

Title 12: CONSERVATION
Chapter 619: LOBSTER AND CRAB FISHING LICENSES

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Maine Revised Statutes
Title 12: CONSERVATION
Chapter 619: LOBSTER AND CRAB FISHING LICENSES

Subchapter 1: LICENSES

§6421. LOBSTER AND CRAB FISHING LICENSES

1. License required. A person may not engage in the activities authorized under this section without a current:

- A. Class I lobster and crab fishing license; [2003, c. 452, Pt. F, §8 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- B. Class II lobster and crab fishing license; [2003, c. 452, Pt. F, §8 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- C. Class III lobster and crab fishing license; [2003, c. 452, Pt. F, §8 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- D. Apprentice lobster and crab fishing license; [2003, c. 452, Pt. F, §8 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- E. Student lobster and crab fishing license; [2003, c. 452, Pt. F, §8 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- F. Noncommercial lobster and crab fishing license; [2007, c. 201, §4 (AMD).]
- F-1. Nonresident lobster and crab landing permit; or [2007, c. 201, §5 (NEW).]
- G. Other license issued under this Part authorizing the activities. [2003, c. 452, Pt. F, §8 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2007, c. 201, §§4, 5 (AMD) .]

2. Licensed activity. The holder of a Class I, Class II, Class III, apprentice or student lobster and crab fishing license may fish for, take, possess, ship or transport within the State lobsters or crabs and sell lobsters or crabs the license holder has taken. The license does not authorize the license holder to remove lobster meat from the shell or to take, possess, transport or ship lobster parts or meat. The holder of a Class II or Class III license is liable for the licensed activities under this subsection of all unlicensed crew members assisting that licensee.

[1995, c. 568, §1 (AMD) .]

2-A. Licensed activity; noncommercial license. The holder of a noncommercial lobster and crab fishing license may fish for, take, possess, ship or transport within the State lobsters or crabs the license holder has taken. The license does not authorize the license holder to sell lobsters or to remove lobster meat from the shell or to take, possess, transport or ship lobster parts or meat.

[1995, c. 568, §1 (NEW) .]

2-B. Licensed activity; nonresident lobster and crab landing permit. The holder of a nonresident lobster and crab landing permit may possess, transport and sell within the State lobsters or crabs the license holder has taken from outside Maine's territorial waters. The permit does not authorize the permit holder to remove lobster meat from the shell or to take, possess, transport or ship lobster parts or meat.

[2007, c. 201, §6 (NEW) .]

3. License limitation.

[1989, c. 455, §2 (RP) .]

3-A. License limitation. A license authorizes activities by individuals as follows.

A. A Class I license authorizes the licensed activities under subsection 2 by the individual who is named in the license. Any individual assisting or helping a Class I license holder in these activities must also be licensed. [1995, c. 568, §1 (AMD).]

B. A Class II license authorizes the license holder to engage in the licensed activities under subsection 2. A Class II license holder may engage one unlicensed crew member to assist in the licensed activities under the direct supervision of the Class II license holder, except as provided in section 6445-A. [2013, c. 282, §3 (AMD).]

C. A Class III license authorizes the license holder to engage in the licensed activities under subsection 2. A Class III license holder may engage 2 unlicensed crew members to assist in the licensed activities under the direct supervision of the Class III license holder, except as provided in section 6445-A. [2013, c. 282, §3 (AMD).]

D. An apprentice lobster and crab fishing license authorizes the apprentice so licensed to engage in the licensed activities under subsection 2 on that apprentice's sponsor's vessel when the apprentice's sponsor is on board the vessel. A person who holds an apprentice lobster and crab fishing license may not tend any traps unless the traps are fished by the sponsor of the apprentice so licensed. An applicant for an apprentice lobster and crab fishing license may designate up to 3 sponsors. For the purpose of this paragraph, "apprentice's sponsor" means a person who holds a Class I, Class II or Class III lobster and crab fishing license issued under this section. [1999, c. 490, §1 (AMD).]

E. A student license authorizes the license holder to engage in the licensed activities under subsection 2. A student license may be issued only to a person who, at the time of application, is 8 years of age or older and under 23 years of age. A person issued a student license may not submerge more than:

- (1) Ten lobster traps in the coastal waters of the State if the person is 8 years of age or older and under 11 years of age;
- (2) Fifty lobster traps in the coastal waters of the State if the person is 11 years of age or older and under 14 years of age; or
- (3) One hundred and fifty lobster traps in the coastal waters of the State if the person is 14 years of age or older and under 23 years of age.

A person issued a student license is enrolled in the apprentice program under section 6422. When applying for a license the person must designate a sponsor and may designate up to 3 sponsors. For the purposes of this paragraph, "sponsor" means a person who holds a Class I, Class II or Class III lobster and crab fishing license issued under this section. [2015, c. 68, §3 (AMD).]

F. A noncommercial lobster and crab fishing license authorizes the license holder to engage in the licensed activities under subsection 2-A. A person issued a noncommercial lobster and crab fishing license may not submerge at any one time more than 5 lobster traps in the coastal waters of the State. At the time a noncommercial lobster and crab fishing license is issued or renewed, the applicant or license holder shall declare the vessel that will be used to conduct lobster and crab fishing activities under that license. The license holder's trap tags are allocated to that vessel, pursuant to the license. The department

is not authorized to issue more than 10 noncommercial trap tags to the declared vessel, regardless of the number of noncommercial license holders fishing from that vessel. [2003, c. 466, §1 (AMD); 2003, c. 466, §5 (AFF).]

[2015, c. 68, §3 (AMD) .]

4. Exception. A license is not required for a person:

A. To take or catch crabs with bare hands or hook and line; or [2009, c. 78, §1 (NEW).]

B. Who is issued a commercial fishing license under section 6501 to take, possess and sell crabs that have been taken as bycatch while using an otter trawl within the exclusive economic zone as shown on the most recently published Federal Government nautical chart. Crabs taken by otter trawl within the territorial waters must be liberated alive immediately. [2009, c. 78, §1 (NEW).]

[2011, c. 5, §1 (AMD) .]

5. Eligibility. A noncommercial or student lobster and crab fishing license may only be issued to an individual who is a resident. A Class I, Class II or Class III license may be issued to a person 17 years of age or older only if the person:

A. Possessed a Class I, Class II or Class III lobster and crab fishing license in the previous calendar year; [2009, c. 188, §2 (AMD); 2009, c. 188, §3 (AFF).]

B. [1997, c. 250, §10 (AFF); 1997, c. 250, §2 (RP).]

C. Meets the requirements of the apprentice program under section 6422; or [2011, c. 486, §1 (AMD).]

D. Did not possess a Class I, Class II or Class III lobster and crab fishing license in the previous calendar year because the commissioner had suspended the person's license privileges for a length of time that included the previous calendar year. [2001, c. 2, Pt. A, §15 (COR).]

E. [1997, c. 250, §10 (AFF); 1997, c. 250, §4 (RP).]

F. [1999, c. 658, §1 (RP).]

G. [1997, c. 250, §10 (AFF); 1997, c. 250, §6 (RP).]

H. [1999, c. 397, §3 (NEW); T. 12, §6421, sub-§5, ¶H (RP).]

Notwithstanding the age requirements of this subsection, a person who holds a Class I, Class II or Class III license on December 31, 2007 may continue to be issued a Class I, Class II or Class III license provided that person continues to meet the requirements of paragraph A.

[2011, c. 486, §1 (AMD) .]

5-A. Student lobster and crab fishing license eligibility. A student lobster and crab fishing license may be issued to a person who, at the time of application, is 8 years of age or older and under 23 years of age and who is:

A. Attending a public day school in accordance with the attendance requirement of Title 20-A, section 5001-A, subsection 1; [2015, c. 428, §1 (RPR).]

B. Meeting the requirements of an alternative to attendance at a public day school in accordance with Title 20-A, section 5001-A, subsection 3; or [2015, c. 428, §1 (RPR).]

C. Enrolled in and meeting the requirements of a half-time course of study at a postsecondary institution accredited by a state-recognized accrediting agency or body. [2015, c. 428, §1 (RPR).]

A person may not be considered to have ceased to be a student during any interim between school years if the interim does not exceed 6 months and if it is shown that the person has a bona fide intention of continuing to pursue a half-time course of study during the semester or other enrollment period immediately following the interim period. For purposes of this subsection, "half-time course of study" means at least 50% of the usual course load for the program in which the person is enrolled.

The commissioner may revoke a student lobster and crab fishing license of an individual who has ceased to meet the requirements of this subsection.

[2015, c. 428, §1 (RPR) .]

5-B. Noncommercial lobster and crab fishing license eligibility. Beginning with license year 2003, a noncommercial lobster and crab fishing license may be issued only to a person who, at the time of application, is 8 years of age or older and has:

- A. Successfully completed a lobster and crab fishing written examination, as provided in section 6423; or [2001, c. 581, §1 (NEW).]
- B. Held a Class I, Class II or Class III lobster and crab fishing license and has landed lobster under that license. [2001, c. 581, §1 (NEW).]

Once a person successfully completes the examination, that person need not repeat the examination to renew the license.

[2003, c. 468, §3 (AMD) .]

5-C. Apprentice lobster and crab fishing license eligibility. An apprentice lobster and crab fishing license may be issued only to a person who, at the time of application, is 8 years of age or older.

[2003, c. 468, §4 (NEW) .]

5-D. Nonresident lobster and crab landing permit eligibility. A nonresident lobster and crab landing permit may be issued only to an individual who:

- A. Does not meet the resident provisions under section 6301, subsection 1; [2007, c. 201, §7 (NEW) .]
- B. Possesses a valid federal lobster permit or a valid lobster fishing license from a state other than this State; and [2011, c. 266, Pt. A, §5 (AMD).]
- C. Except as authorized under subsection 5-E, does not operate a lobster and crab fishing vessel with an established base of operations in this State. [2011, c. 266, Pt. A, §6 (AMD).]
- D. [2011, c. 266, Pt. A, §7 (RP).]

[2011, c. 266, Pt. A, §§5-7 (AMD) .]

5-E. Exception; nonresident lobster and crab landing permit with an established base of operations in State. An individual may be excepted from subsection 5-D, paragraph C as long as the individual submits documentation to the commissioner by December 31, 2011 that the individual operated a lobster and crab fishing vessel with an established base of operations in the State as a nonresident in calendar years 2010 and 2011. Documentation must include at a minimum proof of lobster landings at a Maine dealer, proof of utilization of a mooring or dock in a Maine harbor for a sufficient time to meet the requirements to be an established base of operations in this State pursuant to section 6001, subsection 13-I, proof that the individual possessed a valid federal lobster permit or a valid lobster fishing license from a state other than this State and proof that the individual did not meet the resident provisions under section 6301, subsection 1.

[2011, c. 266, Pt. A, §8 (AMD) .]

6. Buoy colors. Each license applicant must describe, on the application, a single color design of the applicant's buoys.

[1991, c. 528, Pt. RRR, (AFF); 1991, c. 528, Pt. T, §1 (AMD); 1991, c. 591, Pt. T, §1 (AMD) .]

7. Fee.

[1989, c. 455, §2 (RP) .]

7-A. Fee.

[2017, c. 284, Pt. EEEEE, §2 (RP) .]

7-B. License fee. The fee for a lobster and crab fishing license is:

A. For a resident Class I license for applicants under 18 years of age, \$65; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

B. For a resident Class I license for applicants 18 years of age or older and under 70 years of age, \$125.75; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

C. For a resident Class I license for applicants 70 years of age or older, \$61; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

D. For a nonresident Class I license for applicants under 18 years of age, \$357; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

E. For a nonresident Class I license for applicants 18 years of age or older, \$730.75; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

F. For a resident Class II license for applicants under 70 years of age, \$252.50; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

G. For a nonresident Class II license, \$1,467.50; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

H. For a resident Class II license for applicants 70 years of age or older, \$126; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

I. For a resident Class III license for applicants under 70 years of age, \$377.25; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

J. For a resident Class III license for applicants 70 years of age or older, \$183; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

K. For a nonresident Class III license, \$2,189.25; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

L. For a resident apprentice lobster and crab fishing license for applicants under 18 years of age, \$60; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

M. For a resident apprentice lobster and crab fishing license for applicants 18 years of age or older, \$122; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

N. For a nonresident apprentice lobster and crab fishing license for applicants under 18 years of age, \$357; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

O. For a nonresident apprentice lobster and crab fishing license for applicants 18 years of age or older, \$725; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

P. For a student lobster and crab fishing license, \$60; [2017, c. 284, Pt. EEEEE, §3 (NEW).]

Q. For a noncommercial lobster and crab fishing license, \$60; and [2017, c. 284, Pt. EEEEE, §3 (NEW).]

R. For a nonresident lobster and crab landing permit, \$590.25. [2017, c. 284, Pt. EEEEE, §3 (NEW).]

[2017, c. 284, Pt. EEEEE, §3 (NEW) .]

7-C. License surcharge. In addition to the license fee established in subsection 7-B, the commissioner shall assess a surcharge on each license issued under this section as follows:

A. For a resident Class I license for applicants under 18 years of age, resident Class I license for applicants 70 years of age or older, resident apprentice license for applicants under 18 years of age, resident apprentice license for applicants 70 years of age or older, student lobster and crab fishing license or noncommercial lobster and crab fishing license, \$5; [2017, c. 284, Pt. EEEEE, §3 (NEW) .]

B. For a resident Class I license, resident Class II license for applicants 70 years of age or older or resident apprentice license for applicants 70 years of age or older, \$10; [2017, c. 284, Pt. EEEEE, §3 (NEW) .]

C. For a resident Class II license or resident Class III license for applicants 70 years of age or older, \$20; [2017, c. 284, Pt. EEEEE, §3 (NEW) .]

D. For a resident Class III license, nonresident Class I license for applicants under 18 years of age or a nonresident apprentice license for applicants under 18 years of age, \$30; [2017, c. 284, Pt. EEEEE, §3 (NEW) .]

E. For a nonresident Class I license or nonresident apprentice license for applicants 18 years of age or older, \$60; [2017, c. 284, Pt. EEEEE, §3 (NEW) .]

F. For a nonresident Class II license, \$120; and [2017, c. 284, Pt. EEEEE, §3 (NEW) .]

G. For a nonresident Class III license, \$180. [2017, c. 284, Pt. EEEEE, §3 (NEW) .]

The surcharge fees collected under this subsection must be deposited in the Lobster Fund established under section 6451.

[2017, c. 284, Pt. EEEEE, §3 (NEW) .]

8. Exception.

[2017, c. 284, Pt. EEEEE, §4 (RP) .]

9. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §21 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1977, c. 713, §4 (AMD). 1979, c. 205, (AMD). 1981, c. 480, §§1,15,16 (AMD). 1983, c. 824, §K3 (AMD). 1985, c. 243, (AMD). 1985, c. 379, §1 (AMD). 1989, c. 455, §2 (AMD). 1991, c. 528, §T1 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §T1 (AMD). 1991, c. 617, §§1,2 (AMD). 1993, c. 499, §§2,3 (AMD). 1995, c. 468, §3 (AMD). 1995, c. 568, §1 (AMD). 1997, c. 250, §§1-6 (AMD). 1997, c. 250, §10 (AFF). 1997, c. 574, §1 (AMD). RR 1999, c. 1, §16 (COR). 1999, c. 330, §§1,2 (AMD). 1999, c. 397, §§1-3 (AMD). 1999, c. 490, §1 (AMD). 1999, c. 643, §3 (AMD). 1999, c. 658, §1 (AMD). 1999, c. 790, §B1 (AMD). RR 2001, c. 2, §§A14,15 (COR). 2001, c. 421, §§B19-21 (AMD). 2001, c. 421, §C1 (AFF). 2001, c. 581, §1 (AMD). 2003, c. 20, §WW2 (AMD). 2003, c. 452, §F8 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 466, §1 (AMD).

2003, c. 466, §5 (AFF). 2003, c. 468, §§1-4 (AMD). 2005, c. 239, §1 (AMD). 2005, c. 354, §§1,2 (AMD). 2007, c. 138, §1 (AMD). 2007, c. 201, §§4-11 (AMD). 2007, c. 219, §1 (AMD). 2007, c. 615, §9 (AMD). 2009, c. 78, §1 (AMD). 2009, c. 188, §2 (AMD). 2009, c. 188, §3 (AFF). 2009, c. 213, Pt. G, §§2,3 (AMD). 2011, c. 5, §1 (AMD). 2011, c. 266, Pt. A, §§5-8 (AMD). 2011, c. 486, §1 (AMD). 2013, c. 282, §3 (AMD). 2015, c. 68, §3 (AMD). 2015, c. 428, §1 (AMD). 2017, c. 284, Pt. EEEEE, §§2-4 (AMD).

