

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: 25.97 Management Framework for Island Limited Entry Program

CONCISE SUMMARY: The regulation strikes Chebeague Island from the list of islands participating in the Island Limited Entry Program. The Chebeague Island Limited Entry Committee requested a referendum be conducted to assess whether license holders on Chebeague supported the continuation of the Program. Of those voting, 83% supported eliminating the Program. After reviewing the referendum results, the Chebeague Island Limited Entry Committee requested the Commissioner undertake rule-making to terminate the Chebeague Island Limited Entry Program. The Department received no comments opposing the elimination of this Program.

As authorized by 12 M.R.S §6449, the Commissioner of Marine Resources adopts this regulation.

EFFECTIVE DATE: March 7, 2016

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DEPARTMENT OF MARINE RESOURCES

25.97 Management Framework for Island Limited Entry Program

E. Islands with Approved Limited Entry Programs

~~(1)~~ (1) Chebeague Island:

~~The Chebeague Island limited-entry program allows up to 31 commercial island resident lobster licenses to be issued annually.~~

~~(2)~~ (1) Cliff Island

The Cliff Island limited-entry program allows up to 12 commercial island resident lobster licenses to be issued annually.

~~(3)~~ (2) Cranberry Isles

The Cranberry Isles limited-entry program allows up to 23 commercial island resident lobster licenses to be issued annually.

~~(4)~~ (3) Monhegan Island

The Monhegan Island limited-entry program allows up to 17 commercial island resident lobster licenses to be issued annually.

~~(5)~~ (4) Frenchboro

The Frenchboro Island limited-entry program allows up to 14 commercial island resident lobster licenses to be issued annually.

Basis Statement

25.97 Management Framework for Island Limited Entry Program

The proposed rule provided a seasonal exemption to the existing 3 trap per trawl limit for a specified area within and around the Piscataqua River, allowing up to 10 traps per trawl from January 1-April 10. This change was requested by Zone G fishermen fishing in this area, to improve gear handling and minimize gear loss during the winter months. DMR received comments in opposition to making this change, and has removed the proposed exemption from the rule-making.

The proposed regulation strikes Chebeague Island from the list of islands participating in the Island Limited Entry Program. The Chebeague Island Limited Entry Committee requested a referendum be conducted to assess whether license holders on Chebeague supported the continuation of the Program. Of those voting, 83% supported eliminating the Program. After reviewing the referendum results, the Chebeague Island Limited Entry Committee requested the Commissioner undertake rule-making to terminate the Chebeague Island Limited Entry Program. The Department received no comments opposing the elimination of this Program.

The rule will terminate the Chebeague Island Limited Entry Program. There is no anticipated fiscal impact.

Summary of Comments

Comments in Favor of the Proposed Rule

Brad Parady, Kittery Lobsterman (Zone G) provided a statement at the public hearing in support of the trawl amendment. He noted that the area that's being fished is lightly fished in winter pairs and triples, which don't hold the bottom well. If you have a big buoy on the gear, the storm will just pull it away. This rule amendment will give fishermen a place to put the gear in the winter in the case of a storm. Gear will likely be towed away in poor conditions if they are attached to buoys greater than 5 feet in length.

Steve Taylor, Kittery Lobsterman (Zone G) provided a statement at the public hearing in support of the proposed rule change to 25.04. In 1979, Steve wrote the original Kittery trawl law and noted that this requirement should have been included then, but it was not. This rule change will allow Maine Lobstermen to remain competitive with New Hampshire fishermen, who can currently fish trawls on their side of the river. Because they can put more traps on a trawl line, their gear holds to the bottom in the case of a severe tide. He would like to see no buoy restriction in the Piscataqua River, as a current of 7-8 knots tide will pull away a 12x8 lobster buoy. New Hampshire lobstermen all use small buoys and it works well for them in terms of minimizing gear movement in the tide. He argued that we shouldn't be trying to rewrite what works in the area. Only a small handful of men would be taking advantage of this change in buoy requirements. The area outside the lighthouse will be a benefit to load trawls on to bring them in in case of a storm. This change will give lobstermen in the area a competitive edge with New Hampshire, which effects only a small number of fishermen and for only a 3 month period.

