

Notice of Agency Rule-making Proposal

MAPA-3 revised 2-2016

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 25 Technical Corrections and Jonah Crab Claw Exception

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

BRIEF SUMMARY: This proposed regulation makes technical corrections to Chapter 25. It moves existing lobster trawl limits that are currently in Chapter 55 into Chapter 25, so that all lobster trawl limits are located in the same chapter. It strikes expired language regarding second zone tags in Zones B and C, and F and G, now that a statewide second zone tag system is in place. It clarifies language regarding construction of green crab traps. Finally, it creates an exemption that would allow a lobster and crab fishing license holder to possess up to 5 gallons of crab claws detached at sea.

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

October 12, 2017, 5:00 PM, DMR – Augusta, 32 Blossom Lane, Augusta, ME

COMMENT DEADLINE: October 23, 2017

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

AGENCY CONTACT PERSON: Amanda Ellis (tel: 207-624-6573)

Mail Written Comments to: Department of Marine Resources, attn Rulemaking

ADDRESS: 21 State House Station, Augusta, ME 04333-0021

WEB SITE: <http://www.maine.gov/dmr/laws-regulations/proposed-rulemaking.html>

E-MAIL: dmr.rulemaking@maine.gov

FAX: (207) 624-6024

TTY: (207) 624-6500 (Deaf/Hard of Hearing)

Hearing facilities: If you require accommodations due to disability, please contact Meredith Mendelson, at (207) 624-6553.

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 M.R.S. §6171

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

* Check one of the following two boxes.

X The summary provided above is for publication in both the newspaper and website notices.

The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rule-making notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT					DATE:
FUND	AGENCY	S-UNIT	APP	OBJT	AMOUNT
010	13A	1120	10	4946	regulations

Please forward invoice to: Natural Resource Service Center, 155 SHS, Augusta

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
 - C. Off Hancock County and within the following areas. Beginning at the Southern tip of Schoodic Point at $44^{\circ} 19.900' N$ and $068^{\circ} 03.609' W$; thence running a Magnetic compass course of 174° to latitude $44^{\circ} 9.44' N$ and longitude $067^{\circ} 57.54' W$; 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 $43^{\circ} 54.452' N$ and $068^{\circ} 25.708' W$ thence; thence following the B/C line to latitude $44^{\circ} 01.376' N$ and $068^{\circ} 28.396' W$; thence running a westerly Magnetic compass course of 286° to the point of intersect with the line described in subsection 2, paragraph B; 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.

C. Beals Island to Libby Island, Washington County

It shall be unlawful to have on any trawl more than 4 lobster traps in waters within the following area: A line starting at the Southeast tip of Kelly Point, Jonesport, thence following a southerly direction on a course of 170 degrees True to the most southern end of Freeman Rock, Jonesport (southwest of Moose Peak Light) as identified on National Oceanic and Atmospheric Administration nautical charts. Thence following a compass course 60 degrees True to the geographic coordinates $N 44^{\circ} 32.6' W 67^{\circ} 21.1'$, Datum WGS84 (Loran 12009.5 25741.5). Thence following a compass course of 305 degrees True to the most southern tip of Cow Point, Roque Bluffs.

D. Kittery

It is unlawful to have on a trawl more than 10 lobster traps in the waters southerly 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. Each trawl set in this area must be marked on each end with at least one buoy with a buoy stick of at least 4 feet in length.

E. Linekin Bay

It is unlawful to fish for or take lobsters with more than two traps on any one line or buoy in the waters of Linekin Bay, Lincoln County, inside and northerly of a line drawn as follows: starting at the southern tip of Spruce Point, Boothbay Harbor, southerly to a red navigational buoy #N"Z"; thence southeasterly to a black navigational buoy #C"1"; thence easterly to the northern tip of Negro Island; thence true east to Linekin Neck, Boothbay.

F. Sheepscot Bay and Sequin Island Area

It is unlawful to have on any trawl more than three lobster and crab traps or shrimp traps in coastal waters inside and upstream of the following line: starting at the southern tip of Indiantown Island, Boothbay; thence southerly to the northernmost point on Cameron Point, Southport; then starting at the southwest point of Southport; thence southeast to the Cuckolds; thence southerly 188°T. to the territorial limits of the State (LORAN C coordinates 13054.5 and 25904.0); thence westerly to Mile Ledge Bell R20ML; thence northwesterly to the navigational buoy C (1JK) Jackknife Ledge; thence northerly to the southern tip of Wood Island; thence northerly from the northern tip of Wood Island to the most southeast point on Popham Beach, Phippsburg.

