR) . ]

### 5. Emergency regulations.

[ 1987, c. 100, §2 (RP) . ]

**5-A. Procedure.** The procedures of subchapter 2 must be used in adopting or amending rules authorized by this section.

[ 2009, c. 528, §1 (RPR) .]

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2009, c. 528, §1 (NEW).]

#### SECTION HISTORY

1981, c. 427, (NEW). 1983, c. 645, §1 (AMD). 1987, c. 100, §§1-3 (AMD). 2009, c. 528, §1 (RPR).

## §6171-B. SUSTAINABLE DEVELOPMENT OF EMERGING FISHERIES

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Emerging fishery" means the commercial fishing for any marine organism, except herring and groundfish species, that requires a commercial fishing license issued under section 6501. [2003, c. 248, §2 (AMD).]

B. "Endorsement" means an authorization, identified on a commercial fishing license issued under section 6501, to harvest, possess, transport and sell a specific marine organism for which there is an emerging fishery. [1999, c. 297, §1 (NEW).]

[ 2003, c. 248, §2 (AMD) .]

**2. Determination of sustainability.** The commissioner may investigate conditions affecting marine resources and, with the advice and consent of the Marine Resources Advisory Council, may require a person to hold an endorsement to participate in an emerging fishery if the commissioner determines that a marine organism or its habitat is under increasing pressure that could impact its sustainability. The commissioner shall ensure that emerging fisheries do not develop at a rate that is not sustainable on a long-term basis.

Harvesters involved in an emerging fishery may petition the commissioner to investigate the sustainability of that emerging fishery.

[ 1999, c. 297, §1 (NEW) .]

**3. Eligibility for endorsements.** The commissioner may limit the number of endorsements issued to control the number of individuals engaged in commercial harvesting in an emerging fishery, based on criteria established by rule. The commissioner may require the collection and timely reporting of any biological or environmental data as a condition of the endorsement. The commissioner's authority to limit the number of endorsements issued for a specific marine organism is limited to a period of 3 years from the date of the issue of the first endorsement, renewable for one 3-year extension.

[ 1999, c. 297, §1 (NEW) .]

**4. Endorsement required.** Notwithstanding section 6501, a person may not fish for, take, possess, ship, transport or sell a marine organism for which an endorsement is required pursuant to subsection 2 unless that person holds a current commercial fishing license with an endorsement for that organism, except that a license with an endorsement is not required for that person to fish for, take, possess or transport the organism only for personal use.

A fee may not be charged for an endorsement required pursuant to this section.

[ 1999, c. 297, §1 (NEW) .]

**5. Incidental harvest.** Notwithstanding subsection 4, the taking or possession at sea of a marine organism for which an endorsement is required is not prohibited if the taking is incidental to the harvesting of another organism.

[ 1999, c. 297, §1 (NEW) . ]

**6. Rule-making authority.** The commissioner may adopt rules to establish eligibility for endorsements, the number of endorsements issued and reporting requirements. Rules authorized by this section must be adopted and amended in accordance with the procedures outlined in subchapter II and are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[ 1999, c. 297, §1 (NEW) . ]

**7. Report.** The commissioner, within 24 months of the issuance of the first endorsement for a marine organism, shall report to the joint standing committee of the Legislature having jurisdiction over marine resources matters regarding the status of the emerging fishery, management goals and objectives and control of access to the emerging fishery. In the report, the commissioner shall consider:

A. The long-term sustainability of the resource; [1999, c. 297, §1 (NEW). ]

B. The impact of harvesting on other fisheries; and [1999, c. 297, §1 (NEW). ]

C. The department's ability to enforce and administer the management program. [1999, c. 297, §1 (NEW). ]

[ 1999, c. 297, §1 (NEW) . ]

#### SECTION HISTORY

1999, c. 297, §1 (NEW). 2003, c. 248, §2 (AMD).

### **§6171-C. PROTECTION OF PUBLIC HEALTH** *(REPEALED)*

#### SECTION HISTORY

2005, c. 44, §1 (NEW). 2009, c. 528, §2 (RP).