§6421-A. MORATORIUM ON NEW LICENSES

(REPEALED)

SECTION HISTORY

1997, c. 747, §1 (NEW). 1999, c. 330, §§3,4 (AMD). 1999, c. 397, §§4,5 (AMD). MRSA T. 12, §6421-A, sub-§2 (RP).

§6421-B. LOBSTER LICENSE APPEALS PROCESS

(REPEALED)

SECTION HISTORY

1999, c. 330, §5 (NEW). 1999, c. 643, §4 (RP).

§6421-C. APPLICATION OF STUDENT AND NONCOMMERCIAL LICENSE AGE REQUIREMENTS

1. Student licenses. Notwithstanding the age requirements of section 6421, subsection 3-A, paragraph E and section 6421, subsection 5-A, a person who holds a student license on October 31, 2003 may continue to be issued a student license until that person reaches 23 years of age. Notwithstanding the trap limits under section 6421, subsection 3-A, paragraph E, a person who is 8 years of age or older and who holds a student license on October 31, 2003 may not submerge at any one time more than 150 lobster traps in the coastal waters of the State. A person who holds a student license and is less than 8 years of age on October 31, 2003 may not at any one time submerge more than 10 traps in the coastal waters of the State and upon reaching 8 years of age is subject to the trap limits provided in section 6421, subsection 3-A, paragraph E. A person who holds a student license on October 31, 2003 must comply with the full-time student requirement of section 6421, subsection 5-A and the apprenticeship program and sponsor requirements of section 6421, subsection 3-A, paragraph E.

[2003, c. 468, §5 (NEW) .]

2. Noncommercial licenses. Notwithstanding the age requirements of section 6421, subsection 5-B, a person who holds a noncommercial license and is less than 8 years of age on October 31, 2003 may continue to be issued a noncommercial license subject to the examination and licensure requirements of section 6421, subsection 5-B.

[2003, c. 468, §5 (NEW) .]

3. Violation. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

[2003, c. 468, §5 (NEW) .]

SECTION HISTORY

2003, c. 468, §5 (NEW).

§6422. APPRENTICE PROGRAM

1. Program established; experience component. By July 1, 1996, the commissioner shall establish by rule an apprentice program for entry into the lobster fishery. The program must include practical lobster fishing experience. A person must be 8 years of age or older and hold an apprentice lobster and crab fishing license or a student lobster and crab fishing license under section 6421 to enter the program.

[2003, c. 468, §6 (AMD) .]

2. Length of program. The commissioner shall determine the length of time an apprentice is enrolled in the program, which must be a minimum of 2 years.

[1995, c. 468, §4 (NEW) .]

3. Educational courses. The program may include any educational courses the commissioner determines appropriate. Educational courses may be taught by the department or by any public or private sector association or organization authorized by the commissioner. For any course taught by the department, the commissioner shall set an enrollment fee sufficient to recover all costs incurred by the department in teaching the course.

[1995, c. 468, §4 (NEW) .]

4. Allowance for waivers.

[2011, c. 486, §2 (RP) .]

5. Prohibition. Rules adopted under this section may not require a person who has registered to enter an established island limited-entry zone program as described under section 6449 to apprentice in the zone in which the island limited-entry zone program is located.

[2015, c. 428, §2 (NEW) .]

SECTION HISTORY

1995, c. 468, §4 (NEW). 1995, c. 568, §2 (AMD). 1997, c. 250, §§7,8 (AMD). 1997, c. 574, §§2,3 (AMD). 1999, c. 281, §1 (AMD). 1999, c. 490, §§2,3 (AMD). 2003, c. 468, §6 (AMD). 2011, c. 486, §2 (AMD). 2015, c. 428, §2 (AMD).

§6423. LOBSTER AND CRAB FISHING EDUCATION PROGRAM

The commissioner shall establish an education program in accordance with this section for training applicants for noncommercial lobster and crab fishing licenses. [2001, c. 581, §2 (NEW) .]

1. Pamphlet. The department shall issue a pamphlet of all the laws and rules relating to a noncommercial lobster and crab fishing license to each applicant for a noncommercial lobster and crab fishing license who has not successfully completed a written examination pursuant to subsection 2 or met the requirements of section 6421, subsection 5-B, paragraph B.

[2001, c. 581, §2 (NEW) .]

2. Examination. A written examination is required for any person who applies for a noncommercial lobster and crab fishing license who has not successfully completed a written examination under this subsection or met the requirements of section 6421, subsection 5-B, paragraph B. The commissioner shall determine the form and content of the written examination. The written examination must be provided to an

applicant with the pamphlet required under subsection 1. The applicant must return the completed written examination to the department and receive a passing grade on the written examination prior to receiving a noncommercial license.

[2001, c. 581, §2 (NEW) .]

3. Surcharge; credit to Lobster Management Fund. The commissioner shall set a surcharge, not to exceed \$15, sufficient to recover the costs incurred by the department in providing the program under this section. A person who successfully completes the program and pays the surcharge may not be charged the surcharge to renew the license. The commissioner may provide copies of the education materials developed under this section to an applicant for another lobster and crab fishing license upon receipt of the surcharge. Surcharges collected under this subsection must be credited to the Lobster Management Fund established in section 6431-C.

[2001, c. 581, §2 (NEW) .]

SECTION HISTORY

2001, c. 581, §2 (NEW).

Subchapter 2: LIMITS ON FISHING AND PROHIBITED ACTS

§6431. LOBSTER MEASUREMENT

1. Minimum and maximum length. A person may not buy, sell, give away, transport, ship or possess any lobster that is less than the minimum size established in this subsection or more than 5 inches in length, as determined by the lobster measure certified in accordance with subsection 3. Except as provided in subsection 1-A, the minimum lobster size is 3 8/32 inches.

A. [2005, c. 6, §1 (RP).]

B. [2005, c. 6, §1 (RP).]

C. [1991, c. 31, §2 (AFF); 1991, c. 31, §1 (RP).]

D. [1991, c. 31, §2 (AFF); 1991, c. 31, §1 (RP).]

[2011, c. 266, Pt. A, §9 (AMD) .]

1-A. Most restrictive minimum size. A person possessing a valid lobster and crab fishing license and who also owns or is incorporated or partnered in a vessel or vessels that hold federal limited access lobster permits must comply with the most restrictive minimum lobster size for all federal lobster management areas declared on the federal permit designated on that person's Maine lobster and crab fishing license application, whenever the fishing activity occurs. The applicable most restrictive minimum lobster size is contained in the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for American Lobster.

[2005, c. 397, Pt. C, §9 (AMD) .]

2. Method of measurement. Measurement shall be made from the rear of the eye socket along a line parallel to the center line of the body shell to the rear end of the body shell.

[1977, c. 661, §5 (NEW) .]

3. Certified lobster measure. The department shall use a lobster measure that is certified for accuracy by the Department of Agriculture, Conservation and Forestry, Office of Sealer of Weights and Measures. The measure must conform to the legal lobster sizes in effect at the time. Any measurement used to substantiate a violation of this section must be made with a certified lobster measure.

[2011, c. 266, Pt. A, §10 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

4. Mutilation. It shall be unlawful to possess any lobster, or part thereof, which is mutilated in a manner which makes accurate measurement impossible, except that any person, firm or corporation may possess lobster tails removed under section 6851-B.

[2009, c. 523, §7 (AMD) .]

5. Exception for immediate liberation. No violation of this section shall occur if the illegal lobster is immediately liberated alive into the coastal waters when taken.

[1977, c. 661, §5 (NEW) .]

6. Exception; wholesale seafood dealer with lobster permit; rules. This section does not apply to live lobsters imported by a holder of a wholesale seafood license with a lobster permit to another wholesale seafood license holder with a lobster permit if the containers are sealed in accordance with rules adopted by the commissioner; or to imported lobsters being shipped or transported out-of-state if they are in containers sealed in accordance with rules adopted by the commissioner. The commissioner may adopt or amend rules to prescribe the time, manner and method of sealing containers for the effective operation of this subsection. The rules may contain a requirement for a special permit and provisions for inspection of the containers, contents and seals. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[2011, c. 247, §1 (AMD) .]

6-A. Grace period. There is a 180-day grace period following the effective date of each of the minimum size increases as provided in this section within which a person holding a wholesale or retail seafood dealer license or a lobster transportation license may handle lobsters legally purchased or received in the prior year which do not meet the new minimum size requirements.

[1987, c. 550, (NEW) .]

6-B. Exception; lobster processing; rules. A person who holds both a wholesale seafood license with a lobster permit and a lobster processor license and who possesses lobster in accordance with subsection 6 may process those imported lobsters in accordance with rules adopted by the commissioner, as long as the following criteria are met:

- A. The lobsters are not harvested or landed in this State; [2011, c. 247, §2 (NEW) .]
- B. The lobsters are legal in the waters from which they were harvested; and [2011, c. 247, §2 (NEW) .]
- C. The lobsters are not less than the minimum size established in this section. [2011, c. 247, §2 (NEW) .]

Lobster tails processed under this subsection may not be offered for sale within this State in the wholesale or retail trade. Lobster meat processed from the claws and knuckles may be sold within this State in the wholesale or retail trade.

This subsection takes effect November 1, 2011.

[2013, c. 301, §8 (AMD) .]

7. Penalty. Possession of lobsters in violation of this section is a Class D crime, except that the court shall impose a fine of \$500 for each violation and, in addition, a fine of \$100 for each lobster involved, up to and including the first 5, and a fine of \$200 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not less than \$1,000 or more than \$5,000.

[2013, c. 468, §14 (AMD) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1985, c. 129, §1 (AMD). 1985, c. 677, §§2,3,6,7 (AMD). 1987, c. 513, §4 (AMD). 1987, c. 550, (AMD). 1991, c. 31, §1 (AMD). 1991, c. 31, §2 (AFF). 1995, c. 491, §1 (AMD). 1999, c. 82, §1 (AMD). 2005, c. 6, §§1,2 (AMD). 2005, c. 397, §C9 (AMD). 2009, c. 394, §6 (AMD). 2009, c. 523, §7 (AMD). 2011, c. 247, §§1, 2 (AMD). 2011, c. 266, Pt. A, §§9, 10 (AMD). 2011, c. 657, Pt. W, §5 (REV). 2013, c. 301, §8 (AMD). 2013, c. 468, §14 (AMD).

§6431-A. TRAP LIMIT

1. Limit. Before March 1, 2000, the holder of a Class I, Class II or Class III license issued under section 6421 may not submerge more than 1,000 traps. After February 29, 2000, the holder of a Class I, Class II or Class III license or a nonresident lobster and crab landing permit issued under section 6421 may not submerge more than 800 traps. If a lower trap limit is adopted by rule for a zone pursuant to section 6446, a license holder who fishes in that zone may not submerge a number of traps that exceeds the lower limit.

The number of traps fished from a vessel may not exceed the applicable trap limit established in this subsection, regardless of the number of license holders fishing from that vessel.

[2007, c. 201, §12 (AMD) .]

2. Trap limit exception.

[1999, c. 187, §1 (RP) .]

3. Effective date.

[1999, c. 187, §1 (RP) .]

4. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §22 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1995, c. 468, §5 (NEW). 1997, c. 19, §1 (AMD). 1999, c. 187, §1 (RPR). 2001, c. 421, §B22 (AMD). 2001, c. 421, §C1 (AFF). 2007, c. 201, §12 (AMD).

§6431-B. TAG SYSTEM

1. Tag system established. The commissioner shall establish by rule a lobster trap tag system under which lobster and crab fishing license holders and nonresident lobster and crab landing permit holders must purchase tags for the purpose of identifying and tracking traps. The rules must contain provisions for replacing lost tags. The commissioner may impose a per tag fee to cover the cost of trap tags, the costs of administering and enforcing a lobster trap tag system, the costs of management of the lobster fishery and the

costs associated with lobster management policy councils and referenda pursuant to section 6447. Trap tag fees must be deposited in the Lobster Management Fund established under section 6431-C. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2017, c. 197, §9 (NEW) .]

2. Penalties. A person who violates a rule adopted pursuant to subsection 1 commits:

A. A civil violation for which a fine of \$250 must be adjudged if the person fishes 25 or fewer traps that are not tagged in accordance with rules adopted pursuant to subsection 1; and [2017, c. 197, §9 (NEW) .]

B. A Class D crime if the person fishes more than 25 traps that are not tagged in accordance with rules adopted pursuant to subsection 1. [2017, c. 197, §9 (NEW) .]

[2017, c. 197, §9 (NEW) .]

SECTION HISTORY

1995, c. 468, §5 (NEW). 2003, c. 20, §WW3 (AMD). 2007, c. 201, §13 (AMD). 2017, c. 197, §9 (RPR).

§6431-C. LOBSTER MANAGEMENT FUND

1. Lobster Management Fund. The Lobster Management Fund is established as a dedicated nonlapsing fund. The fund is administered by the department.

[1995, c. 468, §5 (NEW) .]

2. Purpose. All money credited to the Lobster Management Fund must be used to cover the costs of trap tags and the administration and enforcement of a lobster trap tag system under section 6431-B, the costs of management of the lobster fishery, the costs associated with lobster management policy councils and referenda pursuant to section 6447, costs associated with the Lobster Advisory Council not supported by the General Fund, the costs associated with determining eligibility for lobster and crab fishing licenses and eligibility to fish for or take lobsters from a vessel and the costs associated with the provision of educational programs, for which a surcharge is collected from the enrollee, pursuant to section 6423.

[2003, c. 20, Pt. WW, §4 (AMD) .]

SECTION HISTORY

1995, c. 468, §5 (NEW). 1999, c. 309, §1 (AMD). 2001, c. 93, §2 (AMD). 2001, c. 581, §3 (AMD). 2003, c. 20, §WW4 (AMD).

§6431-D. BOAT TRAP LIMIT

(REPEALED)

SECTION HISTORY

1995, c. 468, §5 (NEW). 1995, c. 568, §3 (AMD). 1997, c. 19, §2 (AMD). 1997, c. 19, §3 (AMD). 1999, c. 187, §2 (RP).

§6431-E. VESSEL LIMITATION

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

A. "Family member" means a spouse, brother, sister, son-in-law, daughter-in-law, parent by blood, parent by adoption, mother-in-law, father-in-law, child by blood, child by adoption, stepchild, stepparent, grandchild or grandparent. [1999, c. 26, §1 (AMD).]

B. "Owner" means:

(1) An individual who is the owner of a vessel registered under chapter 935 or the owner of a vessel documented under 46 Code of Federal Regulations, Part 67;

(2) The person who owns the highest percentage of a partnership, corporation or other entity that is the owner of a vessel registered under chapter 935 or a vessel documented under 46 Code of Federal Regulations, Part 67; or

(3) When 2 or more people own in equal proportion the highest percentages of a partnership, corporation or other entity that owns a vessel registered under chapter 935 or a vessel documented under 46 Code of Federal Regulations, Part 67, one of the highest percentage owners as designated by the owners of that partnership, corporation or other entity. [2003, c. 414, Pt. B, §24 (AMD); 2003, c. 614, §9 (AFF).]

C. "Qualifying period" means any 46 days during 3 consecutive months in one calendar year. [1997, c. 693, §1 (NEW); 1997, c. 693, §3 (AFF).]

D. "Replacement vessel" means a vessel that is substituted for the use of a vessel that is no longer utilized by an individual, partnership, corporation or other entity. [1997, c. 693, §1 (NEW); 1997, c. 693, §3 (AFF).]

[2003, c. 414, Pt. B, §24 (AMD); 2003, c. 614, §9 (AFF) .]

2. Owner or family member on board. This subsection applies to a person that holds a Class I, Class II or Class III lobster and crab fishing license issued under section 6421. Except as provided in subsection 3, a vessel may not be used to fish for or take lobsters unless that vessel is owned by a Class I, Class II or Class III lobster and crab fishing license holder and:

A. The owner of that vessel is present on that vessel and has that vessel named on the owner's Class I, Class II or Class III lobster and crab fishing license; or [2009, c. 394, §7 (AMD).]

B. A family member of the vessel owner holds a Class I, Class II or Class III lobster and crab fishing license and is present on that vessel. [2009, c. 394, §7 (AMD).]

[2009, c. 394, §7 (AMD) .]

3. Exemptions; individuals. The commissioner may authorize a person to fish for or take lobsters from a vessel when an owner or family member is not on board pursuant to subsection 2 if that person holds a Class I, Class II or Class III lobster and crab fishing license and:

A. The owner of that vessel holds a Class I, Class II or Class III lobster and crab fishing license, documents to the commissioner that an illness or disability temporarily prevents that owner from fishing for or taking lobsters from that vessel, and requests in writing to the commissioner that the commissioner authorize that person to use that vessel to fish for or take lobsters and tend the owner's traps pursuant to section 6434; [1997, c. 693, §1 (NEW); 1997, c. 693, §3 (AFF).]

