

§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. [PL 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. [PL 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. [PL 1999, c. 508, §3 (NEW).]
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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. [PL 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. [PL 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. [PL 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. [PL 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. [PL 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. [PL 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. [PL 2005, c. 239, §4 (NEW); PL 2005, c. 239, §11 (AFF).]

[PL 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.

[PL 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 [PL 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. [PL 2013, c. 239, §3 (AMD).]

[PL 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. [PL 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. [PL 1999, c. 693, §2 (NEW).]

[PL 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 [PL 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. [PL 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.

[PL 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.

[PL 2015, c. 428, §7 (NEW).]

7. Authorization of new zone entrants.

[PL 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 [PL 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. [PL 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.

[PL 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. [PL 2011, c. 486, §3 (AMD).]

A-1. [PL 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. [PL 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. [PL 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. [PL 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. [PL 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. [PL 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. [PL 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. [PL 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. [PL 1999, c. 508, §3 (NEW).]

10. Survey required.
[PL 2013, c. 239, §7 (RP).]

SECTION HISTORY

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

486, §§ 3, 4 (AMD). PL 2013, c. 239, §§2-7 (AMD). PL 2015, c. 68, §7 (AMD). PL 2015, c. 428, §§4-9 (AMD).

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