

§6447. Lobster management policy councils

1. Councils. The commissioner shall establish a lobster management policy council for each zone created under section 6446. Council members must be reimbursed pursuant to Title 5, section 12004-I, subsection 57-A.

[PL 1995, c. 468, §8 (NEW).]

2. Rules for operation. By July 1, 1996, the commissioner shall establish by rule operating procedures for lobster management policy councils, including, but not limited to, the number of members on councils, the election and terms of council members and the process for referenda on council policies. A council must have an odd number of voting members.

[PL 1995, c. 468, §8 (NEW).]

3. Council members appointment; election. Upon establishing a lobster management policy council, the commissioner shall appoint members to the council to equitably represent lobster harvesters throughout a zone. Members appointed by the commissioner serve one-year terms. An election of subsequent council members must be held within one year of the commissioner's appointments. Council members are elected by plurality vote. An individual who has been convicted or adjudicated of a lobster violation within the previous 7 years is not eligible for election as a council member unless a waiver from this limitation has been granted by the commissioner for good cause as determined by the commissioner in the commissioner's discretion.

[PL 2009, c. 394, §13 (AMD).]

4. Legislative representation. The President of the Senate and the Speaker of the House shall jointly appoint a Legislator to each lobster management policy council. The Legislator is a nonvoting member and serves a 2-year term.

[PL 1995, c. 468, §8 (NEW).]

5. Council authority. Upon approval in a referendum under subsection 6, a lobster management policy council may propose to the commissioner rules for a zone to place the following limitations on lobster and crab fishing license holders that fish in that zone, as long as the proposed limitations are equal to or stricter than the limitations under section 6431-A or 6440:

A. The number of lobster traps fished and the time periods allowed for complying with that number; [PL 1995, c. 468, §8 (NEW).]

B. The number of lobster traps allowed on a trawl; and [PL 1995, c. 468, §8 (NEW).]

C. The time of day when lobster fishing may occur. [PL 1995, c. 468, §8 (NEW).]

[PL 2015, c. 68, §6 (AMD).]

5-A. Zone C council authority.

[PL 2001, c. 282, §2 (NEW); MRSA T. 12 §6447, sub-§5-A (RP).]

5-B. Zone E council authority.

[PL 2005, c. 202, §3 (RP).]

5-C. Apprentice program rules. Notwithstanding any other provision of this subchapter, upon approval in a referendum under subsection 6, a lobster management policy council may propose to the commissioner rules for a zone that do any of the following:

A. Increase the minimum length of time an apprentice must be enrolled in the apprentice program beyond the period established in section 6422, subsection 2. The minimum enrollment period may not exceed 5 years. [PL 2005, c. 202, §4 (NEW); PL 2005, c. 202, §5 (AFF).]

B. Require a sponsor of an apprentice to have held a Class I, Class II or Class III lobster and crab fishing license for at least 5 years; and [PL 2005, c. 202, §4 (NEW); PL 2005, c. 202, §5 (AFF).]

C. Require a person to complete all requirements of the apprentice program in a specific zone in order to enter that zone as a Class I, Class II or Class III lobster and crab fishing license holder. A rule proposed under this paragraph and adopted under section 6446, subsection 2 may not be applied to those portions of the apprentice program requirements a person has completed prior to the effective date of the rule. [PL 2005, c. 202, §4 (NEW); PL 2005, c. 202, §5 (AFF).]

A rule proposed under paragraph A or B and adopted by the commissioner under section 6446, subsection 2 does not apply to persons who are enrolled in the apprentice program on the date the rule takes effect.

[PL 2005, c. 202, §4 (NEW); PL 2005, c. 202, §5 (AFF).]

5-D. Council authority; under 18 waiting list. Notwithstanding any other provision in this subchapter and upon approval in a referendum under subsection 6, a lobster management policy council in a limited-entry zone may propose to the commissioner that the limitation described in this subsection be placed on entry by individuals into that zone in accordance with rules adopted by the department.

This limitation would require that the number of individuals who are authorized to be issued a lobster and crab fishing license that identifies a limited-entry zone as the declared lobster zone without meeting the requirements of section 6448, subsection 4, in accordance with section 6448, subsection 8, paragraph A, be limited to the number of new zone entrants who enter that zone in accordance with section 6448, subsection 7-A. This limitation may not be applied to a person who is under 18 years of age and lives on a year-round basis on an island within the coastal waters that is not connected to the mainland by any artificial structure.

The commissioner shall maintain a waiting list of individuals who have identified the limited-entry zone as their declared lobster zone in accordance with section 6448, subsection 8, paragraph A. For the purposes of this subsection, an individual on a waiting list maintained by the commissioner does not need to meet the eligibility requirements of section 6421, subsection 5-A in order to purchase a student license.

The commissioner may establish by rule procedures to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2013, c. 239, §1 (AMD).]

6. Referendum on policy proposals. A lobster management policy council must submit proposed rules to referendum in the zone in which the rules would apply before submitting those proposed rules to the commissioner. A lobster management policy council may submit proposed rules to the commissioner if the proposed rules are approved by 2/3 of those voting in the referendum. [PL 1995, c. 568, §7 (AMD).]

7. Council member and voter qualifications. A person may not be a member of a zone's lobster management policy council or vote in a zone's council election or referendum unless that person:

A. Possesses a Class I, Class II or Class III lobster and crab fishing license issued under section 6421; and [PL 1995, c. 468, §8 (NEW).]

B. Declared at the time of obtaining a Class I, Class II or Class III license the zone in which the person fishes a majority of that person's lobster traps. A person may declare only one zone as the zone in which the person fishes a majority of that person's lobster traps. [PL 1999, c. 508, §2 (AMD).]

The holder of a lobster and crab fishing license issued under section 6421 may fish for lobsters in any zone.

[PL 1999, c. 508, §2 (AMD).]

8. Role of advisory council. Notwithstanding any provisions to the contrary, the commissioner may adopt rules under this section without the advice and consent of the Marine Resources Advisory Council.

[PL 1995, c. 468, §8 (NEW).]

9. Notice. When a meeting of a lobster management policy council includes as an agenda item a proposal that, if adopted, would affect the ability of a person who does not hold a lobster and crab fishing license to participate in the lobster and crab fishing industry, including but not limited to a proposal regarding exit ratios under section 6448, the agenda must be posted publicly at least 7 days in advance of the meeting.

[PL 2015, c. 428, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 468, §8 (NEW). PL 1995, c. 568, §7 (AMD). PL 1999, c. 187, §3 (AMD). PL 1999, c. 508, §2 (AMD). PL 2001, c. 282, §2 (AMD). PL 2003, c. 466, §4 (AMD). PL 2005, c. 202, §§3,4 (AMD). PL 2005, c. 202, §5 (AFF). PL 2007, c. 204, §3 (AMD). PL 2007, c. 615, §10 (AMD). PL 2009, c. 394, §13 (AMD). PL 2009, c. 499, §2 (AMD). PL 2009, c. 499, §3 (AFF). PL 2013, c. 239, §1 (AMD). PL 2015, c. 68, §6 (AMD). PL 2015, c. 428, §3 (AMD).

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