B. Is the owner of a vessel that has become temporarily inoperable because of an accident or a mechanical failure and requests in writing permission from the commissioner to use that vessel to fish for or take lobsters; [1997, c. 693, §1 (NEW); 1997, c. 693, §3 (AFF).]

B-1. Was the owner of a vessel that was named on that individual's Class I, Class II or Class III lobster and crab fishing license but is no longer the owner of that vessel due to sale or foreclosure. The individual must demonstrate immediate intent to become the owner of another vessel that will be used to fish for or take lobsters and request in writing permission from the commissioner to use the other vessel to fish for or take lobsters for a limited period of time; [2013, c. 468, §15 (NEW).]

C. Documents to the commissioner by December 31, 2000 that that person fished for or took lobsters during the qualifying period in each of calendar years 1995, 1996 and 1997 from the same vessel and that vessel did not have on board an individual who meets the criteria of subsection 2, paragraph A or B. A person may not qualify for the exemption under this paragraph unless that person continues to fish for or take lobsters from the vessel from which the person harvested lobsters during the qualifying period in each of calendar years 1995, 1996 and 1997, or from a replacement vessel; [2001, c. 195, §1 (AMD).]

D. An individual, partnership, corporation or other entity documents to the commissioner by December 31, 2000 that that individual or partnership, corporation or other entity rented, leased or otherwise made available that vessel to the holder of a Class I, Class II or Class III lobster and crab fishing license during the qualifying period in each of calendar years 1995, 1996 and 1997 for the purpose of fishing for or taking lobsters. A person authorized under this paragraph may fish for or take lobsters only from the vessel that was made available during the qualifying period in each of calendar years 1995, 1996 and 1997, or a replacement vessel; or [2001, c. 195, §1 (AMD).]

E. The person is licensed by the United States Coast Guard to operate a passenger-carrying vessel in coastal waters. The vessel must be inspected by the United States Coast Guard and documented and licensed by the United States Coast Guard to carry passengers. By June 30, 2001, the owner of the vessel shall document to the commissioner that the vessel was utilized to fish for or take lobsters with paying passengers on board during the qualifying period in each of calendar years 1995, 1996 and 1997. The owner of the vessel shall notify the commissioner in writing on an annual basis, prior to the vessel being utilized to fish for or take lobsters, of the name and lobster license number of any person who will be using the vessel to fish for lobster during that calendar year. A person authorized under this paragraph may fish for or take lobsters only from the vessel that was made available during the qualifying period in each of calendar years 1995, 1996 and 1997, or a replacement vessel. No more than 40 lobster traps may be fished from that vessel. [2001, c. 195, §2 (NEW).]

[2013, c. 468, §15 (AMD) .]

4. Rules. The commissioner may adopt rules to implement and administer this section. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

[1997, c. 693, §1 (NEW); 1997, c. 693, §3 (AFF) .]

SECTION HISTORY

1997, c. 693, §1 (NEW). 1997, c. 693, §3 (AFF). 1999, c. 26, §1 (AMD). 2001, c. 195, §§1,2 (AMD). 2003, c. 414, §B24 (AMD). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2009, c. 394, §7 (AMD). 2013, c. 468, §15 (AMD).

§6431-F. TRAP TAGS

1. Trap tag limits. The following provisions govern trap tag limits.

A. [2005, c. 239, §2 (RP).]

B. Each year, a Class I, Class II or Class III lobster and crab fishing license holder may purchase a number of trap tags that is not greater than 100 more than the number the license holder purchased for the previous license year as long as the total number purchased does not exceed the number of traps allowed under the lowest trap limit established by rule for the zones identified on that person's license pursuant to section 6446, subsection 1-A. [2005, c. 239, §2 (AMD).]

[2005, c. 239, §2 (AMD) .]

2. Exceptions. Notwithstanding subsection 1, the following trap tag limits apply:

A. If the license holder was issued a Class I, Class II or Class III lobster and crab fishing license for the first time after meeting the requirements of the apprentice program under section 6422, the license holder may not purchase more than 300 trap tags for the initial license year. For each following year, the license holder may purchase up to an increase of 100 trap tags each year as long as the total number purchased does not exceed the number of traps allowed under the lowest trap limit established by rule for the zones identified on that person's license pursuant to section 6446, subsection 1-A; and [2005, c. 239, §2 (AMD).]

B. [2005, c. 239, §2 (RP).]

C. If the license holder was issued a Class I, Class II or Class III lobster and crab fishing license on appeal, the license holder may purchase for the initial license year a number of trap tags up to the number of trap tags purchased by the person for the most recent year in which the person held a license. For each following year, the license holder may purchase up to an increase of 100 trap tags each year as long as the total number purchased does not exceed the number of traps allowed under the lowest trap limit established by rule for the zones identified on that person's license pursuant to section 6446, subsection 1-A. [2005, c. 239, §2 (AMD).]

[2005, c. 239, §2 (AMD).]

3. Appeal of trap tag denial.

[2005, c. 239, §2 (RP).]

4. Trap limit. A person may not submerge a number of traps greater than the number of traps allowed under the lowest trap limit established by rule for the lobster management zones identified on that person's license pursuant to section 6446, subsection 1-A.

[2005, c. 239, §2 (AMD).]

5. Repeal.

[2005, c. 239, §2 (RP).]

SECTION HISTORY

1999, c. 397, §6 (NEW). 1999, c. 643, §§5,6 (AMD). 1999, c. 790, §A12 (AMD). 2001, c. 94, §1 (AMD). 2003, c. 510, §A6 (AMD). 2005, c. 239, §2 (AMD).

§6431-G. VESSEL OPERATION

1. Limitation. Except as provided in subsection 2, the holder of a Class I, Class II or Class III lobster and crab fishing license may not operate a vessel for the purposes of fishing for or taking lobster other than the vessel named on the holder's lobster and crab fishing license. For the purposes of this section, "operate a vessel" means steering the vessel, operating the vessel's engine throttle or gear shift or operating the mechanism used to haul lobster traps from the water. "Operating a vessel" does not include the baiting of traps or the handling of traps once they are on board the vessel.

[2009, c. 394, §8 (NEW).]

2. Exemptions. The commissioner may authorize an individual who possesses a Class I, Class II or Class III lobster and crab fishing license to fish for or take lobsters from a vessel other than the vessel named on the holder's lobster and crab fishing license if:

A. A Class I, Class II or Class III license holder is temporarily prevented by illness or disability from fishing for or taking lobsters from the license holder's vessel and requests in writing to the commissioner that the commissioner authorize the individual to operate that vessel to fish for or take lobsters and tend the license holder's traps pursuant to section 6434; [2009, c. 394, §8 (NEW).]

B. The vessel named on the individual's license has become temporarily inoperable because of an accident or a mechanical failure and the individual requests in writing and is granted permission from the commissioner to use another vessel to fish for or take lobsters; [2013, c. 468, §16 (AMD).]

C. The individual is designated as the sponsor of a student pursuant to section 6421 and is operating the vessel named on the student's license for the purposes of providing practical lobster fishing training to the student while the student is present on the vessel; or [2013, c. 468, §16 (AMD).]

D. The individual was the owner of a vessel that was named on that individual's Class I, Class II or Class III lobster and crab fishing license but is no longer the owner of that vessel due to sale or foreclosure. The individual must demonstrate immediate intent to become the owner of another vessel that will be used to fish for or take lobsters and request in writing permission from the commissioner to use the other vessel to fish for or take lobsters for a limited period of time. [2013, c. 468, §17 (NEW).]

[2013, c. 468, §§16, 17 (AMD).]

SECTION HISTORY

2009, c. 394, §8 (NEW). 2013, c. 468, §§16, 17 (AMD).

§6432. METHODS OF FISHING

1. Conventional traps. A person may not fish for or take lobster by any method other than conventional lobster traps, as defined in rule, or from any platform other than a vessel. A vessel does not include a dock.

[2003, c. 520, §4 (AMD).]

2. Marking. A lobster or crab trap or trawl must be marked by a lobster buoy as described in subsections 3 and 4. The buoy must be visible at the surface. A person may not:

A. Set, raise, lift or transfer any lobster trap or buoy unless it is clearly marked with the owner's lobster and crab fishing license number or the owner's nonresident lobster and crab landing permit number; or [2017, c. 197, §10 (NEW).]

B. Intentionally set or fish a lobster or crab trap or trawl in a manner that is designed to avoid detection that the trap or trawl has been set or fished. [2017, c. 197, §10 (NEW).]

[2017, c. 197, §10 (RPR).]

3. Color design. It is unlawful to set, raise, lift or transfer any lobster trap unless the color design of the attached buoy is the same as the color design that is on file with the license application and is displayed on the boat, or unless the person is duly licensed and possesses written permission from the rightful owner of the lobster trap or buoy. Prior notification of changes in buoy color design must be provided to the commissioner. The Bureau of Marine Patrol may require the alteration of an individual's lobster and crab fishing buoy color design if a marine patrol officer has determined that the buoy color design is not distinct and distinguishable from the buoy color designs of the individual's family members as defined by section 6431-E.

[2011, c. 266, Pt. A, §12 (AMD).]

4. Design display. The buoy color design shall be displayed on the boat as follows:

A. On both sides of the hull or on a panel painted on both sides and attached to the boat's forward topside in a manner so as to be clearly visible on both sides of the boat. Each color shall appear as a solid color strip 4 inches high and 18 inches long abutting another color on its longest side to form a rectangle with a one-inch black border on all sides; or [1977, c. 661, §5 (NEW).]

B. A buoy of at least 12 inches long, mounted in a manner so that the color design is clearly visible on both sides of the boat. [1977, c. 661, §5 (NEW).]

[1977, c. 661, §5 (NEW) .]

5. Penalty for possession. Possession of lobsters other than caught by the method specified in subsection 1 is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of \$500 for each violation and, in addition, a fine of \$100 for each lobster involved, up to and including the first 5, and a fine of \$200 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not less than \$1,000 or more than \$5,000.

[2013, c. 468, §18 (AMD) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1989, c. 413, §1 (AMD). 1999, c. 82, §2 (AMD). 2003, c. 520, §4 (AMD). 2007, c. 201, §14 (AMD). 2009, c. 394, §9 (AMD). 2011, c. 266, Pt. A, §§11, 12 (AMD). 2013, c. 468, §18 (AMD). 2017, c. 197, §10 (AMD).

§6432-A. BAIT

1. Offal prohibited. A person may not use offal as bait to fish for or take lobster or crabs. A person may not sell offal for use as bait to fish for or take lobster or crabs. For the purposes of this section, "offal" means the carcass, waste parts, renderings or remains of a wild or domesticated animal that is not a marine organism. "Offal" does not include animal hide from which the hair has been removed or fat attached to an animal hide from which the hair has been removed as long as the total thickness of fat and animal hide does not exceed 1/4 inches.

[2017, c. 146, §1 (AMD) .]

2. Prima facie evidence. The possession of offal or a marine organism prohibited pursuant to subsection 4 while fishing for or taking lobster or crabs is prima facie evidence of a violation of this section.

[2011, c. 475, §1 (AMD) .]

3. Exception for freshwater organisms. Notwithstanding subsection 1, a person may use a freshwater organism as bait to fish for or take lobster or crabs if that freshwater organism and the location from which that freshwater organism has been harvested have been identified as acceptable on a list maintained by the commissioner pursuant to subsection 5.

[2011, c. 475, §2 (NEW) .]

4. Use of marine organism as bait. The commissioner may prohibit the use of marine organisms as bait to fish for or take lobster or crabs. A marine organism prohibited pursuant to this subsection and the location from which that marine organism is harvested must be identified on a list maintained by the commissioner pursuant to subsection 5.

[2011, c. 475, §2 (NEW) .]

5. Lists of freshwater organisms acceptable as bait and prohibited marine organisms. The commissioner may maintain a list of freshwater organisms that are acceptable as bait to fish for or take lobster or crabs, including the location from which those freshwater organisms are harvested. The commissioner may maintain a list of marine organisms that are prohibited as bait to fish for or take lobster or crabs, including the location from which those marine organisms are harvested. The commissioner may adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A that contain the criteria for inclusion on the lists.

[2011, c. 475, §2 (NEW) .]

SECTION HISTORY

2005, c. 203, §2 (NEW). 2005, c. 203, §3 (AFF). 2011, c. 475, §§1, 2 (AMD). 2017, c. 146, §1 (AMD).

§6433. ESCAPE VENTS

1. Vent required. It is unlawful to fish for or to take lobsters unless the lobster trap is equipped with unobstructed vents or gaps in the parlor section as follows:

- A. A rectangular or oblong escape vent not less than 1 3/4 inches (44.5 mm.) by 5.75 inches (146 mm.) located next to the bottom edge or on the top if the escape vent is placed over the head of an end parlor section; [1999, c. 142, §1 (AMD).]
- B. Two circular escape vents not less than 2 1/4 inches (57.2 mm.) in diameter located next to the bottom edge or on the top if the escape vents are placed over the head of an end parlor section; [1999, c. 274, §1 (AMD).]
- C. A gap caused by raising, modifying or separating horizontal laths to comply with paragraph A or B; [1979, c. 353, §1 (RPR).]
- D. A gap caused by separating or modifying vertical laths to comply with paragraph A; [1979, c. 353, §1 (RPR).]
- E. A gap caused by separating both ends of 2 laths 1 3/4 inches (44.5 mm.) on the top of the parlor section next to the middle bow or supporting frame and over the parlor head; or [1989, c. 217, (AMD).]
- F. In a wire or plastic trap, by a gap created by cutting vents in the side or end to comply with paragraph A or B. [1999, c. 142, §1 (AMD).]

[1999, c. 142, §1 (AMD); 1999, c. 274, §1 (AMD) .]

1-A. Adjustment. Notwithstanding subsection 1, the commissioner shall specify by rule the dimensions of vents in lobster traps which shall be appropriate for the minimum legal lobster size in effect.

[1985, c. 677, §§4, 6 and 7 (NEW) .]

2. Action prohibited. It shall be unlawful to set, raise, haul or transfer any lobster trap unless the trap is equipped with an escape vent as required in this section or has been exempted under subsection 3.

[1977, c. 661, §5 (NEW) .]

3. Exemption. The commissioner may exempt specific trap designs from the escape vent requirements of this section if it is proved to his satisfaction that the specific trap design will only take crabs and is incapable of taking lobsters.

[1977, c. 661, §5 (NEW) .]

4. Termination.

[1979, c. 353, §2 (RP) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1977, c. 713, §§4-A,4-B (AMD). 1979, c. 353, §§1,2 (AMD). 1985, c. 677, §§4,6,7 (AMD). 1987, c. 101, (AMD). 1989, c. 217, (AMD). 1999, c. 142, §1 (AMD). 1999, c. 274, §1 (AMD).

§6433-A. BIODEGRADABLE ESCAPE PANELS

Beginning January 1, 1990, all lobster traps must be equipped with a biodegradable ghost panel. A "ghost panel" is an escape panel which is designed to release lobsters from traps which are lost while fishing. The commissioner shall, by rule, provide for implementation of this requirement. The commissioner may not require ghost panels prior to January 1, 1990. [1987, c. 569, (NEW) .]

SECTION HISTORY

1987, c. 569, (NEW) .

§6433-B. RUNNERS

1. Definitions. As used in this section, unless the context otherwise indicates, the term "runner" means a device on the bottom of a lobster trap that prevents damage to lobster claws and allows the trap to be pulled smoothly out of the water.

[2001, c. 205, §1 (NEW) .]

2. Device to prevent damage to lobster claws. A lobster trap must have a device attached to the trap that is designed to prevent damage to lobster claws.

A. If stick runners are used:

- (1) The runners may be made out of any material;
- (2) The runners must be at least 1/4 inch thick; and
- (3) A minimum of two runners must be attached to the lobster trap and the runners must be placed on opposite sides of the bottom of the lobster trap. [2001, c. 205, §1 (NEW) .]

B. If a 2nd layer of material is used in lieu of stick runners, it must be layered in a manner that creates a mesh size smaller than the base trap mesh when attached to the bottom of the trap. [2001, c. 205, §1 (NEW) .]

C. If a device other than a device identified in paragraph A or B is used, the device must be designed to minimize damage to lobster claws and must be approved by the commissioner. [2001, c. 205, §1 (NEW) .]

[2001, c. 205, §1 (NEW) .]

SECTION HISTORY

2001, c. 205, §1 (NEW) .

§6434. MOLESTING LOBSTER GEAR

A person may not raise, lift, transfer, possess or in any manner molest any lobster trap, warp, buoy or car except as provided in this section. [2003, c. 520, §5 (AMD) .]