### **§6172. CONTAMINATED OR POLLUTED FLATS**

**1. Commissioner's powers.** The commissioner may examine the coastal waters and the intertidal zone and classify coastal waters or intertidal zone areas as closed if the commissioner determines that any marine organisms are or may become contaminated or polluted and may classify coastal waters or intertidal areas as open if the commissioner determines that the marine organisms no longer present a risk to public health. The commissioner may classify areas through text descriptions and maps as the commissioner determines necessary, setting forth standards for closure of contaminated or polluted areas and for opening areas determined to no longer present a risk to public health, giving consideration to established state water quality standards, the most recently adopted federal sanitation standards or other state or federal public health standards, the most recent generally accepted research data and known sources of pollution in any area, in a manner to protect the public health and safety while allowing reasonable use of the State's marine organisms.

[ 2011, c. 527, §2 (AMD) . ]

**1-A. Federal waters.** The commissioner may classify an area through text descriptions and maps to close waters under the jurisdiction of the Federal Government to the harvesting of a marine organism that the commissioner determines is or may become contaminated or polluted and to open waters under the jurisdiction of the Federal Government to the harvesting of marine organisms that the commissioner determines no longer present a risk to public health.

[ 2011, c. 527, §2 (AMD) .]

**1-B. Advisory council.**

[ 2011, c. 527, §2 (RP) .]

**2. Emergency rules.**

[ 2011, c. 527, §2 (RP) .]

**3. Repeal.**

[ 2011, c. 527, §2 (RP) .]

**4. Procedure.**

[ 2011, c. 527, §2 (RP) .]

**5. Private property; right of entry.** The commissioner's authority to enter privately owned land or buildings to carry out the purposes of this section is prescribed as follows:

A. The commissioner, upon presentation of credentials, may enter privately owned land at reasonable times with the owner's permission. If entry to the land is denied by the owner, the commissioner may seek a search warrant to inspect the land for sources of pollution under this section. A warrant may not be issued to search a domicile or residential building or ancillary structures; and [1991, c. 242, §1 (NEW) .]

B. The commissioner may enter a privately owned domicile, building or structure only with the owner's permission and only in the presence of the owner or the owner's agent. [1991, c. 242, §1 (NEW) .]

For the purposes of this subsection, "commissioner" means the Commissioner of Marine Resources or an employee of the department authorized by the commissioner to inspect coastal waters and intertidal zones for sources of pollution.

[ 1991, c. 242, §1 (NEW) .]

**6. Effective immediately upon signature.** The classification of an area as open or closed under this section is effective immediately upon signature by the commissioner or the commissioner's authorized designee.

[ 2011, c. 527, §2 (NEW) .]

**7. Notification.** Notification of the classification of a shellfish area as open or closed and any information concerning the opening or closing of a shellfish area under this section must be placed on the department's publicly accessible website and must be provided to the municipal office of each municipality in the affected area and to the Bureau of Marine Patrol.

[ 2011, c. 527, §2 (NEW) .]

**8. Enforcement.** Upon notification as described in subsection 7, marine patrol officers shall take action to prevent the taking of shellfish from a closed area, including the embargo of contaminated shellfish under section 6856, subsection 6 and the arrest or summons of any person taking or attempting to take shellfish from an area classified as closed unless that person holds a valid depuration certificate pursuant to section 6856, subsection 3.

[ 2011, c. 527, §2 (NEW) .]

#### SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 649, §1 (AMD). 1983, c. 301, §§5,6 (AMD). 1985, c. 268, §1 (AMD). 1989, c. 205, §3 (AMD). 1991, c. 242, §1 (AMD). 1991, c. 390, §2 (AMD). 1997, c. 93, §1 (AMD). 2005, c. 44, §2 (AMD). 2009, c. 528, §3 (AMD). 2011, c. 527, §2 (AMD).

