

Department of Marine Resources
NOTICE OF AGENCY RULE-MAKING PROPOSAL

RULE TITLE: Chapter 85 Saltwater Fishing Registry

CONCISE SUMMARY: The proposed regulations would finalize the new saltwater fishing registry by establishing rules for the selection of agents to register individuals who wish to engage in saltwater recreational fishing. These rules also describe in greater detail certain individuals who are exempt from registration; and establish a striped bass fishing endorsement required of persons who recreationally fish striped bass in saltwater. A copy of the entire proposed rulemaking is available online at:

<http://www.maine.gov/dmr/rulemaking/> A copy of the new statute is available online at:

<http://www.mainelegislature.org/legis/statutes/12/title12sec6312.html>

STATUTORY AUTHORITY: [12 M.R.S. §6312](#)

PUBLIC HEARINGS:

November 15, 2010, 6pm, State Ferry Terminal (Conf Rm), 517A Main St, Rockland

November 16, 2010, 7pm, Community Room, Yarmouth Town Hall, 200 Main St, Yarmouth

Public hearings for proposed rulemakings in Chapters 34, 42, 43 and 85 pertaining to groundfish, striped bass, bluefish and the new saltwater fishing registry respectively, will be held each night in chronological order with each hearing to begin immediately upon the conclusion of the previous hearing. See separate rulemaking notices.

DEADLINE FOR COMMENTS: November 29, 2010

To ensure consideration, comments must include your name and the organization you represent, if any. Please be aware that any risk of non-delivery associated with submissions by fax or e-mail is on the sender.

AGENCY CONTACT PERSONS: David Etnier or Deirdre Gilbert (tel: 207-624-6550)

Mail Written Comments to: Department of Marine Resources, attn L. Churchill

ADDRESS: PO Box 8, West Boothbay Harbor, Maine 04575-0008

WEB SITE: <http://www.maine.gov/dmr/rulemaking/>

E-MAIL: laurice.churchill@maine.gov TEL: (207) 633-9584 FAX:(207) 633-9579 TTY:(207) 633-9500 (Deaf/Hard of Hearing) Hearing facilities: If you require accommodations due to disability, please contact Amanda Beckwith, at (207) 287-7578.

Proposed rulemaking – see underlined or ~~deleted~~ text below:

Chapter 85: SALTWATER FISHING REGISTRY

85.01 Definitions

A. Except as modified, the definitions contained in 12 M.R.S §6001 shall apply to this Chapter, in addition to the following:

- (1) “Contact Information” for the Department of Marine Resources, unless otherwise noted, means the Department of Marine Resources (DMR), License Division, State House Station 21, Augusta, Maine 04333-0021; telephone: (207) 624-6550; fax: (207) 624-6024.**

85.02 Saltwater Registry Agents

A. Selection of Agents

The Commissioner may limit and prioritize the selection of agents based on the proximity of the applicant to coastal waters and degree of direct involvement by the applicant with the saltwater recreational fishing industry. The basic eligibility criteria for agents are:

- (1) Each agent applicant must have the capability to register individuals and issue Striped Bass Endorsements through an Internet connection to a centralized database, using a computer and printer at the agent location.**
- (2) All agent applicants must submit an agent application form and the agent agreement form to the Department by a deadline to be announced by the Department. The initial application deadline may be extended at the discretion of the Department.**
- (3) Each agent applicant must demonstrate creditworthiness by authorizing the Department to perform credit checks with any credit organization, and must provide such assistance and any other supplemental information deemed necessary by the Commissioner for this purpose.**

B. Operation Standards for Agents

- (1) Upon selection, all new agents must complete training as required in the agent agreement form.**

- (2) All agents must ensure that all saltwater registrants and striped bass endorsement customers will be serviced in a timely, helpful, courteous manner by the agent's employees, and that all employees authorized to conduct registrations and issue striped bass endorsements are properly trained to complete sales transactions according to the Department requirements.
- (3) All agents must accept the responsibility for compliance with all pertinent laws, regulations, Department policies, performance standards, and reporting and payment requirements regarding the sale or issuance of endorsements and registrations.
- (4) All agents must agree to the terms and conditions specified in the Subscription Service Agreement with the Maine Information Network or successor.
- (5) Agent agreements are not transferable or assignable to another person, location, business, or corporation.