1. Permitted activities. Lobster traps, warps, buoys and cars may be raised, lifted, transferred, possessed or otherwise molested by the following:

- A. A marine patrol officer; [1989, c. 428, (NEW).]
- B. The licensed owner; [1989, c. 428, (NEW).]
- C. Any person having written permission from the commissioner; and [2003, c. 520, §5 (AMD).]
- D. Any person authorized by rule pursuant to subsection 2. [1989, c. 428, (NEW).]

[2003, c. 520, §5 (AMD) .]

2. Adoption of rules required. The commissioner shall adopt rules, no later than January 1, 1990, authorizing the removal of traps, warps, buoys or cars that are washed up above the mean low tide mark or are otherwise abandoned or lost. Notwithstanding Title 25, sections 3502 and 3503, the commissioner may dispose of such traps, warps, buoys or cars, or authorize their disposal, if the owner cannot be identified or if the owner has been notified and fails to respond within 30 days.

[2011, c. 266, Pt. A, §13 (AMD) .]

3. Using another's lobster gear; prohibition. Traps, warps, buoys or cars may not be used for fishing by any person other than the licensed owner unless that person has written permission from the commissioner.

[2007, c. 283, §1 (AMD) .]

3-A. Penalty. A person who violates this section commits a Class D crime.

[2017, c. 197, §11 (AMD) .]

4. Restitution. If a person violates this section by cutting a lobster trap line, the court shall:

A. Order that person to pay to the owner of the trap line that was cut an amount equal to twice the replacement value of all traps lost as a result of that cutting; and [2007, c. 695, Pt. A, §15 (RPR).]

B. Direct that person to provide proof of payment of that restitution to the commissioner as required by section 6402, subsection 1. [2007, c. 695, Pt. A, §15 (RPR).]

Restitution imposed under this subsection is in addition to any penalty imposed under subsection 3-A.

[2009, c. 561, §17 (AMD) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1989, c. 428, (RPR). 1993, c. 543, §2 (AMD). 2003, c. 520, §5 (AMD). 2007, c. 201, §15 (AMD). 2007, c. 283, §§1-3 (AMD). 2007, c. 695, Pt. A, §15 (AMD). 2009, c. 561, §17 (AMD). 2011, c. 266, Pt. A, §13 (AMD). 2017, c. 197, §11 (AMD).

§6435. SETTING NEAR WEIRS

It shall be unlawful to set any lobster trap within 300 feet of the mouth of any fish weir when the weir owner or operator is licensed under section 6501 and when the weir is licensed under Title 38, chapter 9.

[1981, c. 433, §8 (AMD).]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 433, §8 (AMD).

§6436. EGG-BEARING LOBSTERS; V-NOTCHED LOBSTERS

1. Egg-bearing and v-notched lobsters. A person may not take, transport, sell or possess:

A. Any lobster that is bearing eggs; or [2003, c. 452, Pt. F, §9 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Any female lobster marked with a v-notch in the right flipper next to the middle flipper or any female lobster that is mutilated in a manner that could hide or obliterate that mark. The right flipper is determined when the underside of the lobster is down and its tail is toward the person making the determination. [2003, c. 452, Pt. F, §9 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. F, §9 (RPR); 2003, c. 452, Pt. X, §2 (AFF) .]

2. Exceptions. No violation of this section shall occur if:

A. The lobster is immediately liberated alive into the coastal waters when taken or discovered in a pound; or [1977, c. 661, §5 (NEW).]

B. The lobster is possessed and sold to the department by a lobster pound owner who has a permit to do so as provided in this section. [1977, c. 661, §5 (NEW).]

[1977, c. 661, §5 (NEW) .]

3. Permitted possession; regulations. The commissioner may issue a permit for the holding and delivery of egg-bearing lobsters to the department by a lobster pound owner who holds a current wholesale seafood license. The commissioner may adopt regulations governing the issuing of permits and the conditions and limitations under which these lobsters may be held and delivered.

[1977, c. 661, §5 (NEW) .]

4. Prima facie evidence.

A. Discovery of an egg-bearing lobster by a marine patrol officer in a pound not included in a permit under section 3 shall be prima facie evidence of a violation. [1979, c. 541, Pt. B, §73 (AMD).]

B. Any lobster whose right flipper is v-notched or mutilated in a manner which could hide or obliterate such a mark shall be prima facie evidence that the lobster is a v-notched female lobster. [1977, c. 661, §5 (NEW).]

[1979, c. 541, Pt. B, §73 (AMD) .]

5. Penalty for possession of egg-bearing lobsters. Possession of lobsters in violation of subsection 1, paragraph A is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of \$1,000 for each violation and, in addition, a fine of \$200 for each lobster involved, up to and including the first 5, and a fine of \$400 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not less than \$2,500 or more than \$10,000.

[2013, c. 468, §19 (AMD) .]

6. Penalty for possession of v-notched lobsters. Possession of lobsters in violation of subsection 1, paragraph B is a Class D crime, except that in addition to any punishment that may be imposed under Title 17-A, Part 3, the court shall impose a fine of \$500 for each violation and, in addition, a fine of \$100 for each lobster involved, up to and including the first 5, and a fine of \$400 for each lobster in excess of 5, or, if the number of lobsters cannot be determined, a fine of not less than \$1,000 or more than \$5,000.

[2013, c. 468, §20 (AMD) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 433, §9 (AMD). 1999, c. 82, §3 (AMD). 2003, c. 452, §F9 (AMD). 2003, c. 452, §X2 (AFF). 2009, c. 394, §§10, 11 (AMD). 2013, c. 468, §§19, 20 (AMD).

§6437. SCRUBBING LOBSTERS

(REPEALED)

SECTION HISTORY

1977, c. 661, §5 (NEW). 1995, c. 468, §6 (RP).

§6438. SCRUBBED LOBSTERS

(REPEALED)

SECTION HISTORY

1977, c. 661, §5 (NEW). 1995, c. 468, §6 (RP).

§6438-A. ARTIFICIAL REMOVAL OF EGGS; PROHIBITION

1. Prohibition. It is unlawful to remove extruded eggs from any female lobster or to take, buy, sell, possess, transport or ship any female lobster from which extruded eggs have been removed by any means other than natural hatching.

[1995, c. 468, §7 (NEW) .]

2. Penalty. A violation of this section is a Class D crime, except that the court shall impose a fine of \$1,000 for each violation and, in addition, a fine of \$300 for each lobster involved or, if the number of lobsters cannot be determined, a fine of not less than \$1,000 or more than \$5,000.

[2013, c. 468, §21 (AMD) .]

SECTION HISTORY

1995, c. 468, §7 (NEW). 1999, c. 82, §4 (AMD). 2009, c. 394, §12 (AMD). 2013, c. 468, §21 (AMD).

§6439. AREAS OF LIMITED LOBSTER FISHING

(REPEALED)

SECTION HISTORY

1977, c. 661, §5 (NEW). 1979, c. 152, §1 (AMD). 1979, c. 663, §65 (AMD). 1981, c. 433, §10 (AMD). 1985, c. 268, §5 (AMD). 2001, c. 272, §3 (AMD). 2009, c. 499, §3 (AFF). 2009, c. 499, §1 (RP).

§6439-A. LIMITED LOBSTER FISHING IN THE VICINITY OF KITTELY *(REPEALED)*

SECTION HISTORY

1979, c. 152, §2 (NEW). 2001, c. 272, §4 (AMD). 2015, c. 68, §4 (RP).

§6439-B. LIMITED LOBSTER FISHING IN CERTAIN PORTIONS OF SACO BAY *(REPEALED)*

SECTION HISTORY

2001, c. 272, §5 (NEW). MRSA T. 5, §6439-B, sub-§2 (RP).

§6440. CLOSED PERIODS

It is unlawful to raise or haul any lobster trap: [2001, c. 123, §1 (AMD).]

1. Summer. During the period 1/2 hour after sunset until 1/2 hour before sunrise from June 1st to September 30th, both days inclusive, and during the period 1/2 hour after sunset until 4 a.m. from October 1st to October 31st, both days inclusive; and

[2017, c. 32, §1 (AMD) .]

2. Weekends. During the period from 4 p.m., Eastern Daylight Savings Time, Saturday, to 1/2 hour before sunrise the following Monday morning from June 1st to August 31st, both days inclusive, except that it is lawful to raise or haul traps during this period if a hurricane warning issued by the National Weather Service is in effect for any coastal waters of the State.

[2001, c. 123, §1 (AMD) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1991, c. 678, (AMD). 1999, c. 790, §E1 (AMD).
2001, c. 123, §1 (AMD). 2017, c. 32, §1 (AMD).

§6441. PLUGGED LOBSTERS

The commissioner, in accordance with section 6191, may adopt regulations prohibiting the possession of plugged lobsters, provided that he has determined that these regulations will not adversely affect lobster importation. [1983, c. 227, (NEW).]

SECTION HISTORY

1983, c. 227, (NEW).

§6442. LOBSTER IDENTIFICATION TAGS; FEE AUTHORIZED

The commissioner may impose a reasonable fee not to exceed 50¢ per tag, for the issuance of lobster trap identification tags in those areas of the State included in the Swan's Island Trap Limit Program. [1989, c. 643, (AMD).]

The fees collected must be paid to the department. The commissioner shall use these fees for the administration of the lobster trap tag system. Any fees that are unexpended at the end of the fiscal year do not lapse. [1989, c. 643, (AMD).]

SECTION HISTORY

1983, c. 687, (NEW). 1985, c. 540, (AMD). 1989, c. 643, (AMD).

§6443. UNDERWATER STORAGE

Beginning January 1, 1990, any trap or other container used for storing lobsters beneath the surface of the coastal waters must be clearly marked with the wholesale seafood license number or the fishing license number of the person storing the lobsters. Any trap or other container and the contents in it found in violation of this section may be seized and the contents returned to their natural habitat. [1989, c. 413, §2 (NEW); 1989, c. 878, Pt. A, §32 (RPR).]

§6443. Dipping lobster traps or similar gear

(As enacted by PL 1989, c. 413, §2 was REPEALED by PL 1989, c. 878, Pt. A, §32)

SECTION HISTORY

1989, c. 413, §2 (NEW). 1989, c. 424, (NEW). 1989, c. 878, §A32 (RPR).

§6444. DIPPING LOBSTER TRAPS OR SIMILAR GEAR

No person may dip, soak or treat lobster or crab traps, warps or cars prior to use in waters of the State other than in a solution of salt and sea water except as provided in this section. [1989, c. 878, Pt. A, §33 (NEW).]

The commissioner may authorize a specified amount of dipping, soaking or treating of lobster or crab traps, warps or cars in solutions other than salt and sea water for research purposes. This authorization shall be in writing. [1989, c. 878, Pt. A, §33 (NEW).]

SECTION HISTORY

1989, c. 878, §A33 (NEW).

§6445. LOGBOOKS FOR LOBSTER HARVESTERS

The commissioner shall adopt rules requiring any person holding a lobster and crab fishing license to maintain a logbook. The rules must indicate the type of data that must be recorded in the logbook, the manner for producing the logbooks and the method for analyzing data from the logbooks. The commissioner shall charge a fee for the logbook that is sufficient to recover all costs associated with the production of the logbook and the analysis of the data. Fees received by the department from the sale of logbooks are dedicated revenue and must be used by the department for the purposes of this section. The logbook and data analysis may be produced and conducted by the department or may be produced and conducted by a public or private entity under contract with the department. Disclosure of any data collected under this section is subject to the confidentiality provisions of section 6173. A person who fails to maintain a logbook when required to do so commits a civil violation for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged. [1999, c. 771, Pt. B, §3 (AMD); 1999, c. 771, Pt. D, §§1,2 (AFF).]

SECTION HISTORY

1993, c. 726, §1 (NEW). 1999, c. 771, §B3 (AMD). 1999, c. 771, §§D1,2 (AFF).

§6445-A. SELLING OF LOBSTERS OR CRABS BY UNLICENSED CREW MEMBERS

1. Sale prohibited; exception. An unlicensed crew member engaged by a holder of a Class II or Class III lobster and crab fishing license may not sell lobsters or crabs unless the unlicensed crew member:

A. Sells lobsters or crabs under the direct supervision of the holder of the Class II or Class III lobster and crab fishing license under whose authority the lobster or crabs were taken to a purchaser who holds a valid wholesale seafood license with a lobster permit or a valid retail seafood license; and [2013, c. 468, §22 (AMD).]

B. Provides to the purchaser the name and license number of the license holder with whom the crew member was engaged when the lobsters or crabs were harvested. [2013, c. 282, §4 (NEW) .]

[2013, c. 468, §22 (AMD) .]

2. Requirements for purchaser. A holder of a wholesale seafood license with a lobster permit or a retail seafood license who purchases lobsters or crabs from an unlicensed crew member may not purchase the lobsters or crabs except by check or cashier's check unless there is a written receipt associated with the transaction, and the holder of a wholesale seafood license with a lobster permit or a retail seafood license who purchases lobsters or crabs from an unlicensed crew member shall report the information provided by the unlicensed crew member under subsection 1, paragraph B in accordance with section 6173.

[2013, c. 282, §4 (NEW) .]

SECTION HISTORY

2013, c. 282, §4 (NEW). 2013, c. 468, §22 (AMD).

§6446. LOBSTER MANAGEMENT ZONES

1. Establishment of zones. The commissioner may establish by rule zones to facilitate local or regional management of lobster fishery efforts.

[1995, c. 468, §8 (NEW) .]

1-A. Declared lobster zone; authorized zones. On an application for a Class I, Class II, Class III, student or noncommercial lobster and crab fishing license or a nonresident lobster and crab landing permit, a person shall declare the lobster management zone in which that person proposes to fish a majority of that person's lobster traps and shall list all other zones in which that person proposes to fish any of that person's lobster traps. A Class I, Class II, Class III, student or noncommercial lobster and crab fishing license or a nonresident lobster and crab landing permit must identify the declared lobster zone in which the person is authorized to fish a majority of that person's lobster traps and must identify all other zones in which a person is authorized to fish that person's traps. A person may not place any lobster traps in a zone that is not identified on that person's license. For the purposes of this subsection, the majority of a person's lobster traps must be determined from the number of trap tags issued to that person.

[2015, c. 68, §5 (AMD) .]

2. Rules for zones. The commissioner may adopt rules for a zone established under subsection 1 that are proposed pursuant to section 6447, subsection 5, section 6447, subsection 5-C or section 6447, subsection 5-D only when the rules were proposed by the lobster management policy council established for that zone pursuant to section 6447, subsection 1 and the proposed rules were approved in a referendum pursuant to section 6447, subsection 6. The commissioner may accept the rules proposed by a lobster management policy council as reasonable and adopt those rules or reject the council's proposed rules as unreasonable. The rules adopted under this subsection by the commissioner must accurately reflect the intent of the rules proposed by a lobster management policy council but are not required to be a verbatim rendition of the proposed rules.

A. [1995, c. 568, §4 (RP) .]

B. [1995, c. 568, §4 (RP) .]

C. [1995, c. 568, §4 (RP) .]

[2007, c. 204, §2 (AMD) .]

2-A. Rules pursuant to section 6447, subsection 5-A.

[2001, c. 282, §1 (NEW); T. 12, §6446, sub-§2-A (RP) .]

2-B. Rules pursuant to section 6447, subsection 5-B.

[2005, c. 202, §2 (RP) .]

3. Application of zone rules. The commissioner may adopt rules that define the application of zone rules to a person who holds a license under section 6421 and who fishes for lobsters in more than one zone.

[1995, c. 468, §8 (NEW) .]

4. Public hearing not required. In adopting rules under subsection 2, the commissioner is not required to hold a public hearing on the rules pursuant to Title 5, section 8052. Except as provided in subsection 6, the commissioner shall comply with all other provisions of Title 5, chapter 375 when adopting rules under subsection 2.

[1995, c. 568, §5 (AMD) .]

5. Role of advisory council. Notwithstanding any provisions to the contrary, the commissioner may adopt rules under this section without the advice and consent of the Marine Resources Advisory Council.

[1995, c. 468, §8 (NEW) .]

6. Petition for rule prohibited. A person may not petition the commissioner pursuant to Title 5, section 8055 for the adoption or modification of a rule for a lobster management zone established under this section that regulates the number of lobster traps fished and the time periods allowed for complying with that number, the number of lobster traps allowed on a trawl and the time of day when lobster fishing may occur.

[1995, c. 568, §6 (NEW) .]

SECTION HISTORY

1995, c. 468, §8 (NEW). 1995, c. 568, §§4-6 (AMD). 1999, c. 508, §1 (AMD). 2001, c. 282, §1 (AMD). 2003, c. 466, §§2,3 (AMD). 2003, c. 466, §5 (AFF). 2005, c. 202, §§1,2 (AMD). 2005, c. 239, §3 (AMD). 2007, c. 201, §16 (AMD). 2007, c. 204, §2 (AMD). 2015, c. 68, §5 (AMD).

