

Department of Marine Resources

NOTICE OF AGENCY RULE-MAKING PROPOSAL

RULE TITLE: Chapter 25.93(F)(1)(b)(ii) Exit Ratios for Limited Entry Zones – **Zone E** (5:1, based on trap tags)

CONCISE SUMMARY:

The Department of Marine Resources proposes changes to this regulation in Chapter 25.93(F) after considering a survey of zone members and a recommendation of the Zone E Council in accordance with 12 M.R.S.A. §6448. The proposed change would reestablish the exit to entry ratio of **5:1** for Zone E based upon the number of trap tags instead of licenses in accordance with 12 M.R.S.A. §6448, sections 2,4,6,7 and 10. The survey results and this rulemaking do not impact student entry into the zone in accordance with 12 M.R.S.A. §6448, section 8(A).

STATUTORY AUTHORITY: 12 M.R.S.A. §6448

PUBLIC HEARING: Monday, October 20, 2008, 6:00 PM*, State Ferry Terminal (Conf. Rm), 517A Main Street, Rockland
**Public hearings for 3 separate rulemakings will be held with each hearing to start immediately upon the conclusion of the previous hearing. The order will be Chapter 25.93 for Zone D, next Chapter 25.93 for Zone E, then the hearing on Chapter 11 Scallops. See separate rulemaking notices for rules not listed in this notice.*

DEADLINE FOR COMMENTS: October 31, 2008

To ensure consideration, comments must include your name and the organization you represent, if any. Please be aware that any risk of non-delivery associated with submissions by fax or e-mail is on the sender.

AGENCY CONTACT PERSON:

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Mail written comments to:

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TEL.: (207) 633-9584 FAX: (207) 633-9579 TTY: (207) 633-9500 (Deaf/Hard of Hearing) Hearing facilities: If you require accommodations due to disability, please contact Amanda Beckwith, at (207) 287-7578.

Additional information:

Effective September 20, 2007 a new law changed the method for calculating a zone's exit-to-entry ratio from lobster licenses not renewed to trap tags retired by individuals who have exited the fishery. Zones that have limited-entry as of September 1, 2007 must conduct a written survey in its zone prior to September 1, 2008 in order to allow the council to recommend to the Commissioner an exit to entry ratio based on trap tags. Failure to conduct this survey and submit a recommendation by September 15, 2008 will result in an exit to entry ratio of trap tags retired to trap tags issued of 1:1 for that zone until such a survey is conducted.

As Lobster Zones have moved to adopt exit-to-entry ratios the issue has been raised that there is not a direct correlation between the amounts of effort represented by the retiring licenses to the amount of effort that is coming into the fishery via new entrants. In 2005 an average of 359 tags were retired per license holder in the 6 zones that have chosen limited entry. There was a concern that those licenses that were being retired with an average of 359 tags were being replaced by licenses that would soon build to 800 tags. A total of 9,205 tags on average were retired by each of these zones in the same year. In 2005 a total of 154 individuals did not renew their licenses in the 6 zones with a total of 157 coming in from all new entrants (off waiting list, students, transfers, etc.). Assuming all new entrants got 300 tags in their first year of eligibility that would equate to 47,100 new tags compared to a total of 55,227 retired. Within one year the new entrants would be eligible to purchase 62,800 tags with a potential at the end of 5 years (at 100 tags/year to their zone's trap limit) of 122,800 tags for the 157 new entrants who entered in these 6 zones in 2005.

Zone E includes the area between Pemaquid Lighthouse and Small Point Harbor, Phippsburg. A survey issued as of June 18, 2008 was conducted of Zone E members (Class 1, 2 and 3, and Class 1 over 70 lobster license holders). After consideration of the survey results distributed August 14, 2008 the Zone E Council recommended in favor of the proposed rulemaking in accordance with 12 M.R.S.A. §6448.

Proposed rulemaking – see underlined or ~~deleted~~ text below:

Chapter 25 - Lobster and Crab Fishing

F. Exit Ratios for Limited-Entry Zones

(1) Procedures

(b) By February 1 of each year, the department shall calculate the number of licenses to be awarded to new entrants for each limited-entry zone for that calendar year in accordance with §6448 and this rule. The exit ratio shall be as follows:

(ii) Zone E - one license awarded to a new entrant for every 3,000 tags retired by individuals who held a Class I, II or III lobster and crab fishing license in the previous calendar year and who exited the zone-~~five licenses not renewed in the previous calendar year,~~ making an entry to exit ratio of 1:5.

If you are unable to attend the hearing persons are encouraged to submit written comments from the receipt or posting of this notice through close of business on the deadline listed.