25.08 Lobster Trap Tag System

A. Prohibitions

- (1) No person shall fish with or have on board a vessel a lobster trap unless a valid lobster trap tag issued by the Commissioner is securely attached to the frame of the trap. The lobster trap tag shall be affixed to the bridge of the lobster trap so that the tag information is clearly visible for inspection by a Marine Patrol Officer.
- (2) No person shall fish with, lift, haul, raise, or transport any lobster trap with a tag which has been tampered with or where the tag number is illegible or missing.
- (3) ~~Double Tagging in Zone G and Zone F~~

~~This rule will be in effect until June 1, 2017.~~

~~— Beginning September 1, 2006, all non-Zone G licensees from Zone F fishing traps in Zone G waters west of the western line described in Chapter 25.94(2)(f) must affix a second removable tag to all lobster traps when fished in that zone.~~

~~— Beginning September 1, 2006, all non-Zone F licensees from Zone G fishing traps in Zone F waters east of the eastern line described in Chapter 25.94(2)(g) must affix a second removable tag to all lobster traps when fished in that zone.~~

~~— A person who holds a Class I, Class II or Class III lobster and crab fishing license may not fish more than 49% of that person's lobster traps in a limited entry zone unless that person's license identifies that zone as the declared lobster zone.~~

~~— The tags must be obtained from the Department, which will provide tags to the licensees at cost.~~

~~—The absence of a second removable tag on traps fished in Zone G, by non-Zone G licensees from Zone F, and in Zone F, by non-Zone F licensees from Zone G, shall be prima facie evidence of a violation of this regulation.~~

~~(4) Double Tagging in Zone B and Zone C~~

~~—This rule will be in effect until June 1, 2017.~~

~~Beginning June 1, 2010, all licensees who have declared Zone B fishing traps in Zone C waters west of the western line described in Chapter 25.94(2)(b) must affix a second removable tag to all lobster traps when fished in that zone.~~

~~—Beginning June 1, 2010, all licensees who have declared Zone C fishing traps in Zone B waters east of the eastern line described in Chapter 25.94(2)(c) must affix a second removable tag to all lobster traps when fished in that zone.~~

~~—A person who holds a Class I, Class II or Class III lobster and crab fishing license may not fish more than 49% of that person's lobster traps in a limited entry zone unless that person's license identifies that zone as the declared lobster zone.~~

~~—The tags must be obtained from the Department, which will provide tags to the licensees at cost.~~

~~—The absence of a second removable tag on traps fished in Zone C, by licensees who have declared Zone B, and in Zone B, by licensees who have declared Zone C, shall be prima facie evidence of a violation of this regulation.~~

(5) Fishing in a Non-Declared Lobster Zone

By June 1, 2017, all Class I, Class II or Class III lobster and crab fishing license holders must affix a second zone tag to their traps when fishing those traps in a zone other than their declared lobster zone. This second zone tag will be in addition to their declared lobster zone tag.

A person who holds a Class I, Class II or Class III lobster and crab fishing license may not fish more than 49% of that person's lobster traps in a limited entry zone unless that person's license identifies that zone as the declared lobster zone.

The tags must be obtained from the Department of Marine Resources.

The absence of a second tag on traps fished in a zone other than their declared lobster zone shall be prima facie evidence of a violation of this regulation.

25.40 Green Crabs

A. Definitions

- (1) Green Crab. The green crab is defined as the species *Carcinus maenas*, also known as the common shore crab.
- (2) Green Crab Trap. "Green crab trap" means a trap, pot or other stationary contrivance or device that may be set on the ocean bottom and used for taking green crabs in compliance with the regulations in Chapter 25.40(B)(1)(b).

B. Trap Design and Marking Requirements

- (1) It shall be unlawful to fish for or take green crabs with a trap ~~constructed with~~ other than:

(a) A trap constructed with any opening less than 1 ½ inch wide; any length is allowed; or

- (b) An approved crab trap as defined in Chapter 25.02(C).
- (2) Escape Panel. All green crab traps must be equipped with a biodegradable escape panel located next to the bottom edge that has a minimum size of 3 ¾ inches by 3 ¾ inches.
- (3) Marking. It shall be unlawful to set, raise, lift or transfer any green crab trap unless it is clearly marked with a buoy that has the owner's green crab fishing license number written on it. No floating or neutral line shall be allowed. A green crab only license holder must display a buoy with the green crab license number, and the buoy must be mounted in a manner so that it is clearly visible on both sides of the boat.

C. Limitations

- (1) Fishing Method. Green crabs may be taken as a by-catch by DMR licensed commercial lobster fishermen or by traps that meet the design and marking requirements in Chapter 25.40(B), by hand, hook and line, or as by-catch in another licensed fishery.
- (2) Trawl Trap Limit. It shall be unlawful to have on a trawl more than 3 green crab traps on one warp and buoy.
- (3) Fishing Area. Fishing for green crabs shall be limited to the territorial waters of the State of Maine defined as all waters of the State within the rise and fall of the tide seaward to the 3-nautical-mile line as shown on the most recently published Federal Government nautical chart, but does not include areas above any fishway or dam when that fishway or dam is the dividing line between tidewater and fresh water.
- (4) Lobster By-catch Prohibited. The holder of a commercial green crab only license may not be in possession of any lobster or lobster parts in accordance with 12 M.R.S. §6808(8) or other marine organism in accordance with laws and regulations pertaining to the taking or possession of that species. Otherwise, any marine organism caught by a green crab trap other than green crabs shall be immediately liberated at the location of capture.
- (5) Exemptions.
 - (a) Personal Use. A license is not required to fish for, take, possess or transport green crabs for personal use pursuant to 12 M.R.S. §6808(4).
- (6) Enforcement. Marine Patrol Officers may inspect, at any time, any trap or related equipment to ensure compliance with this regulation.
- (7) Night prohibition. It shall be unlawful to fish for or take green crabs during the period ½ hour after sunset, as defined in 12 M.R.S. §6001(46), until ½ hour before sunrise, as defined in 12 M.R.S. §6001(45).
- (8) Bait. Bait used in green crab traps shall comply with all applicable regulations pursuant to 12 M.R.S. §6175 and §6432-A and Chapter 25.11.