§6447. LOBSTER MANAGEMENT POLICY COUNCILS

1. Councils. The commissioner shall establish a lobster management policy council for each zone created under section 6446. Council members must be reimbursed pursuant to Title 5, section 12004-I, subsection 57-A.

[1995, c. 468, §8 (NEW) .]

2. Rules for operation. By July 1, 1996, the commissioner shall establish by rule operating procedures for lobster management policy councils, including, but not limited to, the number of members on councils, the election and terms of council members and the process for referenda on council policies. A council must have an odd number of voting members.

[1995, c. 468, §8 (NEW) .]

3. Council members appointment; election. Upon establishing a lobster management policy council, the commissioner shall appoint members to the council to equitably represent lobster harvesters throughout a zone. Members appointed by the commissioner serve one-year terms. An election of subsequent council members must be held within one year of the commissioner's appointments. Council members are elected by plurality vote. An individual who has been convicted or adjudicated of a lobster violation within the previous 7 years is not eligible for election as a council member unless a waiver from this limitation has been granted by the commissioner for good cause as determined by the commissioner in the commissioner's discretion.

[2009, c. 394, §13 (AMD) .]

4. Legislative representation. The President of the Senate and the Speaker of the House shall jointly appoint a Legislator to each lobster management policy council. The Legislator is a nonvoting member and serves a 2-year term.

[1995, c. 468, §8 (NEW) .]

5. Council authority. Upon approval in a referendum under subsection 6, a lobster management policy council may propose to the commissioner rules for a zone to place the following limitations on lobster and crab fishing license holders that fish in that zone, as long as the proposed limitations are equal to or stricter than the limitations under section 6431-A or 6440:

A. The number of lobster traps fished and the time periods allowed for complying with that number;

[1995, c. 468, §8 (NEW) .]

B. The number of lobster traps allowed on a trawl; and [1995, c. 468, §8 (NEW) .]

C. The time of day when lobster fishing may occur. [1995, c. 468, §8 (NEW) .]

[2015, c. 68, §6 (AMD) .]

5-A. Zone C council authority.

[2001, c. 282, §2 (NEW); T. 12, §6447, sub-§5-A (RP) .]

5-B. Zone E council authority.

[2005, c. 202, §3 (RP) .]

5-C. Apprentice program rules. Notwithstanding any other provision of this subchapter, upon approval in a referendum under subsection 6, a lobster management policy council may propose to the commissioner rules for a zone that do any of the following:

A. Increase the minimum length of time an apprentice must be enrolled in the apprentice program beyond the period established in section 6422, subsection 2. The minimum enrollment period may not exceed 5 years. [2005, c. 202, §4 (NEW); 2005, c. 202, §5 (AFF) .]

B. Require a sponsor of an apprentice to have held a Class I, Class II or Class III lobster and crab fishing license for at least 5 years; and [2005, c. 202, §4 (NEW); 2005, c. 202, §5 (AFF) .]

C. Require a person to complete all requirements of the apprentice program in a specific zone in order to enter that zone as a Class I, Class II or Class III lobster and crab fishing license holder. A rule proposed under this paragraph and adopted under section 6446, subsection 2 may not be applied to those portions of the apprentice program requirements a person has completed prior to the effective date of the rule. [2005, c. 202, §4 (NEW); 2005, c. 202, §5 (AFF) .]

A rule proposed under paragraph A or B and adopted by the commissioner under section 6446, subsection 2 does not apply to persons who are enrolled in the apprentice program on the date the rule takes effect.

[2005, c. 202, §4 (NEW); 2005, c. 202, §5 (AFF) .]

5-D. Council authority; under 18 waiting list. Notwithstanding any other provision in this subchapter and upon approval in a referendum under subsection 6, a lobster management policy council in a limited-entry zone may propose to the commissioner that the limitation described in this subsection be placed on entry by individuals into that zone in accordance with rules adopted by the department.

This limitation would require that the number of individuals who are authorized to be issued a lobster and crab fishing license that identifies a limited-entry zone as the declared lobster zone without meeting the requirements of section 6448, subsection 4, in accordance with section 6448, subsection 8, paragraph A, be limited to the number of new zone entrants who enter that zone in accordance with section 6448, subsection 7-A. This limitation may not be applied to a person who is under 18 years of age and lives on a year-round basis on an island within the coastal waters that is not connected to the mainland by any artificial structure.

The commissioner shall maintain a waiting list of individuals who have identified the limited-entry zone as their declared lobster zone in accordance with section 6448, subsection 8, paragraph A. For the purposes of this subsection, an individual on a waiting list maintained by the commissioner does not need to meet the eligibility requirements of section 6421, subsection 5-A in order to purchase a student license.

The commissioner may establish by rule procedures to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2013, c. 239, §1 (AMD) .]

6. Referendum on policy proposals. A lobster management policy council must submit proposed rules to referendum in the zone in which the rules would apply before submitting those proposed rules to the commissioner. A lobster management policy council may submit proposed rules to the commissioner if the proposed rules are approved by 2/3 of those voting in the referendum.

[1995, c. 568, §7 (AMD) .]

7. Council member and voter qualifications. A person may not be a member of a zone's lobster management policy council or vote in a zone's council election or referendum unless that person:

A. Possesses a Class I, Class II or Class III lobster and crab fishing license issued under section 6421; and [1995, c. 468, §8 (NEW).]

B. Declared at the time of obtaining a Class I, Class II or Class III license the zone in which the person fishes a majority of that person's lobster traps. A person may declare only one zone as the zone in which the person fishes a majority of that person's lobster traps. [1999, c. 508, §2 (AMD).]

The holder of a lobster and crab fishing license issued under section 6421 may fish for lobsters in any zone.

[1999, c. 508, §2 (AMD) .]

8. Role of advisory council. Notwithstanding any provisions to the contrary, the commissioner may adopt rules under this section without the advice and consent of the Marine Resources Advisory Council.

[1995, c. 468, §8 (NEW) .]

9. Notice. When a meeting of a lobster management policy council includes as an agenda item a proposal that, if adopted, would affect the ability of a person who does not hold a lobster and crab fishing license to participate in the lobster and crab fishing industry, including but not limited to a proposal regarding exit ratios under section 6448, the agenda must be posted publicly at least 7 days in advance of the meeting.

[2015, c. 428, §3 (NEW) .]

SECTION HISTORY

1995, c. 468, §8 (NEW). 1995, c. 568, §7 (AMD). 1999, c. 187, §3 (AMD). 1999, c. 508, §2 (AMD). 2001, c. 282, §2 (AMD). 2003, c. 466, §4 (AMD). 2005, c. 202, §§3,4 (AMD). 2005, c. 202, §5 (AFF). 2007, c. 204, §3 (AMD). 2007, c. 615, §10 (AMD). 2009, c. 394, §13 (AMD). 2009, c. 499, §2 (AMD). 2009, c. 499, §3 (AFF). 2013, c. 239, §1 (AMD). 2015, c. 68, §6 (AMD). 2015, c. 428, §3 (AMD).

§6448. LIMITED-ENTRY ZONES

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

A. "Declared lobster zone" means the zone identified on a lobster and crab fishing license pursuant to section 6446, subsection 1-A. [1999, c. 508, §3 (NEW).]

B. "Limited-entry zone" means a lobster management zone established pursuant to section 6446 for which rules establishing limits on new zone entrants have been adopted pursuant to subsection 2. [1999, c. 508, §3 (NEW).]

C. "New zone entrant" means a person who declares a limited-entry zone as that person's declared lobster zone but who did not hold in the previous licensing year a Class I, Class II or Class III lobster and crab fishing license that identified that zone as the person's declared lobster zone. [1999, c. 508, §3 (NEW).]

[1999, c. 508, §3 (NEW) .]

2. Rules for limited-entry zones. The commissioner may adopt rules establishing limits on new zone entrants to a lobster management zone. These rules must be adopted in accordance with this subsection.

A. After conducting a written survey in the zone, a lobster management policy council may propose to the commissioner an exit ratio to limit new zone entrants to the zone. The lobster management policy council is not required to submit the proposal to referendum and the proposed exit ratio does not need to receive approval through the survey in order to be forwarded to the commissioner. [2005, c. 239, §4 (AMD).]

A-1. A lobster management policy council may recommend to the commissioner whether the exit ratio adopted for a lobster management zone should be applied to the number of licenses that are not renewed or to the number of trap tags associated with the licenses that are not renewed. A lobster management policy council may recommend that an exit ratio applied to the number of trap tags associated with licenses that are not renewed that meets the requirements of paragraph C be applied retroactively to a licensing year in which the exit ratio in that zone was based upon the number of trap tags retired. The lobster management policy council is not required to submit the recommendation to referendum. [2015, c. 428, §4 (AMD).]

B. The commissioner may initiate rulemaking under this subsection only upon receipt of a proposal under paragraph A or a recommendation under paragraph A-1. The commissioner shall hold a public hearing on the proposed rules pursuant to Title 5, section 8052. The public hearing must be held in the zone in which the rules would apply and the results of the written survey regarding the exit ratio must be entered into the record. [2013, c. 239, §2 (AMD).]

C. In accordance with subsection 7-A, the commissioner shall adopt rules that establish an exit ratio between either:

- (1) The number of trap tags retired by individuals who declared that zone as their declared lobster zone in the year prior to the previous calendar year, but who did not declare that zone as their declared lobster zone in the previous calendar year, and the number of trap tags issued to new zone entrants authorized under subsection 7-A; or
- (2) The number of individuals who declared that zone as their declared lobster zone in the year prior to the previous calendar year, but who did not declare that zone as their declared lobster zone in the previous calendar year, and the number of new zone entrants authorized under subsection 7-A.

The number of trap tags retired under subparagraph (1) must be considered to be the total of the greatest number of trap tags purchased in any prior year under each license that is not renewed, up to the current zone maximum.

An exit ratio established by rule under this subsection is not required to be the same as the exit ratio proposed by the lobster management policy council. [2015 , c . 428 , §5 (AMD) .]

D. Upon written notification from the lobster management policy council that a majority of the council has voted to conduct a survey in a zone regarding a proposal for an exit ratio to limit new zone entrants to the zone, the commissioner shall close the zone to new zone entrants until the commissioner either adopts rules under this subsection or declares that the commissioner will not initiate rulemaking under this subsection. In no event may the zone remain closed for longer than one year unless the commissioner has adopted rules establishing limits on new zone entrants to the zone. [2013 , c . 239 , §2 (AMD) .]

E. When a lobster management policy council proposes to the commissioner a change in the exit ratio established under paragraph C and a new exit ratio is adopted by rule under this subsection, the commissioner shall allow individuals who meet the following conditions to enter the zone in accordance with the previously existing exit ratio:

- (1) The individual has completed the requirements of the apprenticeship program established under section 6422 by the date the commissioner receives written notification from the lobster management policy council that a majority of the council has voted to conduct a survey pursuant to paragraph D; and
- (2) The individual's name is listed on the waiting list maintained under subsection 6 by the date the commissioner receives written notification from the lobster management policy council that a majority of the council has voted to conduct a survey pursuant to paragraph D.

This paragraph does not apply when the methodology by which new entrants are calculated is changed from trap tags to licenses or when an exit ratio based on the number of trap tags retired is adopted, in accordance with paragraph C, for the first time in a lobster management zone. [2013 , c . 239 , §2 (AMD) .]

F. When a lobster management policy council proposes to the commissioner to establish an exit ratio for the first time to limit new zone entrants under paragraph A, it may also propose to the commissioner a provision to exempt from the exit ratio, upon completion of the apprentice program, an individual who has completed at least 92% of the hours required and at least 92% of the days required by the apprentice program established under section 6422 by the date the commissioner receives written notification from the lobster management policy council pursuant to paragraph D. [2005 , c . 239 , §4 (NEW) ; 2005 , c . 239 , §11 (AFF) .]

[2015 , c . 428 , §§4 , 5 (AMD) .]

3. Fishing in limited-entry zones. A person who holds a Class I, Class II, Class III or student lobster and crab fishing license may not fish a majority of that person's lobster traps in a limited-entry zone unless that person's license identifies that zone as the declared lobster zone.

[2015, c. 68, §7 (AMD) .]

4. Limited-entry zone as declared lobster zone. A person may not be issued a Class I, Class II or Class III lobster and crab fishing license that identifies a limited-entry zone as the declared lobster zone unless that person:

A. Held in the previous licensing year a Class I, Class II or Class III lobster and crab fishing license that identified that zone as the person's declared lobster zone; or [1999, c. 508, §3 (NEW) .]

B. Is authorized as a new zone entrant by the commissioner pursuant to subsection 7-A to declare that zone as the person's declared lobster zone. [2013, c. 239, §3 (AMD) .]

[2013, c. 239, §3 (AMD) .]

5. Application for limited-entry zone. A person who wishes to be a new zone entrant shall indicate to the commissioner in writing a request to declare a limited-entry zone as the person's declared lobster zone, in accordance with this subsection. A person may indicate up to 2 limited-entry zones that the person requests to declare as the person's declared lobster zone. The commissioner shall stamp each request with the time and date of submission. A person may not be authorized as a new zone entrant unless that person made a request under this subsection no later than December 15th of the previous calendar year.

A. A person who held a Class I, Class II or Class III lobster and crab fishing license in the previous licensing year and wishes to be a new zone entrant shall indicate to the commissioner in writing a request to declare a limited-entry zone as the person's declared lobster zone. The person must be put on a waiting list maintained under subsection 6 according to the time and date the commissioner receives the request. [1999, c. 693, §2 (NEW) .]

B. A person who did not hold a Class I, Class II or Class III lobster and crab fishing license in the previous licensing year and wishes to be a new zone entrant shall indicate to the commissioner in writing which zone the person requests to declare as the person's declared lobster zone. The person must be put on a waiting list maintained under subsection 6 according to the date the commissioner determines that the person is eligible for a Class I, Class II or Class III lobster and crab fishing license pursuant to section 6421, subsection 5, except that if the person does not indicate to the commissioner in writing which zone the person requests to declare as the person's declared lobster zone within 30 days of the date the commissioner determines that the person is eligible, the person must be put on the waiting list according to the time and date the commissioner receives such a written request. [1999, c. 693, §2 (NEW) .]

[1999, c. 693, §2 (AMD) .]

6. Waiting lists. The commissioner shall maintain and make available waiting lists as follows:

A. A waiting list of persons who did not hold a lobster and crab fishing license in the previous licensing year who have requested to declare a limited-entry zone as their declared lobster zone. The list must be arranged in chronological order in accordance with subsection 5; and [2015, c. 428, §6 (NEW) .]

B. A waiting list of persons who held a lobster and crab fishing license in the previous licensing year who have requested to declare a limited-entry zone as their declared lobster zone. The commissioner shall adopt rules to administer entry of persons on the list established under this paragraph into limited-entry zones. [2015, c. 428, §6 (NEW) .]

The commissioner shall create a waiting list for a zone at the time the commissioner closes the zone pursuant to subsection 2, paragraph D.

[2015, c. 428, §6 (RPR) .]

6-A. Periodic verification of waiting list. The commissioner shall verify at least once every 3 years that each person who is listed on a waiting list established under subsection 6 wishes to remain on the waiting list. To verify that a person wishes to remain on a waiting list, the commissioner must attempt to contact the person by regular mail, telephone or e-mail. If a person does not respond within 60 days of the initial attempt to contact, a notice must be sent by certified mail informing the person that a response is required within 30 days from the date of mailing. The commissioner shall remove a person from a waiting list who does not respond to the notice sent by certified mail within 30 days after the date of mailing. The commissioner may place a person who has been removed from a waiting list pursuant to this subsection back on a waiting list in the position where the person would otherwise have been when the person shows that the reason for not responding was that the person was on active duty with the Armed Forces of the United States or the National Guard.

[2015, c. 428, §7 (NEW) .]

7. Authorization of new zone entrants.

[2013, c. 239, §4 (RP) .]

7-A. Authorization of new zone entrants. The commissioner shall determine by April 1st of each licensing year the number of new zone entrants that may be authorized for each limited-entry zone. The number of new zone entrants authorized in a licensing year must be in accordance with the exit ratio established under subsection 2 for that zone. The commissioner may adopt rules consistent with subsection 2, paragraph B to implement this subsection. Upon adoption of rules, the exit ratio must be used to establish the number of new zone entrants in accordance with subsection 2, paragraph C by:

A. Dividing the number of trap tags that may be issued to new zone entrants by the zone trap limit under section 6431-A. The number of new zone entrants must be rounded down to the nearest whole number and the remaining trap tags carried over to the following year's allocation; or [2013, c. 239, §5 (NEW) .]

B. Applying the exit ratio to the number of individuals who declared that zone as their declared lobster zone in the year prior to the previous calendar year, but who did not declare that zone as their declared lobster zone in the previous calendar year. [2013, c. 239, §5 (NEW) .]