## §6173. CONFIDENTIALITY OF STATISTICS

**1. Collection and reporting of statistics.** The commissioner may, with the advice and consent of the advisory council, adopt rules to collect pertinent data with respect to the fisheries, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight, areas in which fishing was conducted, time of fishing, number of hauls and the estimated processing capacity of, and the actual processing capacity utilized by United States fish processors. The commissioner may collect statistics from any source and may require reporting of these statistics. The information collected by or reported to the commissioner is confidential and may not be disclosed in a manner or form that permits identification of any person or vessel, except when required by court order or when specifically permitted under this section. The commissioner may share data collected under this section with the National Marine Fisheries Service or successor organization for research or fisheries management purposes as long as federal laws and regulations protect the confidentiality of the shared data. The commissioner may share landings data collected under this subsection with the Bureau of Marine Patrol when necessary for the enforcement of reporting requirements under this section. The commissioner shall adopt rules to carry out the purposes of this section. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[ 2013, c. 49, §1 (AMD) .]

**2. Renewal of licenses.** If a holder of a license issued under this Part fails to provide information required under this section, the commissioner may refuse to renew that holder's license until the holder complies with the requirements of this section.

[ 2003, c. 170, §1 (NEW) .]

**3. Equipment required.** The commissioner may require a person licensed under chapter 625 to purchase specific equipment that is necessary to comply with rules regarding electronic reporting adopted pursuant to this section as a condition of engaging in the licensed activities.

[ 2015, c. 201, §1 (NEW) .]

**4. Reimbursement for equipment provided.** If the holder of a license issued under chapter 625 fails to pay a fee or charge for equipment that is necessary to comply with rules regarding electronic reporting adopted pursuant to this section and that was provided by the department and either not returned to the department by the license holder or returned in poor condition, the commissioner may refuse to renew or issue any marine resources license or permit to that license holder.

[ 2015, c. 201, §1 (NEW) .]

#### SECTION HISTORY

1977, c. 661, §5 (NEW). 1983, c. 9, (RPR). 1985, c. 268, §2 (AMD).  
2003, c. 170, §1 (RPR). 2013, c. 49, §1 (AMD). 2015, c. 201, §1 (AMD).

## §6173-A. MAINE WORKING WATERFRONT ACCESS PILOT PROGRAM; CONFIDENTIALITY FOR PROPRIETARY INFORMATION

Except as provided in subsections 1 and 2, information obtained by the department under this section is a public record as provided by Title 1, chapter 13, subchapter 1. [2005, c. 683, Pt. F, §1 (NEW) .]

**1. Confidential information.** Information submitted to the department under the provisions of the Maine Working Waterfront Access Protection Program established by section 6042 may be designated by the submitter as proprietary information and as being only for the confidential use of the department, its agents and employees, other agencies of State Government, as authorized by the Governor, and the Attorney General. The designation must be clearly indicated on each page or other unit of information. The commissioner shall establish procedures to ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the submitter and the general nature of the information. Upon a request for information the scope of which includes information so designated, the commissioner shall notify the submitter. Within 15 days after receipt of the notice, the submitter shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is proprietary information. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for all or any part of the designated information requested and within 15 days shall give written notice of the decision to the submitter and the person requesting the designated information. A person aggrieved by a decision of the department under this subsection may appeal to the Superior Court.

[ 2011, c. 266, Pt. B, §7 (AMD) .]

**2. Release information.** The commissioner may not release information designated under subsection 1 prior to the expiration of the time allowed for the filing of an appeal or to the rendering of the decision on any appeal.

[ 2005, c. 683, Pt. F, §1 (NEW) .]

**3. Nonconfidential information.** Any information that is collected by any other local, state or federal agency or information required by the department for the purpose of obtaining a permit, license, certification or other approval may not be designated or treated as confidential information under subsection 1.

[ 2005, c. 683, Pt. F, §1 (NEW) .]

**4. Definition.** For the purposes of this section, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available.

[ 2005, c. 683, Pt. F, §1 (NEW) .]

SECTION HISTORY

2005, c. 683, §F1 (NEW). 2011, c. 266, Pt. B, §7 (AMD).

