

**Department of Marine Resources Shellfish Advisory Council
(ShAC)
Bylaws**

**Article I
Duties of Shellfish Advisory Council**

The purpose of the Shellfish Advisory Council is as specified in Title 12, M.R.S.A. §6038:

The Advisory Council shall:

The council shall make recommendations to the commissioner and the joint standing committee of the Legislature having jurisdiction over marine resources matters concerning:

A. How best to utilize state agencies, municipal governments, the shellfish industry and citizen groups to make improvements to and maintain the quality of the State's coastal waters and to expedite the opening of closed shellfish flats; and

B. Matters of interest to the State's shellfish industry, including, but not limited to, shellfish resource management, public health protection and the activities and recommendations of a multistate organization that promotes shellfish sanitation.

The council is responsible for bringing forward to the commissioner matters of concern to the shellfish industry and for assisting the commissioner with the dissemination of information to members of the shellfish industry.

[2007, c. 606, Pt. A, §2 (NEW) .]

**Article II
Meetings of the Shellfish Advisory Council**

Sec. 1. Meetings. The council shall meet at least once a year. It may also meet at other times at the call of the chair or the commissioner. In advance of a meeting of a multistate organization that promotes shellfish sanitation, the council shall meet to discuss matters of interest to the shellfish industry, the department and the multistate organization and to make recommendations as necessary.

Sec. 2. Special Meetings. The Chairman or the Chairman's designee, or the Commissioner or the Commissioner's designee, may call special monthly meetings of all members of the Shellfish Advisory Council. The special meetings shall be held at a time to be announced by the Commissioner's Office unless otherwise notified in writing, fax, email or by telephone.

Sec. 3. Notice of Meetings. Notice of a regular meeting shall be sent to all Shellfish Advisory Council members at least one week prior to the meeting confirming the date, time and the place that a meeting is to be held. If a member is unable to attend he/she shall contact the

DMR and Shellfish Advisory Council Chair by no later than 48 hours prior to the meeting time to allow for the confirmation of a quorum, meeting, or meeting cancellation.

Sec. 4. Quorum. A quorum shall be a majority (7 of 13) of the current members of the Shellfish Advisory Council. The members present at a duly called meeting at which a quorum is not present may discuss business at the meeting but no vote may be taken except as specified in Sec. 5.

Sec. 5. Shellfish Advisory Council actions / Voting. An affirmative vote of a majority of the members present, at a meeting or polled, shall be required for any action. No action may be considered unless a quorum is present or, if there is no meeting, a quorum responds to a written poll. (§6024(4))

The right to vote, by show of hands, on any matter or matters at any meeting is restricted to the members of the Shellfish Advisory Council who must be present at the meeting (or on the phone or present bywebcam), except as provided above.

Each member shall be entitled to one vote on each matter submitted to a vote at any meeting of the Shellfish Advisory Council.

Sec. 6. Abstentions. Although the chair may not compel a Shellfish Advisory Council member to vote, it is the expectation that all members will participate fully in the voting process unless they have a direct personal or pecuniary interest that is not common to others.

The Chair shall rule on any point of order that arises should a member's participation in a vote be called into question.

If a Shellfish Advisory Council member is late to a meeting or otherwise needs additional time to receive information in order to cast his or her vote, then the chair may adjust the agenda to allow the member to participate in the voting process during that day's meeting.

Article III

Members of the Shellfish Advisory Council

Sec. 1. Number of Shellfish Advisory Council Members. The Shellfish Advisory Council, referred to in this section as "the council" and established by Title 5, section 12004-I, subsection 57-G, consists of 13 members who are appointed by the commissioner as follows:

- A. Four members who are commercial shellfish license holders, at least 3 of whom must be primarily soft-shell clam harvesters. In making the appointments under this paragraph, the commissioner shall consider up to 6 recommendations from associations representing the interests of persons who harvest shellfish commercially;
- B. Two members who are shellfish aquaculture lease holders. In making the appointments under this paragraph, the commissioner shall consider up to 3 recommendations from associations representing the interests of persons who raise shellfish under aquaculture leases;
- C. One member who represents the interests of municipalities with wastewater treatment systems
- D. Two members who are licensed wholesale seafood dealers who have been issued a shellfish sanitation certificate pursuant to section 6856, subsection 1. In making the appointments under this paragraph, the commissioner shall consider up to 3

recommendations from associations representing the interests of persons who buy and sell shellfish;

- E. One public member with knowledge of and interest in coastal water quality;
- F. Two members who are municipal shellfish wardens. In making the appointments under this paragraph, the commissioner shall solicit and consider up to 3 recommendations for these 2 appointments from associations representing the interests of persons who protect and help manage municipal shellfish resources; and
- G. One member who has been issued a shellfish depuration certificate under section 6856, subsection 3.