The commissioner shall authorize new zone entrants in chronological order of requests received under subsection 5. The commissioner shall notify the authorized new zone entrants by certified mail. If a person does not declare a zone within 30 days after receiving the notification by certified mail, that person must be taken off the waiting list and the next person on the list must be authorized as a new zone entrant. If a person has indicated a request for more than one zone pursuant to subsection 5, that person must be taken off the waiting list for the 2nd zone when the person declares one of the zones as that person's declared lobster zone after being authorized to do so. If a person who holds a current Class I, Class II or Class III lobster and crab fishing license is authorized as a new zone entrant and declares the zone as that person's declared lobster zone, the commissioner shall change the zone identified on that person's license to the limited-entry zone for which the person is authorized.

[2015, c. 428, §8 (AMD) .]

8. Exceptions. Notwithstanding subsection 4, the following persons may be issued a Class I, Class II or Class III lobster and crab fishing license that identifies a limited-entry zone as the declared lobster zone without meeting the requirements in subsection 4.

A. A person who is under 18 years of age who successfully completed the requirements of the apprentice program under section 6422 and who submitted documentation of completion of the apprentice program to the department before attaining 18 years of age may declare any zone as that person's declared lobster zone as long as the individual has met all apprentice program rules that may have been adopted in that zone. [2011, c. 486, §3 (AMD).]

A-1. [2007, c. 615, §11 (RP).]

A-2. A person under 20 years of age may declare any zone as that person's declared lobster zone if the person:

- (1) Successfully completed the requirements of the apprentice program under section 6422;
- (2) Submitted documentation of completion of the apprentice program to the department before attaining 20 years of age;
- (3) Received a high school diploma or a high school equivalency diploma; and
- (4) Has met all apprentice program rules that may have been adopted in that zone. [2015, c. 428, §9 (NEW).]

A-3. A person under 23 years of age may declare any zone as that person's declared lobster zone if the person:

- (1) Has logged time fishing in the apprentice program in accordance with section 6422 before attaining 18 years of age;
- (2) Successfully completed the requirements of the apprentice program under section 6422;
- (3) Submitted documentation of completion of the apprentice program to the department before attaining 23 years of age;
- (4) Is enrolled in and meeting the requirements of a half-time course of study as defined in section 6421, subsection 5-A at a postsecondary institution accredited by a state-recognized accrediting agency or body;
- (5) Has met all apprentice program rules that may have been adopted in that zone; and
- (6) Has been eligible for a student lobster and crab fishing license since before that person attained 18 years of age and has been eligible for that license in each licensing year thereafter. [2015, c. 428, §9 (NEW).]

B. A person who is issued a Class I, Class II or Class III lobster and crab fishing license on appeal pursuant to section 6310, subsection 2, paragraph A, subparagraph (1) or (2) may declare as that person's declared lobster zone the zone in which the person was authorized to fish a majority of that person's lobster traps in the most recent year in which the person held a license. [1999, c. 643, §7 (NEW).]

C. A person who is issued a Class I, Class II or Class III lobster and crab fishing license pursuant to section 6421, subsection 5, paragraph D may declare as that person's declared lobster zone the zone in which the person was authorized to fish a majority of that person's lobster traps in the most recent year in which the person held a license. [1999, c. 643, §7 (NEW).]

D. A person who is issued a Class I, Class II or Class III lobster and crab fishing license and is 70 years of age or older may declare any zone as that person's declared lobster zone. [2007, c. 204, §8 (NEW).]

E. A person who has either successfully completed the requirements of the apprentice program under section 6422 or held a Class I, Class II or Class III lobster and crab fishing license in the previous calendar year and who has registered to enter an established island limited-entry program as described under section 6449 may declare as that person's declared lobster zone the zone in which that island limited-entry program is located when the person becomes eligible to enter the island limited-entry program. [2011, c. 486, §4 (AMD).]

The trap tags or license issued to a person who declares a limited-entry zone as that person's declared lobster zone pursuant to this subsection may not be counted for the purposes of the exit ratio or the number of new zone entrants that may be authorized for that zone.

[2015, c. 428, §9 (AMD) .]

9. Rules. The commissioner may establish by rule procedures to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[1999, c. 508, §3 (NEW) .]

10. Survey required.

[2013, c. 239, §7 (RP) .]

SECTION HISTORY

1999, c. 508, §3 (NEW). 1999, c. 643, §7 (AMD). 1999, c. 693, §§1,2 (AMD). 2003, c. 510, §A7 (AMD). 2005, c. 239, §4 (AMD). 2005, c. 239, §11 (AFF). 2007, c. 204, §§4-9 (AMD). 2007, c. 615, §11 (AMD). 2009, c. 294, §1 (AMD). 2011, c. 486, §§ 3, 4 (AMD). 2013, c. 239, §§2-7 (AMD). 2015, c. 68, §7 (AMD). 2015, c. 428, §§4-9 (AMD).

§6449. ISLAND LIMITED-ENTRY PROGRAMS

An island limited-entry program may be established pursuant to this section in order to maintain a number of licenses appropriate for the needs of an island community and the local lobster resource. [2009, c. 294, §2 (NEW) .]

1. Proposal to the commissioner. Notwithstanding section 6448, subsection 7-A, a year-round island community may petition the commissioner for the establishment of an island limited-entry zone program if a minimum of 5 island residents that are holders of a Class I, Class II or Class III lobster and crab fishing license or 10% of the island residents that are holders of a Class I, Class II or Class III lobster and crab fishing license, whichever is greater, signs the petition submitted to the commissioner. If a majority of the Class I, Class II or Class III lobster and crab fishing license holders that are residents on the island voting in a referendum held pursuant to section 6447, subsection 6 support the establishment of an island limited-entry zone program, the commissioner may adopt rules to establish such a program, including a waiting list. Before establishing or amending the number of licenses available to island residents, the commissioner shall determine the number of licenses preferred by a majority of the Class I, Class II or Class III lobster and crab fishing license holders resident on the island. The commissioner may accept the preferences proposed by a majority of the license holders as reasonable and adopt those preferences or reject the preferences as unreasonable. The commissioner shall consult with the lobster management policy council for the lobster management zone in which the island is located before making the decision.

[2015, c. 428, §10 (AMD) .]

2. No longer resident. An individual who obtains a Class I, Class II or Class III lobster and crab fishing license through an island limited-entry program but who no longer wishes to maintain residency on the island is subject to the following requirements.

A. A person who held a Class I, Class II or Class III lobster and crab fishing license and maintained residency on the island for a period of not less than 8 years and who can document to the commissioner that the person harvested lobsters in each of the 8 years may end the person's residency on the island and fish elsewhere in the lobster management zone in which the island is located without going on a waiting list as established in section 6448. [2009, c. 294, §2 (NEW) .]

B. A person who holds a Class I, Class II or Class III lobster and crab fishing license and who either has maintained residency on the island for less than 8 years or who has maintained residency on the island for at least 8 years but cannot document to the commissioner that the person harvested lobsters in each of the 8 years may end the person's residency on the island and become eligible to fish elsewhere in the lobster management zone in which the island is located if that person complies with the waiting list requirement established in accordance with section 6448. [2009, c. 294, §2 (NEW).]

[2009, c. 294, §2 (NEW) .]

3. Restriction. This section applies only to an island in the coastal waters with a year-round community that is not connected to the mainland by an artificial structure.

[2009, c. 294, §2 (NEW) .]

4. Rules. The commissioner shall adopt rules to implement the island limited-entry program. The rules must include but are not limited to:

A. A definition of residency on an island; [2009, c. 294, §2 (NEW).]

B. Allowances for the temporary absence from an island due to a medical condition or educational requirements; and [2009, c. 294, §2 (NEW).]

C. Providing for an opportunity for increasing the number of Class I, Class II or Class III lobster and crab fishing license holders on an island, if appropriate, based on the characteristics of the island and the lobster resource. [2009, c. 294, §2 (NEW).]

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2009, c. 294, §2 (NEW) .]

SECTION HISTORY

2009, c. 294, §2 (NEW). 2013, c. 239, §8 (AMD). 2015, c. 428, §10 (AMD).

§6450. TEMPORARY MEDICAL ALLOWANCE

1. Temporary medical allowance. Notwithstanding section 6421, upon request the commissioner may issue a temporary medical allowance that permits an individual to fish under the authority of the license of a Class I, Class II or Class III lobster and crab fishing license holder but not under the license holder's direct supervision if the following criteria are met:

A. The individual who will be fishing has successfully completed an apprentice program under section 6422; [2013, c. 239, §9 (NEW).]

B. The individual who will be fishing is the child or spouse of the individual who holds the Class I, Class II or Class III lobster and crab fishing license; [2013, c. 239, §9 (NEW).]

C. The holder of the Class I, Class II or Class III lobster and crab fishing license is unable to use that license due to a substantial illness or medical condition. The holder of the Class I, Class II or Class III lobster and crab fishing license shall provide the commissioner with documentation from a physician describing the illness or other medical condition; and [2013, c. 239, §9 (NEW).]

D. The holder of the Class I, Class II or Class III lobster and crab fishing license documents to the commissioner that the license holder harvested a minimum of 1,000 pounds of lobsters within one year prior to the request for the temporary medical allowance. [2013, c. 239, §9 (NEW).]

A temporary medical allowance may not exceed one year. A request for a temporary medical allowance must be in writing and must specify the dates for which the temporary medical allowance is requested. The holder of the Class I, Class II or Class III lobster and crab fishing license on which the temporary medical allowance is based must maintain a valid license during the duration of the temporary medical allowance. The holder of the Class I, Class II or Class III lobster and crab fishing license is liable for the activities of the individual fishing under the temporary medical allowance.

[2013, c. 239, §9 (NEW) .]

SECTION HISTORY

2013, c. 239, §9 (NEW).

Subchapter 3: LOBSTER FUND

§6451. LOBSTER FUND

1. Allocation of license fees.

[2017, c. 284, Pt. EEEEE, §5 (RP) .]

1-A. Lobster Fund established. The Lobster Fund is established within the department. The Lobster Fund receives surcharge fees collected pursuant to section 6421, subsection 7-C. Funds deposited in the Lobster Fund must be used for the purposes of lobster biology research, propagation of lobsters by liberating seed lobsters and female lobsters in the State's coastal waters and establishing and supporting lobster hatcheries.

[2017, c. 284, Pt. EEEEE, §6 (NEW) .]

2. Purchases; liberation. The commissioner may authorize the expenditure of the money in the Lobster Fund for the purpose of purchasing seed lobsters from Maine lobster pound owners and female lobsters from wholesale seafood license holders. The commissioner shall establish the purchase price for seed and female lobsters after consultation with the industry. The commissioner shall give priority to purchasing seed lobsters.

[1979, c. 127, §85 (AMD) .]

3. Liberation and v-notching. The commissioner may provide purchased seed lobsters to lobster hatcheries. The remaining seed and all other female lobsters shall be liberated in the coastal waters after v-notching them in the right flipper. The right flipper shall be determined as established under section 6436, subsection 1.

[1985, c. 237, §2 (RPR) .]

4. Program. The commissioner may authorize the expenditure of money in the Lobster Fund for research and development programs which address the restoration, development or conservation of lobster resources.

[1985, c. 237, §2 (RPR) .]

5. Nonlapsing fund.

The Lobster Fund shall not lapse.

[1977, c. 661, §5 (NEW) .]

6. Lobster hatcheries. The commissioner, with the advice of the Lobster Advisory Council, may authorize expenditure of money from the Lobster Fund, any available funds and, as appropriated by the Legislature, the General Fund to make grants in support of the establishment and operation of

lobster hatcheries. The grants shall be for a one-year period and shall be renewable indefinitely upon successful reapplication. There shall be no more than 5 lobster hatcheries supported under this section. The commissioner shall develop rules, including biological and economic criteria for evaluating proposals. The commissioner shall require the grantee to keep a log of activities regarding the hatchery and shall require a written report at the termination of each grant.

[1987, c. 406, (RPR) .]

7. Lobster Advisory Council. The commissioner shall consult with the Lobster Advisory Council on the expenditure of funds under this section.

[1985, c. 237, §3 (NEW) .]

8. Apprentice program. The commissioner may authorize the expenditure of money in the Lobster Fund to cover the initial costs of developing and delivering the educational component of the apprentice program under section 6422, subsection 3. Any expenditures must be reimbursed to the Lobster Fund from the fees charged under section 6422, subsection 3.

[1995, c. 468, §9 (NEW) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1977, c. 713, §5 (AMD). 1979, c. 127, §85 (AMD). 1981, c. 480, §§2,15,16 (AMD). 1983, c. 824, §K3 (AMD). 1985, c. 237, §§1-3 (AMD). 1985, c. 243, (AMD). 1985, c. 353, §1 (AMD). 1985, c. 737, §A27 (AMD). 1987, c. 406, (AMD). 1987, c. 513, §5 (AMD). 1989, c. 455, §3 (AMD). 1995, c. 468, §9 (AMD). 1997, c. 19, §4 (AMD). 2003, c. 20, §WW5 (AMD). 2003, c. 520, §6 (AMD). 2005, c. 354, §3 (AMD). 2007, c. 615, §12 (AMD). 2009, c. 213, Pt. G, §4 (AMD). 2009, c. 561, §18 (AMD). 2017, c. 284, Pt. EEEEE, §§5, 6 (AMD).

Subchapter 3-A: MAINE LOBSTER MARKETING COLLABORATIVE

§6455. MAINE LOBSTER MARKETING COLLABORATIVE

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 10/1/18)

(WHOLE SECTION TEXT REPEALED 10/1/18)

1. Collaborative established; purpose. The Maine Lobster Marketing Collaborative, established in Title 5, section 12004-H, subsection 14 and referred to in this subchapter as the "collaborative," is created to promote and market actively Maine lobsters in state, regional, national and international markets. The collaborative shall draw upon the expertise of the Maine lobster industry and established private marketing firms to identify market areas that will provide the greatest return on the investments made by lobster license holders and undertake those media or promotional efforts that represent the most cost-effective use of a limited promotional budget. The collaborative shall remain responsive to the Maine lobster industry, conduct its business in a public manner and undertake marketing efforts that promote the quality and full utilization of the product and the unique character of the coastal Maine lobster fishery.

A. [2013, c. 309, §2 (RP).]

B. [2013, c. 309, §2 (RP).]

C. [2013, c. 309, §2 (RP).]

[2013, c. 309, §2 (AMD) .]

1-A. Collaborative is a public instrumentality. The collaborative is established as a public instrumentality serving a public purpose. As a public instrumentality:

A. Employees of the collaborative may not be construed to be state employees for any purpose, including the state civil service provisions of Title 5, Part 2 and Title 5, chapter 372 and the state retirement system provisions of Title 5, Part 20; [2013 , c . 309 , §2 (AMD) .]

B. The collaborative may not be construed to be a state agency for any purposes, including the budget, accounts and control, auditing, purchasing or other provisions of Title 5, Part 4; and [2013 , c . 309 , §2 (AMD) .]

C. Notwithstanding any provisions of paragraphs A and B:

(1) All meetings and records of the collaborative are subject to the provisions of Title 1, chapter 13, subchapter 1, except as provided in subsection 1-B. The commissioner and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over marine resource matters have access to all material designated confidential by the collaborative;

(2) Members of the collaborative are governed by the conflict of interest provisions set forth in Title 5, section 18; and

(3) For the purposes of the Maine Tort Claims Act, the collaborative is a "governmental entity" and its employees are "employees" as those terms are defined in Title 14, section 8102. [2013 , c . 309 , §2 (AMD) .]

[2013 , c . 309 , §2 (AMD) .]

1-B. Market studies and promotional plans; proprietary information. Information provided to or developed by the collaborative and included in a promotional plan or market study is public unless the collaborative determines that it contains proprietary information. For the purposes of this subsection, "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 collaborative or the person submitting the information and would make available information not otherwise publicly available.

[2013 , c . 309 , §2 (AMD) .]

1-C. Collaborative members; appointments; terms. The collaborative consists of 11 voting members, 9 appointed by the commissioner as follows:

A. Four individuals representing the lobster management policy councils established pursuant to section 6447. Each lobster management policy council shall prepare a list of up to 3 nominees from its zone for consideration by the commissioner for the appointments under this paragraph. In making appointments under this paragraph, the commissioner shall select members to ensure a geographic distribution of representation from lobster management zones established pursuant to section 6446; [2013 , c . 309 , §2 (NEW) .]

B. Three individuals:

(1) At least 2 of whom are owners, managers or officers of business entities operating in the State that hold valid wholesale seafood licenses with lobster permits, from a list of nominees prepared for the commissioner by the Lobster Advisory Council established under section 6462-A; and

(2) At least one of whom represents the interests of lobster dealers and processors; and [2013 , c . 309 , §2 (NEW) .]