**§6173-B. SPECIAL LICENSES; MANDATORY QUALITY CONTROL PROGRAM; SHELLFISH SANITATION AND DEPURATION CERTIFICATES; CONFIDENTIALITY OF PROPRIETARY INFORMATION**

Except as provided in subsections 1 and 2, information obtained by the department under this section is a public record as provided by Title 1, chapter 13, subchapter 1. [2013, c. 512, §3 (NEW) .]

**1. Confidential information.** Information submitted to the department pursuant to provisions regarding special licenses for research, aquaculture or education under section 6074, surveillance and inspection of all segments of the State's fishing industries under section 6102 or the shellfish sanitation certificate and the depuration certificate under section 6856 may be designated by the submitter as proprietary information and as being only for the confidential use of the department, its agents and employees, other agencies of State Government, as authorized by the Governor, and the Attorney General. The designation must be clearly indicated on each page or other unit of information. The commissioner shall establish procedures to ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the submitter and the general nature of the information. Upon a request for information the scope of which includes information so designated, the commissioner shall notify the submitter. Within 15 days after receipt of the notice, the submitter shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is proprietary information. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for all or any part of the designated information requested and within 15 days shall give written notice of the decision to the submitter and the person requesting the designated information. A person aggrieved by a decision of the department under this subsection may appeal to the Superior Court.

[ 2013, c. 512, §3 (NEW) .]

**2. Release information.** The commissioner may not release information designated under subsection 1 prior to the expiration of the time allowed for the filing of an appeal or to the rendering of the decision on any appeal.

[ 2013, c. 512, §3 (NEW) .]

**3. Definition.** For purposes of this section, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available.

[ 2013, c. 512, §3 (NEW) .]

SECTION HISTORY

2013, c. 512, §3 (NEW) .

## §6174. RULES AS LAW; PROOF OF RULES; PENALTY

**1. Rules as law.** All rules adopted by the commissioner have the force of law.

[ 2003, c. 248, §3 (AMD) .]

**2. Proof of rules.** A certified copy of a rule is admissible in court to prove the rule and is prima facie evidence that the rule was properly adopted. A rule must be personally certified by the commissioner, deputy commissioner or Chief of the Bureau of Marine Patrol and must be accompanied by a signed statement that it was in force on the date of the alleged violation. The certified copy is admissible in evidence on the testimony of a marine patrol officer that the patrol officer received the certified rule after requesting it by telephone or otherwise from the department. No further foundation is necessary for the admission of the certified copy.

[ 2003, c. 248, §3 (AMD) .]

**3. Penalty.** Whoever violates a rule commits a civil violation for which a fine of not less than \$100 for each violation may be adjudged.

[ 2003, c. 248, §3 (AMD) .]

### SECTION HISTORY

1977, c. 661, §5 (NEW). 2003, c. 248, §3 (AMD).

## §6175. ALTERNATIVE BAIT

The commissioner may adopt rules to regulate the use of alternative bait in marine fisheries. For the purposes of this section, "alternative bait" means any bait that does not naturally originate from the ocean. Rules adopted pursuant to this section must be adopted in accordance with the procedures in subchapter 2 and are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2005, c. 203, §1 (NEW) .]

### SECTION HISTORY

2005, c. 203, §1 (NEW).

## §6176. COMMERCIAL FISHING SAFETY

The commissioner may adopt commercial fishing safety rules recommended by the Commercial Fishing Safety Council. Rules authorized by this section must be adopted and amended in accordance with the procedures outlined in subchapter 2 and are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2005, c. 505, §5 (NEW) .]

### SECTION HISTORY

2005, c. 505, §5 (NEW).

## Subchapter 2: REGULATION PROCEDURE

## §6191. RULEMAKING

**1. Procedures.** In adopting or amending any rule, the commissioner shall use the procedures required for rulemaking under the Maine Administrative Procedure Act and the additional requirements of this subchapter.

[ 2011, c. 527, §3 (AMD) .]

**2. Other requirements.**

A. A public hearing may be held but is not required unless it is requested by an interested person. [1977, c. 661, §5 (NEW).]