The commissioner shall make appointments so that the composition of the council reflects a geographic distribution along the coast of the State.

[2007, c. 606, Pt. A, §2 (NEW).]

Sec. 2. Term of Shellfish Advisory Council Members. The term of a member appointed to the council is 3 years, except that a vacancy during an unexpired term must be filled in the same manner as for the original member for the unexpired portion of the member's term. A member may not serve more than 2 consecutive terms.

Sec. 3. Compensation of Shellfish Advisory Council Members. Council members are entitled to expenses according to Title 5, chapter 379, which are paid from the Shellfish Fund established in section 6651. §6038. Watercraft Fund (As enacted by PL 2007, c. 615, §5 is REALLOCATED TO TITLE 12, SECTION 6040)

[2007, c. 606, Pt. A, §2 (NEW) .]

Sec. 4. Conduct of Shellfish Advisory Council Members.

- A. Be guided by the highest standards of honor, personal integrity, and fortitude in all public activities in order to merit the respect of other officials, employees and the public. Strive to inspire public confidence and trust in Maine State Government and Its related institutions.
- B. Serve the citizens of the State with respect, concern, courtesy, and responsiveness, recognizing that government service means service to the people of Maine; keep the Legislature and public informed on pertinent issues. Strive for professional excellence and encourage the professional development of associates and those seeking to enter the field of public administration in order to provide effective and responsible government to the citizens of Maine. The primary role is to provide the best possible and most cost effective service to the citizens of Maine.
- C. Approach organizational and operational duties with a positive attitude and constructively support open communication, cooperation, creativity, dedication and compassion.
- D. Avoid any interest or activity which is in conflict with the conduct of official duties. Serve in a manner as to avoid inappropriate personal gain resulting from the performance of official duties.

- E. Respect and protect the privileged information to which there is access in the course of official duties.
- F. Use discretionary authority to promote the public interest.
- G. Accept as a personal duty the responsibility to be informed of emerging issues and to administer the public's business with professional competence, fairness, impartiality, efficiency and effectiveness.
- H. Support, implement, and promote programs of affirmative action to assure equal opportunity in the recruitment, selection, and advancement of qualified persons from all elements of society.
- I. Respect and value the work done by the employees of Maine State Government and its related institutions.

Sec. 5. Removal of Shellfish Advisory Council Members.

- A. A Shellfish Advisory Council member who has been placed on the Advisory Council in a category that requires possession of a Maine Harvesting or Commercial license, or in a category that requires possession of a nonharvesting-related license, whose license or applicable credentials has been suspended or revoked, or who fails to renew their license, will be recommended for removal from the Shellfish Advisory Council.
- B. A Shellfish Council member who misses three consecutive meetings without notifying an officer or other Council member of the intended absence from a meeting may be removed from the Council by affirmative vote of the Council. The Chairman shall notify the Commissioner of the vacant position.

Article IV Officers

Sec. 1. Officers, Election and Term. The officers of the Shellfish Advisory Council are the chair, vice-chair and secretary. The term of the officers is one year. The council shall elect a member of the council for each officer position at the first regular meeting of each year.

Sec. 2. Removal. Any Officer elected by the Shellfish Advisory Council may be removed by vote of the Advisory Council taken in accordance with §6024(4).

Sec. 3. Vacancies. A vacancy in any office of the Shellfish Advisory Council may be filled immediately by vote of the Shellfish Advisory Council taken in accordance with §6024(4). A person elected to fill a vacant office shall serve out the unexpired portion of the term of that office.

Sec. 4. Duties. The officers have the following duties:

- A. **Chair.** The chair shall call and preside at all meetings of the Shellfish Advisory Council.

- B. Vice-Chair.** The vice-chair shall call and preside at all meetings of the Shellfish Advisory Council in the chair's absence.
- C. Secretary.** The secretary shall cause written records to be taken by Department staff and to be preserved by the Clerk in the Office of Commissioner's official files of all meetings and voting actions of the Shellfish Advisory Council.

Article V Committees

The Chair may appoint committees, each of which shall consist of at least two members. A committee shall be established to perform certain tasks as designated by the Chair, such tasks shall not be inconsistent with the purposes of the Shellfish Advisory Council. The committee shall report its findings to the Shellfish Advisory Council. Such committees shall not have the authority of the Shellfish Advisory Council.

Article VI Amendment To The Bylaws

The bylaws of the Shellfish Advisory Council may be amended by a vote of the Shellfish Advisory Council taken in accordance with §6024(4). A proposal to amend the bylaws may be presented by any Shellfish Advisory Council member at any meeting of the Shellfish Advisory Council, but may not be acted upon until the following meeting.

Article VII State and Federal Laws

In the event that any provision of these bylaws is found to be in conflict with Maine or federal law, then those laws shall control and these bylaws, to the extent they are in conflict, shall be void.