D. License and Reporting

- (1) License Required. It is unlawful to take green crabs without a license pursuant to 12 M.R.S. §6808 or as a by-catch in another licensed fishery.

25.45 Crab Fishing Limitations

1. License Endorsement

It shall be unlawful to harvest crabs by drag from the EEZ unless the harvester holds a [Commercial Fishing – Single license with the Draggged Crab Permit endorsement or a Commercial Fishing – Crew license with the Draggged Crab Permit endorsement*](#). There will be

no additional charge for this permit. A lobster and crab fishing license issued pursuant to [12 M.R.S.A. §6421](#) is not required to obtain this endorsement in accordance with [§6421, sub-§4\(B\)](#). *DMR License Division telephone (207-624-6550) or for online information select the following link: <http://www.maine.gov/dmr/license/index.htm>.

2. Limits

A. Possession Limits

(1) For individuals taking dragged crabs as bycatch, it is unlawful to take, possess or land more than 200 pounds (90.7 kg) of crabs per day, not to exceed 500 pounds (226.8 kg) per trip.

(2) For individuals fishing for or taking Jonah crabs recreationally, it is unlawful to fish for, take or possess more than 50 Jonah crabs per person per 24-hour day.

B. Size Limit

It is unlawful to take or possess a Jonah crab measuring less than 4.75 inches across the shell from tip to tip of the posterior-most, longest spines along the lateral margins of the carapace.

C. Prohibitions on Possession

(1) It is unlawful to take or possess any egg-bearing, female Jonah crab.

(2) While on board a vessel, it is unlawful to take or possess any Jonah crab, or part thereof, which is mutilated in a manner which makes accurate measurement impossible, except that a lobster and crab fishing license holder may take and possess a volume of crab claws detached at sea not to exceed five gallons.

D. Closed Seasons

(1) Closed Season Regulation on Fishing for Crabs in Sheepscot River

It shall be unlawful to fish for or take crabs, except green crabs from December 1 to April 30, both days inclusive, from the waters inside and upstream of the following lines:

- (a) From the extreme tip of Phipps Point, Woolwich, to the southern tip of Hubbard's Point in Westport;
- (b) From the tip of Kehail Point, Westport, to the most southerly end of Barter's Island in the town of Boothbay;
- (c) Along the length of the Barter's Island Bridge and Knickerbocker Bridge, in the town of Boothbay.

(2) Closed Season on Fishing for Crabs in Damariscotta River

It shall be unlawful to fish for or take crabs, except green crabs from December 1 to April 30, both days inclusive, in the Damariscotta River above a straight line drawn across the River from a point on the shore of Back Narrows on the west side of the River in the Town of Boothbay intersecting the southwestern point of Fort Island and the red nun navigational Buoy #10 to a point on the opposite shore in the Town of South Bristol.

(3) Closed Season on Fishing for Crabs in Medomak River

It is unlawful to fish for or take crabs, except green crabs from December 1 to April 30, both days inclusive, in the Medomak River, from the waters inside and upstream of a line drawn from the southernmost tip of Jones Neck in Waldoboro northwest to the southernmost tip of Hardy Island then true west to Keene Neck in Bremen, including all waters of Broad Cove, Eastern Branch and Western Branch.

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6573; web address: <http://www.maine.gov/dmr/laws-regulations/proposed-rulemaking.html>

CHAPTER NUMBER AND RULE: Chapter 25 Technical Corrections and Jonah Crab Claw Exception

STATUTORY AUTHORITY: 12 M.R.S. §6171

DATE AND PLACE OF PUBLIC HEARING:

October 12, 2017, 5:00 PM, DMR – Augusta, 32 Blossom Lane, Augusta, ME

COMMENT DEADLINE: **10/23/2017**

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

To make technical corrections for the purpose of greater clarity, and to provide an exemption to the possession of crab claws at sea that was permitted by the Atlantic States Marine Fisheries Commission in Addendum II to the Jonah Crab Fishery Management Plan.

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 rule changes would not change any existing requirements except that a new exemption is created in order to allow a lobster and crab fishing license holder to have up to 5 gallons of crab claws detached at sea.

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]

Addendum II to the Atlantic States Marine Fisheries Commission Jonah Crab Fishery Management Plan, input from Maine Marine Patrol

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

Enforcement of this rule will not require additional activity in this agency.

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.