Jeff Putnam, lobsterman and resident of Chebeague Island, ME submitted a written comment in support of the amendment to the Island Limited Entry Program, Chapter 25.97. He stated that he had been in full support of the program, but has found that the program as it now stands creates loopholes in the program that allow those not physically residing on the Island for the majority of the year to take advantage of the program. The purpose of the program is to sustain Island culture, and providing such loopholes is not in line with this purpose. Therefore, Mr. Putnam supported the striking of Chebeague from the list of Islands participating in the Program under Chapter 25.97. He suggested that it would make sense to participate in the Program again if the language in the rule could be adjusted so that only a person who as met all residency criteria while on the Zone waiting list would be eligible to be on the Island List. In addition, Mr. Putnam suggested that the rule needs to provide a chance for the Island Committee and Marine Patrol to provide the Commissioner with information about new Island licensees contribution to the Island culture/population. This input should then be taken into consideration when the Commissioner decides whether an entrant to the Program is meeting the community sustainability requirement. To conclude, Mr. Putnam emphasized that he commends the Department for developing the program, and hopes that changes are made to make sure that the program can be utilized in a way that supports Island residency and culture as was originally intended.

Comments in Opposition to the Proposed Rule:

David Kaselauskas, Kittery Lobsterman (Zone G) provided written comment expressing that he is not in favor of a trawl allowance in Kittery for the winter months of January, February and March, noting that it will be hard to enforce with the reduction and lack of Marine Patrol coverage for the area. David also argued that the area that will be placed under the exception is a winter resting ground for lobster, who will be stressed by additional fishing pressure during the winter.

DMR Response: DMR agreed to bring forward the potential rule change with the understanding that there was likely to be no opposition to the proposed change. Because there is opposition, DMR is willing to remove this part of the proposed rule. DMR urges the Kittery fishermen to discuss this matter further and if there is widespread support for a change in the future, DMR is willing to propose future rulemaking.

John Waldron, Kittery Lobsterman (Zone G) provided written comment expressing opposition to the trap trawl exception rule change in 25.04. John noted that the existing 10 trap trawl limit was allowed in Kittery because of high trap loss due to heavy boat traffic in the area from the mouth of the Piscataqua River to the Isles of Shoals. The majority of the rest of the state is only allowed up to 3 traps per trawl and there is no boat traffic in the area that the rule would permit. There is very little fishing in the area in which the exception would allow for more traps per trawl. John pointed out that this area is essentially a place where lobsters survive over the winter months – meaning that increased fishing pressure in that area will likely negatively impact lobster populations available in the spring and summer seasons. He also noted that there are very few Kittery fishermen aware of the rule proposal, that notification was not sufficient, and that the public hearings were not held in an appropriate location. Finally, he argued that the comment period occurred over the Holiday season, and therefore was unfairly scheduled. John suggested that either a longer period for comment should have been provided or that the comment period should not have been scheduled over the winter Holiday.

DMR Response: DMR provided regular notice and comment period, as they do for all proposed rulemaking. Zone G lobstermen were informed directly via both publications and by email as well as via Council meetings of upcoming changes with due time to object to those changes. Therefore, while it is unfortunate that some lobstermen in the area felt they did not have a chance to participate in the rulemaking process, they were in fact provided the standard opportunity to do so.

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Comments Neither For Nor Against the Proposed Rule

None Received

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

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CHAPTER NUMBER AND RULE: 25.97 Management Framework for Island Limited Entry Program

STATUTORY AUTHORITY: 12 M.R.S. §6449

DATE AND PLACE OF PUBLIC HEARING: Scarborough Municipal Building, Council Chambers A&B, 259 U.S. Route 1, Scarborough, ME; December 21, 2015

COMMENT DEADLINE: **December 31, 2015**

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: The proposed rule provided a seasonal exemption to the existing 3 trap per trawl limit for a specified area within and around the Piscataqua River, allowing up to 10 traps per trawl from January 1-April 10. This change was requested by Zone G fishermen fishing in this area, to improve gear handling and minimize gear loss during the winter months. DMR received comments in opposition to making this change, and has removed the proposed exemption from the rule-making.

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ANALYSIS AND EXPECTED OPERATION OF THE RULE: The rule will terminate the Chebeague Island Limited Entry Program.

FISCAL IMPACT OF THE RULE: There is no anticipated fiscal impact.

