

Basis Statement

Chapter 25.08(F) Lobster Trap Tag System, Special Circumstances Permit

According to the Licensing Division and Bureau of Marine Patrol they receive several hundred "special circumstance" requests per year by lobster and crab license holders. These are persons who find themselves in need of assistance under special circumstances. These regulations require that these requests are in writing and, should the request be granted, that it be administered in the form of a special circumstances permit. A written permit assists the Marine Patrol in the enforcement of the requirements of Chapter 25.08(B)(2)&(5) and limit potential abuses.

Summary of Comments

Chapter 25.08(F) Lobster Trap Tag System, Special Circumstances Permit

A public hearing was held March 3, 2009 at the Department of Marine Resources in West Boothbay Harbor. No persons from the public attended the hearing and no written comments were received.

DEPARTMENT OF MARINE RESOURCES

25.08 Lobster Trap Tag System

B. Trap Tags

(2) Except as approved by the Commissioner, no license holder shall be issued trap tags in an amount that causes a declared vessel to exceed the applicable vessel trap limit established pursuant to 12 M.R.S.A. §6431-A and §6421(3-A)(F). Such approvals shall be consistent with the individual trap limits, zone trap limits, boat trap limits and vessel limitation law and regulation. Except as approved by the Commissioner, no license holder may set, haul, retrieve or take lobsters from a trap unless the trap contains a trap tag issued to that license holder or to another license holder who is then present on the vessel. No license holder may use a vessel to set, haul, retrieve or take lobsters from a trap unless that trap contains a trap tag allocated to that vessel in accordance with the license holder's vessel declaration.

(5) License holder's presence aboard

A license holder must be present aboard any vessel involved in setting, hauling, retrieving or taking lobsters from lobster traps for which such license holder has been assigned tags under this regulation. The Commissioner may authorize another person to fish for or take lobsters from a vessel when an owner is not on board if an illness or disability temporarily prevents that owner from fishing for or taking lobsters from that vessel and provided that person holds a Class I, II or III lobster and crab fishing license. For the purpose of this section temporary means up to the end of the current license year, unless otherwise specified by the Commissioner in the authorization. Such notification shall describe the disability or illness, the identity of the person who will be acting on the license holder's behalf and the time period involved. The Commissioner may approve of such substitution under such reasonable conditions as he may require in order to effectuate the purpose and intent of this regulation.

(F) All requests for approval by the Commissioner of a variance from the requirements of Chapter 25.08 B(2) and or (5) must be made to the department in writing; and any such approvals which are granted will be in the form of a special circumstances permit. Any fishing activity not expressly authorized in the special circumstance permit granted by the Commissioner shall be a violation of this subsection and subject to prosecution and or seizure.