B. The person conducting the hearing shall record and retain all relevant evidence provided at the hearing. [1977, c. 661, §5 (NEW).]

C. A rule may not be adopted or amended without the advice and consent of the advisory council, except as provided in section 6192, subsection 2. [2011, c. 527, §4 (AMD).]

[ 2011, c. 527, §4 (AMD) .]

#### SECTION HISTORY

1977, c. 661, §5 (NEW). 2003, c. 248, §4 (AMD). 2007, c. 692, §1 (AMD). 2011, c. 527, §§3, 4 (AMD).

## §6192. EMERGENCY RULEMAKING

**1. Procedures.** In an emergency adoption of a rule or amendment to a rule, the commissioner may modify the procedures required under the Maine Administrative Procedure Act and section 6191 in the following manner.

A. In an emergency adoption of a rule or amendment to a rule relating to the public health and safety, including rules authorized under section 6171-A, prior public notice and hearing is not required. [2011, c. 527, §5 (AMD).]

B. In an emergency adoption of a rule or amendment to a rule authorized by section 6171 or 6171-A, the rule is effective immediately, as provided in subsection 4. A public hearing must be held in the affected area after the rule takes effect if requested of the commissioner in writing by 5 persons. The hearing must be held within 30 days of the commissioner receiving the written request. Notice of that hearing must be published once, not less than 5 days prior to the hearing, in a newspaper of general circulation in the affected area. In an emergency adoption of a rule or amendment to a rule relating to gear conflicts, as authorized by section 6171-A, the commissioner shall decide within 5 business days after the hearing whether to continue or repeal an emergency closure. The commissioner's findings of fact must include the justification for the repeal or continuance of the closure, an analysis of the objections expressed at the public hearing and the date for the end of the closure. Emergency rules under this paragraph may be repealed by the Marine Resources Advisory Council. [2009, c. 528, §4 (AMD).]

C. [2009, c. 528, §4 (RP).]

D. Within 48 hours after the adoption of an emergency rule or an emergency amendment to a rule authorized under section 6171-A, subsection 1, paragraph B or C, the commissioner shall hold a public meeting in the area affected by the emergency rule. A public meeting convened pursuant to this paragraph is not a public hearing for purposes of the Maine Administrative Procedure Act. [2009, c. 528, §4 (NEW).]

[ 2011, c. 527, §5 (AMD) .]

**2. Advisory council.** The advice and consent of the advisory council is not required prior to an emergency adoption of a rule or amendment to a rule.

[ 2003, c. 248, §5 (AMD) .]

**3. Effective period.** Any emergency rule is effective only for 90 days, or any lesser period of time specified in the rule. After the expiration of the emergency period, the rule may be adopted only as provided by section 6191.

[ 2011, c. 527, §6 (AMD) .]

**4. Effective date.** Except as provided in this subsection, emergency rules become effective immediately upon publication in a newspaper of general circulation in the area of the State affected, as long as those rules are submitted to the Attorney General and filed with the Secretary of State as required under the Maine Administrative Procedure Act within the next business day following publication.

[ 2011, c. 527, §7 (AMD) .]

**5. Repeal.** Emergency rules may be repealed in the same manner as they are adopted.

[ 2003, c. 248, §5 (AMD) .]

#### SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 649, §2 (AMD). 1983, c. 645, §2 (AMD). 1987, c. 100, §4 (AMD). 1993, c. 42, §1 (AMD). 2003, c. 248, §5 (AMD). 2005, c. 44, §3 (AMD). 2009, c. 528, §4 (AMD). 2011, c. 527, §§5-7 (AMD).

### **§6193. EXEMPTION FROM REQUIREMENT TO SUPPLY COPIES**

**(REPEALED)**

#### SECTION HISTORY

1977, c. 661, §5 (NEW). 1999, c. 790, §A11 (AMD). 2011, c. 527, §8 (RP).

### **§6194. SHELLFISH AREA CLOSURE STATUS NOTIFICATION**

**(REPEALED)**

#### SECTION HISTORY

2007, c. 692, §2 (NEW). 2011, c. 527, §9 (RP).

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