C. Two individuals who are public members with experience in marketing and promotion, retail sales, food service or food science, from a list of nominees prepared for the commissioner by the Lobster Advisory Council established under section 6462-A. [2013 , c . 309 , §2 (NEW) .]

Members are appointed by the commissioner for terms of 3 years. A person may not serve more than 2 consecutive 3-year terms as a member of the collaborative.

The commissioner or the commissioner's designee serves as an ex officio member of the collaborative. The Commissioner of Economic and Community Development or the commissioner's designee serves as an ex officio member of the collaborative.

[2013, c. 309, §2 (NEW) .]

2. Qualifications of members.

[2013, c. 309, §2 (RP) .]

2-A. Officers. By majority vote, the collaborative shall annually elect a chair from among its members and may elect other officers in accordance with its bylaws.

[2013, c. 309, §2 (NEW) .]

3. Meetings. The collaborative shall meet at least quarterly. A quorum of 6 members is required to conduct the business of the collaborative. Additional meetings may be called by the chair. If 3 or more members of the collaborative submit to the chair a written request for a meeting, the chair shall call a meeting to be held no sooner than 14 days after receipt of the written request. The commissioner may remove any member with unexcused absences from 2 or more consecutive meetings of the collaborative.

[2013, c. 309, §2 (AMD) .]

3-A. Employees. The collaborative shall hire an executive director and may hire staff as needed to perform its duties. Employees of the Maine Lobster Marketing Collaborative serve at the pleasure of the collaborative. The salary and benefits for employees of the collaborative are determined by the collaborative.

[2013, c. 309, §2 (AMD) .]

4. Powers and duties. The collaborative may:

A. Undertake promotional marketing programs in cooperation with the lobster industry; [1991, c. 523, §2 (NEW) .]

B. Promote national and international markets for lobsters harvested or processed in the State; [1991, c. 523, §2 (NEW) .]

C. Provide material and technical assistance to persons seeking to market lobsters harvested or processed in the State; [1991, c. 523, §2 (NEW) .]

D. Conduct other efforts as determined necessary to increase the sales of lobsters harvested or processed in the State; [1991, c. 523, §2 (NEW) .]

D-1. Market and sell goods directly related to the functions of the collaborative and deposit all proceeds in the Lobster Promotion Fund; [2013, c. 309, §2 (AMD) .]

E. Make expenditures from the Lobster Promotion Fund to carry out the purposes of this subchapter. Money in the fund may be used only for the following purposes:

- (1) Promotion, advertising and marketing development. The collaborative may implement programs and activities to promote, advertise and develop markets for lobster and make or enter into contracts with any local, state, federal or private agency, department, firm, corporation, entity or person for those purposes; and

(2) The hiring of staff and the payment of compensation for employees, payment of per diem and reimbursement of expenses for members pursuant to Title 5, section 12004-H and payment of administrative and overhead costs associated with the business of the collaborative; and [2013 , c. 309 , §2 (AMD) .]

F. Accept and deposit in the fund additional funding from any source, public or private. [1991 , c. 523 , §2 (NEW) .]

[2013 , c. 309 , §2 (AMD) .]

5. Lobster Promotion Fund established. The Lobster Promotion Fund, referred to in this subchapter as the "fund," is established to carry out the purposes of this subchapter. The department shall pay to the fund all money appropriated or received by the department for the purposes of this subchapter, except that the department may retain funds necessary to reimburse the department for the actual cost of collecting the license surcharges established in subsection 5-A. The fund is capitalized from the annual surcharges set out in subsection 5-A.

A. [2013 , c. 309 , §2 (RP) .]

B. [2013 , c. 309 , §2 (RP) .]

C. [2013 , c. 309 , §2 (RP) .]

D. [2013 , c. 309 , §2 (RP) .]

E. [2013 , c. 309 , §2 (RP) .]

F. [2013 , c. 309 , §2 (RP) .]

[2013 , c. 309 , §2 (AMD) .]

5-A. License surcharge assessed. The fund is capitalized from annual surcharges assessed on licenses issued by the department for calendar years as follows.

A. For the year 2013 the surcharges are, for:

- (1) Class I lobster and crab fishing licenses for persons 18 to 69 years of age, \$31.25;
- (2) Class II lobster and crab fishing licenses, \$62.50, except that for license holders 70 years of age or older the surcharge is \$32;
- (3) Class III lobster and crab fishing licenses, \$93.75, except that for license holders 70 years of age or older the surcharge is \$47;
- (4) Nonresident lobster and crab landing permits, \$250;
- (5) Wholesale seafood licenses with lobster permits, \$250; and
- (6) Lobster transportation licenses, \$250. [2013 , c. 309 , §2 (NEW) .]

B. For the year 2014 the surcharges are, for:

- (1) Class I lobster and crab fishing licenses for persons 18 to 69 years of age, \$55.25;
- (2) Class II lobster and crab fishing licenses, \$110.50, except that for license holders 70 years of age or older the surcharge is \$55;
- (3) Class III lobster and crab fishing licenses, \$160.75, except that for license holders 70 years of age or older the surcharge is \$80;
- (4) Nonresident lobster and crab landing permits, \$160.75;
- (5) Wholesale seafood licenses with lobster permits if the license holders hold no supplemental wholesale seafood licenses with lobster permits, or lobster transportation licenses if the license holders hold no supplemental lobster transportation licenses, \$400;

(6) Supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses as follows:

- (a) Six hundred dollars for up to 2 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses;
- (b) Eight hundred dollars for 3 to 5 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and
- (c) One thousand dollars for 6 or more supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and

(7) Lobster processor licenses, \$333 if less than 1,000,000 pounds of raw product is processed, and \$1,333 if 1,000,000 pounds or more of raw product is processed. [2013 , c . 492 , §5 (AMD) .]

C. For the year 2015 the surcharges are, for:

- (1) Class I lobster and crab fishing licenses for persons 18 to 69 years of age, \$110.25;
- (2) Class II lobster and crab fishing licenses, \$220.50, except that for license holders 70 years of age or older the surcharge is \$110;
- (3) Class III lobster and crab fishing licenses, \$320.75, except that for license holders 70 years of age or older the surcharge is \$160;
- (4) Nonresident lobster and crab landing permits, \$320.75;
- (5) Wholesale seafood licenses with lobster permits if the license holders hold no supplemental wholesale seafood licenses with lobster permits, or lobster transportation licenses if the license holders hold no supplemental lobster transportation licenses, \$800;
- (6) Supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses as follows:
 - (a) One thousand two hundred dollars for up to 2 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses;
 - (b) One thousand six hundred dollars for 3 to 5 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and
 - (c) Two thousand dollars for 6 or more supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and
- (7) Lobster processor licenses, \$666 if less than 1,000,000 pounds of raw product is processed, and \$2,666 if 1,000,000 pounds or more of raw product is processed. [2013 , c . 492 , §5 (AMD) .]

D. For the years 2016 to 2018 the surcharges are, for:

- (1) Class I lobster and crab fishing licenses for persons 18 to 69 years of age, \$165.25;
- (2) Class II lobster and crab fishing licenses, \$330.50, except that for license holders 70 years of age or older the surcharge is \$165;
- (3) Class III lobster and crab fishing licenses, \$480.75, except that for license holders 70 years of age or older the surcharge is \$240;
- (4) Nonresident lobster and crab landing permits, \$480.75;
- (5) Wholesale seafood licenses with lobster permits if the license holders hold no supplemental wholesale seafood licenses with lobster permits, or lobster transportation licenses if the license holders hold no supplemental lobster transportation licenses, \$1,200;
- (6) Supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses as follows:

- (a) One thousand eight hundred dollars for up to 2 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses;
 - (b) Two thousand four hundred dollars for 3 to 5 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and
 - (c) Three thousand dollars for 6 or more supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and
- (7) Lobster processor licenses, \$1,000 if less than 1,000,000 pounds of raw product is processed, and \$4,000 if 1,000,000 pounds or more of raw product is processed. [2013, c. 492, §5 (AMD) .]

A person holding more than one of the following licenses is assessed only the highest applicable surcharge for those licenses under this subsection: a wholesale seafood license with a lobster permit, a supplemental wholesale seafood license with a lobster permit, a lobster transportation license or a supplemental lobster transportation license.

Beginning in 2014, the commissioner shall review annually the surcharges established in this subsection and recommend changes to the joint standing committee of the Legislature having jurisdiction over marine resource matters, which after receiving the recommendations may report out a bill to the Legislature to adjust surcharges.

The Treasurer of State shall hold all surcharges assessed by this subsection in the fund and invest all money in the fund until disbursed to the collaborative upon request of the collaborative. Interest from investments accrues to the fund.

All money in the fund is subject to allocation by the Legislature. Unexpended balances in the fund at the end of the fiscal year may not lapse but must be carried forward to be used for the same purposes.

In addition to payment of the regular license fee and the surcharge, a person purchasing a license subject to the surcharges established in this subsection may make voluntary contributions to the fund at the time the license is purchased. Voluntary contributions received by the department from a licensee or any other source pursuant to this subsection must be deposited in the fund by the department and must be used by the collaborative for the purposes of this subchapter.

[2013, c. 492, §5 (AMD) .]

6. Reports. The collaborative shall report annually on its activities and expenditures to the joint standing committee of the Legislature having jurisdiction over marine resource matters, to the Lobster Advisory Council established under section 6462-A and, at a statewide meeting of interested license holders, to the lobster industry. The collaborative shall provide notice of the date and location of the statewide meeting of license holders at the time of license issuance or renewal.

[2013, c. 309, §2 (AMD) .]

7. Audit. An annual audit of the expenditures of the collaborative must be performed. The collaborative may contract with the Office of the State Auditor or with a private sector accounting firm to conduct the audit. The collaborative shall report the results of that audit to the joint standing committee of the Legislature having jurisdiction over marine resource matters. If the annual audit is performed by the Office of the State Auditor, the collaborative shall reimburse the department for its costs to conduct that audit.

[2013, c. 309, §2 (AMD) .]

8. Review. By January 15, 2014, the collaborative shall present to the joint standing committee of the Legislature having jurisdiction over marine resource matters a 3-year marketing plan with a detailed work plan and budget for the collaborative's programs and activities from 2014 to 2015. By January 15, 2018, the collaborative shall report to the Lobster Advisory Council established under section 6462-A and the joint standing committee of the Legislature having jurisdiction over marine resource matters the results of a 3rd-

party audit of the results of the collaborative's programs and activities from 2014 to 2017. Based on the outcome of that audit and with consideration of any recommendations by the Lobster Advisory Council, the committee may report out a bill to the Legislature to renew the license surcharges under subsection 5-A or adjust them as appropriate.

[2013, c. 309, §2 (NEW) .]

This section is repealed October 1, 2018. [2013, c. 309, §2 (NEW) .]

SECTION HISTORY

1991, c. 523, §2 (NEW). 1993, c. 282, §§1-4 (AMD). 1993, c. 545, §§1-6 (AMD). 1997, c. 211, §§1-3 (AMD). 1999, c. 668, §82 (AMD). 2001, c. 226, §1 (AMD). 2005, c. 102, §1 (AMD). 2007, c. 138, §§2, 3 (AMD). 2007, c. 201, §§17-19 (AMD). 2007, c. 615, §13 (AMD). 2009, c. 567, §§7, 8 (AMD). 2013, c. 309, §2 (AMD). 2013, c. 492, §5 (AMD).

Subchapter 4: LOBSTER ADVISORY COUNCIL

§6461. PURPOSE

The lobster fishing industry is one of the most important industries in the State because of its contribution to the economy and also because of its unique social, historic and cultural contributions to this State's quality of life. [1979, c. 355, §1 (NEW) .]

This subchapter is enacted to help conserve and promote the prosperity and welfare of the State and its citizens and the lobster fishing that helps to support them. This subchapter will accomplish these goals by fostering and promoting better methods of conserving, utilizing, processing, marketing and studying the lobster. [1979, c. 355, §1 (NEW) .]

SECTION HISTORY

1979, c. 355, §1 (NEW) .

§6462. LOBSTER ADVISORY COUNCIL

(REPEALED)

SECTION HISTORY

1979, c. 355, §1 (NEW). 1981, c. 377, §§1,2 (AMD). 1983, c. 812, §§84,85 (AMD). 1989, c. 503, §B63 (AMD). 1997, c. 208, §2 (RP).

§6462-A. LOBSTER ADVISORY COUNCIL

1. Appointment; composition. The Lobster Advisory Council, established by Title 5, section 12004-I, subsection 58 and in this subchapter known as the "council," consists of the following members:

A. One person from each lobster management policy council established under section 6447. Each lobster management policy council shall choose by majority vote a member to serve on the council; [1997, c. 208, §3 (NEW) .]

B. Two persons who hold wholesale seafood licenses and are primarily dealers in lobsters, appointed by the commissioner; [1997, c. 208, §3 (NEW) .]

C. One person who is a member of the general public and does not hold any license under this subchapter, appointed by the commissioner; and [1997, c. 208, §3 (NEW) .]

D. Three persons who hold lobster and crab fishing licenses and who are not members of lobster management policy councils established under section 6447, appointed by the commissioner. Each person appointed under this paragraph must reside in a different county. One person appointed under this paragraph must hold a noncommercial lobster and crab fishing license. [2005, c. 239, §5 (AMD) .]

[2005, c. 239, §5 (AMD) .]

2. Term. The term for a member who represents a lobster management policy council is coterminous with that person's term on that policy council. All other members serve for terms of 3 years, except that a vacancy must be filled by the commissioner for the unexpired portion of the term. A vacancy for a member representing a lobster management policy council must be appointed by that policy council using procedures defined in subsection 1. Members continue to serve until their successors are appointed.

[1997, c. 572, §1 (AMD) .]

3. Compensation. Members are entitled to compensation according to Title 5, chapter 379.

[1997, c. 208, §3 (NEW) .]

4. Quorum. A quorum is a majority of the members of the council, at least 4 of whom must be lobster and crab fishing license holders.

[1997, c. 208, §3 (NEW) .]

5. Chair and officers. The council shall annually choose one of its members to serve as chair for a one-year term. The council may select other officers and designate their duties.

[1997, c. 208, §3 (NEW) .]

6. Meetings. The council shall meet at least 4 times a year at regular intervals. It may also meet at other times at the call of the chair or the commissioner.

[1997, c. 208, §3 (NEW) .]

SECTION HISTORY

1997, c. 208, §3 (NEW). 1997, c. 572, §1 (AMD). 2005, c. 239, §5 (AMD).

§6463. COUNCIL PROGRAMS AND ACTIVITIES

1. Advise. The council shall advise the commissioner on activities of the department that relate to the lobster industry. The council may investigate problems affecting the lobster industry and make recommendations to the commissioner and the Marine Resources Advisory Council concerning its investigations.

[1979, c. 355, §1 (NEW) .]

2. Research plans. The council may review current lobster research programs and plans for research on the lobster stock, and submit to the commissioner and Marine Resources Advisory Council, annually, its recommendations on those programs and plans.

[1979, c. 355, §1 (NEW) .]

3. Dispute resolution. The council may consider disputed issues brought to the council by any lobster management policy council established under section 6447. The council may make recommendations to the commissioner with regard to resolving such issues.

[1997, c. 208, §4 (NEW) .]

SECTION HISTORY

1979, c. 355, §1 (NEW). 1997, c. 208, §4 (AMD).

Subchapter 4-A: LOBSTER RESEARCH, EDUCATION AND DEVELOPMENT FUND

§6465. EDUCATION AND DEVELOPMENT FUND

The Lobster Research, Education and Development Fund, referred to in this subchapter as the "fund," is established in the department. Balances in the fund may not lapse and must be carried forward and used for the purposes of this section. [2001, c. 623, §1 (NEW) .]

1. Sources and uses of fund. Revenues from lobster special registration plate fees credited to the fund under Title 29-A, section 456-A may be used for research and education to support the development of the lobster industry in this State. Revenues may also be used to support the operation of the research, education and development board described in subsection 2, including reimbursement for travel expenses of its members.

[2005, c. 239, §6 (AMD) .]

2. Research, education and development board. The commissioner shall appoint a research, education and development board and consult with the board regarding the expenditures from the fund. The board is composed of one member from each of the following organizations:

A. A statewide association representing the interests of persons who harvest lobster commercially; [2001, c. 623, §1 (NEW) .]

B. An association representing the interests of persons who harvest lobster commercially in Washington and Hancock counties; [2001, c. 623, §1 (NEW) .]

C. A southern Maine association representing the interests of persons who harvest lobster commercially; [2001, c. 623, §1 (NEW) .]

