

# Notice of Agency Rule-making Proposal

MAPA-3 revised 2-2016

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 25.04; 25.93; 25.96 – Chapter 25.04 Lobster Trawl Limits; 25.93 Management Framework for Limiting Lobster Fishing Effort on a Local or Regional Basis - Operational Rules; 25.96 Lobster Apprentice Program. Proposed Rule-making.

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

## BRIEF SUMMARY:

This proposed rule-making addresses 1) expanding the Hancock County Trawl Limit area in Zone B, 2) amending the exit ratio for Zone B, 3) creating an exit ratio for Zone C, 4) amending the exit ratio for Zone E, 4) creating a separate waiting list for existing lobster license holders wishing to change their declared lobster zone (a “transfer” list) and 5) making minor clarifications for consistency with recent legislative changes.

This proposed rule-making proposes to expand the Hancock County Trawl Limit area in Zone B. In this area it is unlawful to have more than 3 lobster traps on any trawl. One of the lobster zone council authorities is to propose the number of lobster traps allowed on a trawl. The Zone B Council is proposing to extend the western boundary of the Hancock County Trawl Limit line to the 6-mile line.

This proposed rulemaking proposes to change the Zone B 5:1 exit ratio using the currency of lobster licenses not renewed to a 3:1 exit ratio using the currency of lobster license not renewed. At the Lobster Zone B Council meeting on September 21, 2016, there was a unanimous vote by the Zone B Council to advance this to rulemaking.

This proposed rulemaking also proposes to establish Zone C as a limited entry zone with an exit ratio of 1:1 using the currency of lobster licenses not renewed. At the Lobster Zone C Council meeting on September 8, 2016, there was a majority vote by the Zone C Council to advance to rulemaking.

This proposed rulemaking would also propose to change the Zone E 5:1 exit ratio currency from the number of trap tags associated with licenses not renewed to the number of licenses not renewed. At the Lobster Zone E Council meeting on February 29, 2016, there was a majority vote by the Zone E Council to advance this to rulemaking.

For consistency with changes in statute, this proposed rulemaking would also require that limited entry zones that opt to use trap tags retired in their exit ratio calculation, use the historic high of trap tags purchased, up to the current zone limit.

This proposed rulemaking would also address the lobster waiting lists, which currently consists of both apprentices who do not have a lobster license, as well as individuals that do hold a lobster license, but are requesting to switch to a different lobster zone. The Legislature recently passed a law directing the Department of Marine Resources to remove those individuals who already hold a lobster license from the existing waiting list, and create a separate “transfer” waiting list, as authorized by 12 MRS §6448 . This rulemaking proposes to create a single “transfer” list and make transfers “one for one” with no net increase from transfers in any zone. The Department of Marine Resources would authorize any such “swaps” until there were no matches remaining.

Finally, this proposed rulemaking provides a clarification that if an individual completes the apprentice program in multiple zones, individuals would still be required to document at least the minimum of 1,000 fishing hours that is accumulated over a minimum of 200 calendar days in each desired zone. However, the minimum of the 24-month requirement is met 24 months from the date the individual logs their first day in the apprenticeship program.

Date, time and location of PUBLIC HEARING (*if any*):

Monday, January 30, 2017, 6:00 PM, Ellsworth High School Cafeteria

Tuesday, January 31, 2017, 6:00 PM, Wiscasset Elementary School Cafeteria

Thursday, February 2, 2017, 6:00 PM, Portland City Hall, State of Maine Room

COMMENT DEADLINE: February 13, 2017

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, e-mail*):

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AGENCY: Department of Marine Resources  
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E-MAIL: [sarah.cotnoir@maine.gov](mailto:sarah.cotnoir@maine.gov)  
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CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*): SAME

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): NONE

STATUTORY AUTHORITY FOR THIS RULE: §12 MRS §§ 6447, 6448

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different*): SAME

AGENCY WEBSITE: <http://www.maine.gov/dmr/rulemaking/>

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: [DMR.rulemaking@maine.gov](mailto:DMR.rulemaking@maine.gov)

## DEPARTMENT OF MARINE RESOURCES

### Chapter 25 - Lobster and Crab Fishing

#### 25.04 Lobster Trawl Limits

##### A. Casco Bay

It shall be unlawful to have on any trawl more than 12 lobster traps in waters within the following area: Starting at Martin Point, Portland; southeasterly to the northern end of House Island, Portland; thence southeasterly to the northeast point of White Head, Cushing Island, Portland; thence easterly to the southwest point of outer Green Island; thence easterly to the light at Halfway Rock; thence northwesterly to the Green Island Ledge Buoy; thence northwesterly to Parker Point, Yarmouth.

##### B. It is unlawful to have on any trawl more than 3 lobster traps in the following areas:

1. West of Cape Elizabeth and east of Kittery. Westerly of a line drawn from the active lighthouse at Two Lights in Cape Elizabeth through the Hue and Cry Buoy and, continuing in a straight line, to the point of intersection with the 3-nautical-mile line, and northerly and easterly of a line running between the Kitts Rocks Whistle Buoy and the West Sister Buoy and extending westerly to the New Hampshire border, and from the West Sister Buoy to the Murray Rock Buoy and thence to and through the lighthouse on Boone Island and, continuing in a straight line, to the point of intersection with the 3-nautical-mile line;
2. Between Pemaquid and Robinson's Points. Between the following lines:
  - A. Beginning at a point 48 miles true north of the lighthouse on Pemaquid Point, Lincoln County; thence true south through the lighthouse to a point of intersection with the 3-nautical-mile line; and
  - B. Beginning at a point 40 miles true north from the lighthouse at Robinson's Point, Isle au Haut, Knox County; thence true south through the lighthouse to a point of intersection with the 3-nautical-mile line; and
3. Off Hancock County and within the following areas. Beginning at the Southern tip of Schoodic Point, Hancock County; at 44° 19.900' N and 068° 03.609' W; thence running a True Magnetic compass course of 174° to latitude 44° 09.44' N and longitude 067° 57.54' W; thence running in a southwesterly direction along the Maine Six Mile Line, as described in DMR Chapter 75.01 A-6, to its intersection with the lobster Zone B/C line at 43° 54.452' N and 068° 25.708' W to latitude 44 3.42' N and longitude 068 10.26' W and thence; continuing in a southwesterly direction to latitude 44 1.34' N and longitude 068 13.85' W; thence following the B/C line to latitude 44° 01.376' N and 068° 28.396' W; thence running in a westerly Magnetic compass course of 286° direction to a the point of intersect with the where that line intersects with the line described in subsection 2, paragraph B; if it is extended to that line; and then following that line north to its point of origin 40 miles true north of from the lighthouse at Robinson's Point, Isle Au Haut, Knox County.

#### 25.93 Management Framework for Limiting Lobster Fishing Effort on a Local or Regional Basis - Operational Rules

##### F. Exit Ratios for Limited-Entry Zones

- (1) Procedures for the Apprentice Waiting List

- (a) ~~By December 15 of each year, a~~ A person wishing to enter a limited-entry zone must ~~have made~~ make an application to the Department and the ~~d~~Department shall evaluate the applicant's eligibility, in accordance with §6421(5) and §6448 and this rule.
- (b) ~~By February~~ April 1 of each year, the ~~d~~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:
  - (i) Zone D – one license awarded to a new entrant for every 4,000 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 making an entry to exit ratio of 1:5.
  - (ii) Zone E - one license awarded to a new entrant for every ~~3,000 tags~~ 5 licenses 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 making an entry to exit ratio of 1:5.
  - (iii) Zone F- one license awarded to a new entrant for every 4,000 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, making an entry to exit ratio of 1:5.
  - (iv) Zone G - one license awarded to a new entrant for every 4,000 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, making an entry to exit ratio of 1:5.
  - (v) Zone B - one license awarded to a new entrant for every ~~5~~ 3 licenses 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, making an entry to exit ratio of 1:53.
  - (vi) Zone A - one license awarded to a new entrant for every 3 licenses 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 making an entry to exit ratio of 1:3.
  - (vii) Zone C - one license awarded to a new entrant for every 1 license 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 making an entry to exit ratio of 1:1
- (c) For lobster zones that opt to use trap tags not renewed in their exit ratio calculations, the number of traps tags retired by individuals is the total of the greatest number of trap tags purchased in any prior year up to the current zone maximum under each license that is not renewed.