D. A statewide import-export lobster dealers' association; [2001, c. 623, §1 (NEW) .]

E. A statewide lobster pound owners' association; [2001, c. 623, §1 (NEW) .]

F. A statewide lobster processors' association; [2001, c. 623, §1 (NEW) .]

G. The Maine Lobster Marketing Collaborative under section 6455; [2013, c. 309, §3 (AMD) .]

H. The Lobster Advisory Council established by Title 5, section 12004-I, subsection 58; and [2001, c. 623, §1 (NEW) .]

I. An international lobster institute. This member must be a resident of the State. [2001, c. 623, §1 (NEW) .]

Members are entitled to compensation according to Title 5, chapter 379.

[2013, c. 309, §3 (AMD) .]

SECTION HISTORY

2001, c. 623, §1 (NEW). 2005, c. 239, §6 (AMD). 2013, c. 309, §3 (AMD).

Subchapter 5: MONHEGAN LOBSTER CONSERVATION AREA

§6471. MONHEGAN LOBSTER CONSERVATION AREA

1. Monhegan Lobster Conservation Area. The following territorial waters of the State in the vicinity of Monhegan Island are known as the Monhegan Lobster Conservation Area:

Beginning at a point located at latitude 43°45.09' north and longitude 069°22.16' west that is 2 nautical miles southwesterly of the nearest shore of Monhegan Island; in a southwesterly direction to latitude 43°44.28' north and longitude 069°23.37' west at a point on the 3-nautical-mile line; then following the 3-nautical-mile line around the southern end of Monhegan Island to latitude 43°44.94' north and longitude 069°14.26' west; then in a somewhat northerly direction to latitude 43°45.8' north and longitude 069°15.3' west, to a point that is 2 nautical miles from the nearest shore of Monhegan Island; then following a line that is 2 nautical miles from the nearest shore of Monhegan Island and that continues around the northern end of Monhegan Island to the point of beginning.

[2001, c. 272, §6 (AMD) .]

SECTION HISTORY

1997, c. 574, §4 (NEW). 2001, c. 272, §6 (AMD).

§6472. CLOSED AND OPEN SEASONS; TRAP LIMIT

1. Closed season. It is unlawful for a person to fish for or take lobsters in the Monhegan Lobster Conservation Area from June 26th to August 31st, both days inclusive, and on any day not included in the open season established by the commissioner under subsection 2.

[2007, c. 219, §2 (AMD) .]

2. Open season. The commissioner shall establish by rule an open season not to exceed 250 days between October 1st and the following June 25th during which a person may fish for or take lobsters in the Monhegan Lobster Conservation Area.

A. Before establishing or amending the open season under this section, the commissioner shall determine the open season preferred by 2/3 of the individuals registered to obtain Monhegan Lobster Conservation Area trap tags under section 6474. The commissioner may accept the preferences proposed by 2/3 of the registrants as reasonable and adopt those preferences or reject the preferences as unreasonable. The commissioner shall consult with the lobster management policy council for Zone D before making this decision. [2007, c. 219, §2 (AMD).]

B. In adopting rules under this subsection, the commissioner is not required to hold a public hearing on the rules pursuant to Title 5, section 8052. [1997, c. 574, §4 (NEW).]

C. A person may not petition the commissioner pursuant to Title 5, section 8055 for the adoption or modification of a rule establishing the open lobster season in the Monhegan Lobster Conservation Area. [1997, c. 574, §4 (NEW).]

D. Notwithstanding any provisions to the contrary, the commissioner may adopt rules under this subsection without the advice and consent of the Marine Resources Advisory Council. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [2007, c. 219, §2 (AMD).]

[2007, c. 219, §2 (AMD) .]

3. Trap limit. The trap limit for the open season established pursuant to subsection 2 is 400 traps per individual registered to obtain Monhegan Lobster Conservation Area trap tags under section 6474.

A. [2011, c. 486, §5 (RP).]

B. [2011, c. 486, §5 (RP).]

C. [2011, c. 486, §5 (RP).]

D. [2011, c. 486, §5 (RP).]

[2011, c. 486, §5 (AMD) .]

SECTION HISTORY

1997, c. 574, §4 (NEW). 2007, c. 219, §2 (AMD). 2011, c. 486, §5 (AMD).

§6473. FISHING IN OTHER WATERS

1. Limitations. A person registered for Monhegan Lobster Conservation Area trap tags under section 6474 may not fish for or take lobsters:

A. In the State's 3-mile territorial sea at any time, except in that portion of the coastal waters designated under section 6471 as the Monhegan Lobster Conservation Area during the open season established for the area under section 6472; and [1997, c. 574, §4 (NEW).]

B. In federal waters during the Monhegan Lobster Conservation Area closed season. [1997, c. 574, §4 (NEW).]

[1997, c. 574, §4 (NEW) .]

2. Exceptions. The following exceptions apply to a person registered for Monhegan Lobster Conservation Area trap tags under section 6474.

A. Notwithstanding subsection 1, a person registered for Monhegan Lobster Conservation Area trap tags may serve as a crew member to assist in the licensed activities under the direct supervision of a Class I, Class II or Class III lobster and crab fishing license holder outside the Monhegan Lobster Conservation Area. [2011, c. 486, §6 (NEW).]

B. Notwithstanding subsection 1, a person registered for Monhegan Lobster Conservation Area trap tags who holds a federal lobster permit with a Lobster Management Area 3 designation may fish for or take lobsters from Lobster Management Area 3, as identified in the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for American Lobster. [2011, c. 486, §6 (NEW) .]

[2011, c. 486, §6 (RPR) .]

SECTION HISTORY

1997, c. 574, §4 (NEW). 2005, c. 239, §7 (AMD). 2011, c. 486, §6 (AMD).

§6474. FISHING WITHOUT MONHEGAN TRAP TAGS PROHIBITED

1. Prohibition. A person may not submerge a lobster trap in the Monhegan Lobster Conservation Area unless a lobster trap tag designated for use in the Monhegan Lobster Conservation Area is affixed to the trap. The commissioner shall charge fees and deposit those fees for Monhegan Lobster Conservation Area trap tags in accordance with section 6431-B.

[2001, c. 421, Pt. B, §23 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

2. Trap tag expiration. Trap tags issued for use during a Monhegan Lobster Conservation Area open season expire upon the closing of that season.

[1997, c. 574, §4 (NEW) .]

3. Trap tag eligibility for the 1998-99 open season.

[2011, c. 486, §7 (RP) .]

4. Trap tag eligibility. Except as provided under subsection 5, the commissioner may not issue Monhegan Lobster Conservation Area trap tags to a person unless that person:

A. Registered with the commissioner to purchase Monhegan Lobster Conservation Area trap tags for the prior open season, documents to the commissioner that the person harvested lobsters from the Monhegan Lobster Conservation Area in the prior open season and registers with the commissioner during the period between June 26th and August 1st immediately following the prior open season for Monhegan Lobster Conservation Area trap tags for the subsequent open season; [1997, c. 574, §4 (NEW) .]

B. Registered with the commissioner to purchase Monhegan Lobster Conservation Area trap tags for the prior open season, documents to the commissioner that that person did not harvest lobsters from the Monhegan Lobster Conservation Area in the prior open season because of an illness or medical condition and registers with the commissioner during the period between June 26th and August 1st immediately following the prior open season for Monhegan Lobster Conservation Area trap tags for the subsequent open season; or [1997, c. 574, §4 (NEW) .]

C. Meets the requirements of section 6448, subsection 8, paragraph E to enter a limited-entry program established for Monhegan Island pursuant to section 6449 and registers for Monhegan Lobster Conservation Area trap tags. [2011, c. 486, §8 (AMD) .]

[2011, c. 486, §8 (AMD) .]

5. License suspension and eligibility. A person eligible to register for Monhegan Lobster Conservation Area trap tags under subsection 4, paragraph A if not for the suspension of that person's Class I, Class II or Class III lobster and crab fishing license may not, for the purpose of admitting new registrants, be considered to have failed to register pursuant to section 6475, subsection 1, paragraph C, subparagraph (3). Upon reinstatement of that person's license, that person is deemed registered and the commissioner may issue trap tags to that person, unless that person notifies the commissioner before reinstatement that the person chooses to not be registered.

[1997, c. 574, §4 (NEW) .]

6. Limit on number of registrants. The total number of individuals registered to obtain Monhegan Lobster Conservation Area trap tags may not exceed 17.

[2011, c. 486, §9 (AMD) .]

7. Periods of registration. Monhegan Lobster Conservation Area registrations are valid as follows.

A. [2011, c. 486, §10 (RP) .]

B. A person registered under subsection 4, paragraph A or B is registered for the entire period from August 1st of the year of registration until the following July 31st. [1997, c. 574, §4 (NEW) .]

C. A person registered under subsection 4, paragraph C is registered for the entire period from the date of registration until the following July 31st. [1997, c. 574, §4 (NEW) .]

D. A person registered under section 5 through the reinstatement of a suspended license is registered for the entire period from the date of license reinstatement until the following July 31st. [1997, c. 574, §4 (NEW) .]

[2011, c. 486, §10 (AMD) .]

8. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §24 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

9. Exception. Notwithstanding subsection 1, a person may submerge a lobster trap in the Monhegan Lobster Conservation Area that does not have a trap tag designated for use in the Monhegan Lobster Conservation Area if that person holds a noncommercial lobster and crab fishing license issued pursuant to section 6421, subsection 1, paragraph F and does not otherwise hold a lobster and crab fishing license.

[2011, c. 486, §11 (NEW) .]

SECTION HISTORY

1997, c. 574, §4 (NEW). 2001, c. 421, §§B23,24 (AMD). 2001, c. 421, §C1 (AFF). 2007, c. 615, §14 (AMD). 2011, c. 486, §§7-11 (AMD).

§6475. NEW PARTICIPANTS

1. New participants. A person who is not registered to obtain Monhegan Lobster Conservation Area trap tags may obtain trap tags if that person becomes registered for Monhegan Lobster Conservation Area trap tags pursuant to this section.

A. If a Monhegan Island limited-entry program is established pursuant to section 6449, the commissioner shall maintain a waiting list of persons who have requested a Monhegan Island limited-entry lobster and crab fishing license. [2011, c. 486, §12 (AMD).]

B. [2011, c. 486, §12 (RP).]

C. A person listed on the waiting list under paragraph A may register for Monhegan Lobster Conservation Area trap tags if:

(2) That person has been listed longer than all other persons listed; and

(3) The commissioner has established that the number of individuals registered to fish in the Monhegan Lobster Conservation Area for the upcoming season is less than the allowable number of registrants established pursuant to section 6474, subsection 6.

The commissioner shall by August 15th notify a person who becomes eligible for registration under this paragraph. If that person does not register with the commissioner within 30 days, that person becomes ineligible for registration and the commissioner shall immediately notify the next individual who has been listed for the longest period of time on the waiting list. That individual must register within 30 days. [2011, c. 486, §12 (AMD).]

[2011, c. 486, §12 (AMD) .]

2. Registration in later years. A person who registers for Monhegan Lobster Conservation Area trap tags under subsection 1 must follow the provisions of section 6474, subsection 4, paragraph A or B to register for trap tags for each subsequent open season.

[1997, c. 574, §4 (NEW) .]

3. License requirements; apprenticeship.

[2011, c. 486, §12 (RP) .]

4. Issuance of commercial lobster license.

[2011, c. 486, §12 (RP) .]

5. Registrants exiting the Monhegan Lobster Conservation Area.

[2011, c. 486, §12 (RP) .]

SECTION HISTORY

1997, c. 574, §4 (NEW). 2007, c. 219, §§3, 4 (AMD). 2011, c. 486, §12 (AMD).

§6476. FORMER REGISTRANTS

A person whose registration to obtain Monhegan Lobster Conservation Area trap tags has lapsed may be listed on the waiting list under section 6475, subsection 1, paragraph A and may purchase trap tags if the person becomes registered pursuant to section 6475, subsection 1, paragraph C. A person included on the waiting list pursuant to this subsection must be listed chronologically according to the time and date the commissioner received written notification from that person requesting that person be listed on the waiting list. [2011, c. 486, §13 (AMD).]

SECTION HISTORY

1997, c. 574, §4 (NEW). 2011, c. 486, §13 (AMD).

§6477. STUDENT LICENSE HOLDER

Notwithstanding section 6474, the commissioner may issue up to 15 Monhegan Lobster Conservation Area trap tags to a person issued a student license under section 6421. The license holder must tend the tagged traps from a vessel operated by a person registered under section 6474. The student license holder must be present when that license holder's lobster traps are tended. A student license holder shall certify on forms supplied by the commissioner that a person registered under section 6474 agrees to allow the student license holder to fish for or take lobsters from that person's vessel. [1997, c. 574, §4 (NEW).]

SECTION HISTORY

1997, c. 574, §4 (NEW).

Subchapter 6: SWANS ISLAND LOBSTER CONSERVATION AREA

§6481. SWANS ISLAND LOBSTER CONSERVATION AREA

1. Swans Island Lobster Conservation Area. The following territorial waters of the State in the vicinity of Swans Island are known as the Swans Island Lobster Conservation Area:

Beginning at the northern tip of Long Point, Marshall Island, Hancock County, Maine; then northerly to the navigational buoy at the western entrance to Toothacker Bay, located at 68°30.657' W. Longitude, 44°08.063' N. Latitude; then northeasterly to West Point, Swans Island, Hancock County, Maine; then from Phinney Point on the northeastern shore of Swans Island southeasterly to 68°22.40' W. Longitude, 44°08.79' N. Latitude, Hancock County, Maine; then southwesterly to 68°23.6' W. Longitude, 44°06.4' N. Latitude; then south-southwesterly to 68°24.01' W. Longitude, 44°04.8' N. Latitude; then southerly to 68°23.9' W. Longitude, 44°03.1' N. Latitude, and the intersection with the 3-nautical-mile line of the territorial waters, as shown on United States Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, Office of Coast Survey Chart #13312; then southwesterly along the 3-nautical-mile line of the territorial waters approximately 3.5 miles to a point where a line drawn southeasterly 165° True from the center of Black Ledges intersects the 3-nautical-mile line of the territorial waters at 68°28.6'

W. Longitude, 44°01.9' N. Latitude; then northwesterly 345° True to the center of Black Ledges; then northwesterly to the most southerly point of Marshall Island; then along the westerly shore of Marshall Island to the point of beginning.

[2015, c. 68, §8 (AMD) .]

SECTION HISTORY

2013, c. 342, §1 (NEW). 2015, c. 68, §8 (AMD).

§6482. FISHING IN SWANS ISLAND LOBSTER CONSERVATION AREA

1. Placing and maintaining traps. A person may not place or maintain any trap for lobsters, or otherwise fish for or take lobsters, within the Swans Island Lobster Conservation Area except in accordance with this section.

A. An individual registered to obtain Swans Island Lobster Conservation Area trap tags under this section may not place or maintain in the Swans Island Lobster Conservation Area more than 600 traps. Each trap must bear the appropriate tag. [2015, c. 50, §1 (AMD) .]

B. A person may not place or maintain a lobster trap in the Swans Island Lobster Conservation Area unless a trap tag designated for use in the Swans Island Lobster Conservation Area is affixed to the trap. [2013, c. 342, §1 (NEW) .]

[2015, c. 50, §1 (AMD) .]

2. Trap tags; eligibility; expiration; suspension. The commissioner shall issue tags for traps in the Swans Island Lobster Conservation Area in accordance with this subsection. The commissioner shall charge and deposit fees for Swans Island Lobster Conservation Area trap tags in accordance with section 6431-B.

A. Trap tags issued for use in the Swans Island Lobster Conservation Area expire after one year as determined by the commissioner by rule. [2013, c. 342, §1 (NEW) .]

B. Except as provided under paragraph C, the commissioner may not issue Swans Island Lobster Conservation Area trap tags to a person unless:

(1) That person's Class I, Class II or Class III lobster and crab fishing license issued in the prior calendar year identified the lobster management zone that includes the Swans Island Lobster Conservation Area as the declared lobster zone, as defined in section 6448, subsection 1, paragraph A, and that person applies to the commissioner during the period between January 1st and May 31st for Swans Island Lobster Conservation Area trap tags; or

(2) That person registered with the commissioner to purchase Swans Island Lobster Conservation Area trap tags for the prior season and applies to the commissioner during the period between January 1st and May 31st for Swans Island Lobster Conservation Area trap tags. [2013, c. 342, §1 (NEW) .]

C. A person otherwise eligible to apply for Swans Island Lobster Conservation Area trap tags under paragraph B if not for the suspension of that person's Class I, Class II or Class III lobster and crab fishing license may apply to the commissioner for Swans Island Lobster Conservation Area trap tags during the period between January 1st and May 31st. Upon reinstatement of that person's license, the commissioner may issue trap tags to that person. [2013, c. 342, §1 (NEW) .]

[2013, c. 342, §1 (NEW) .]

SECTION HISTORY

2013, c. 342, §1 (NEW). 2015, c. 50, §1 (AMD).

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