(2) Procedures for the Transfer Waiting List

- (a) A Class I, II or III lobster license holder wishing to transfer into a limited-entry zone must make application to the Department by completing a Lobster Zone Declaration form.
- (b) Class I, II or III lobster license holders on the lobster waiting lists as of the effective date of this rule will be removed from those waiting lists and placed on a separate single "transfer waiting list" based on their current eligibility date on the waiting lists.
- (c) Class I, II or III lobster license holders who want to be placed on the transfer waiting list will be placed on the list in the order of the time and date upon which the Department receives the request using the Lobster Zone Declaration Form.
- (d) By April 1 of each year, the Department will begin at the top of the transfer waiting list, and determine if there are any corresponding transfers of fishermen wishing to transfer in the opposite direction (e.g., Zone A to Zone B, and Zone B to Zone A). The Department will authorize all transfers for which matches are available and eligible.
- (e) In order to be eligible to transfer, a fisherman must have demonstrated landings of at least 5,000 lbs. in any of the three (3) prior calendar years.
- (f) Authorized transfers will be informed in writing and mailed a transfer application form by the Department by certified mail.
- (g) Authorized transfers must submit their transfer application, within 30 days of receipt of notice by the Department or the transfer will lose their authorization.
- (h) If an authorized transfer has not complied with (g) above, the next person on the waiting list who wishes to transfer into that zone, if any, will be sent an authorization and have 30 days to comply in the same manner.
- (i) A transfer will be not be completed for either license holder, until both license holders have submitted their transfer application form and demonstrated their eligibility.

Apprentice program for entry into the lobster fishery

- A. To become eligible for a class I, II, or III lobster and crab fishing license under 12 M.R.S.A. §6421, the applicant must meet the requirements of the apprentice program under Chapter 25.96.
- B. Apprentice Program. The program is initiated with the first documented calendar day of a fishing hour under an apprentice license or student license. The program is completed upon presentation to the Commissioner of acceptable validated log sheets documenting at least the minimum of 1,000 fishing hours that is accumulated over a minimum of 200 calendar days, during a minimum of 24 months. If an individual completes the program in multiple zones, individuals will still be required to document at least the minimum of 1,000 fishing hours that is accumulated over a minimum of 200 calendar days in each desired zone. The minimum of the 24-month requirement is met 24 months from the date the individual logs their first day in the apprenticeship program.

# Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Sarah Cotnoir (207-624-6596), Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021

E-mail: [sarah.cotnoir@maine.gov](mailto:sarah.cotnoir@maine.gov) Web address: <http://www.maine.gov/dmr/rulemaking/>

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PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [see §8057-A(1)(A)&(C)]

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IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? \_\_\_ YES \_\_\_ **X** NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [see §8057-A(1)(B)&(D)]

These regulations would address several aspects of the limited entry system of the lobster fishery, and would amend an existing trawl limit area in Hancock County.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [see §§8057-A(1)(E) & 8063-B]

Information considered in the development of this rule includes the input from the Zone B Council on the proposed change to the Hancock County trawl limit area; the unanimous vote of the Zone B Council on September 21, 2016 to change their entry calculation from a 5:1 ratio to a 3:1 ratio; the majority vote of the Zone C Council on September 8, 2016 to establish Zone C as a limited entry zone with a ratio of 1:1 based on licenses retired; the majority vote of the Zone E Council on February 29, 2016 to change their entry calculation from using the number of trap tags associated with licenses not renewed to the number of licenses not renewed; and the changes in law requiring the creation of a transfer waiting list, as well as using the historic high of an individual's trap tags purchased up to the zone limit for exit ratio calculations

ESTIMATED FISCAL IMPACT OF THE RULE: [see §8057-A(1)(C)]

Enforcement of these proposed amendments would not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

***FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:***

*ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:*  
[see §8057-A(2)(A)]

*INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED:* [see §8057-A(2)(B)]

*BENEFITS OF THE RULE:* [see §8057-A(2)(C)]

*Note: If necessary, additional pages may be used.*