C. Agent Reporting and Payment Requirements

- (1) Department of Marine Resources Saltwater Registry agents will be billed on a monthly basis for sales completed during the previous month. Billing will be based on sales processed by the agent and recorded through the Saltwater Registry website. The website hosting company (InforME or successor) will act as the invoicing and collection agent for the Department. Agents are required to settle their accounts within 30 days or pay late fees as described in the Subscription Service agreement. The manner of payment to the DMR collection agent will be determined within the Subscription Service agreement.
- (2) Agents not providing payment within a period of time described in the Subscription Service Agreement will be considered delinquent. Also, payments received that are rejected by the account holding bank will cause the agent to be considered delinquent. All agents must be responsible for payment of bank charges and costs to process a returned check and any other special fees or charges incurred by the Department due to the agent's activities.
- (3) Submitting payment in full as invoiced by the collection agent indicates agreement on the detail of sales performed during the invoice period. Disputes about sales amounts will be resolved by the Department, the collection agent, and the agent, with the Commissioner having final determination. The agent has the burden of proof as to the disputed amounts.
- (4) Agents are not required to submit periodic reports but they are required to monitor their sales account through the administrative features of the website on a regular basis. Agent activity reports will be generated from the website by the Department.

D. Agent Agreement Periods and Termination of Agent Services

Each agent must enter into an agreement with the Department on a form prescribed by the Department. The location where sales of licenses and registrations are allowed shall be stated in the Agreement. Agent agreements will be terminated in any of the following events:

- (1) The agent no longer wishes to act as a sales agent at the designated sales location.
- (2) The agent sells or leases the business to another party or otherwise attempts to transfer or assign the agreement.
- (3) The Commissioner terminates the agency agreement because of one of the following:
 - (a) Failure to comply with pertinent laws, rules, policies, or performance standards as determined by the Commissioner;
 - (b) Delinquencies or failure by the agent in making payments, or otherwise complying with the terms of this rule or the agent agreement, as determined by the Commissioner;
 - (c) Changing conditions, circumstances, or legal requirements as determined by the Commissioner;
 - (d) Low volume of sales by the agent as determined by the Commissioner.

When the Commissioner determines that an agency agreement will be terminated, the Commissioner will notify the agent in writing.

Upon termination of the agreement for any reason, the agent must return all materials, records and supplies provided as part of the agent sales program, and shall any pay remaining balance owed to the website hosting company.

The exemptions for New Hampshire Licensed Fishermen and Persons with Disabilities, as provided by Title 12 MRS §6312(3) are further defined as follows:

A. New Hampshire Licensed Fishermen

A person that possesses a valid New Hampshire saltwater recreational fishing license that meets the requirements of 50 Code of Federal Regulations, Sections 600.1415 and 600.1416 (2009) engaging in recreational saltwater fishing within Maine's territorial waters northerly of the Maine and New Hampshire Border to a line drawn from the active light house on Cape Neddick to navigational aid Whistle 'R 22A' is exempt from the registry requirements of [12 M.R.S. §6312](#).

B. Persons with Disabilities

Persons with the following disabilities are exempted from the registry requirement if they apply for and are granted a waiver from the Commissioner. If a waiver is granted, it remains valid for the life of the license holder, provided that the individual's eligibility to obtain a license from the Department has not been revoked or suspended.

When applying for a waiver, the applicant must provide sufficient evidence of the disability, as described below.

(1) Individuals who are blind

The application for a waiver must be accompanied by a letter from a licensed, physician, optometrist or ophthalmologist certifying that the applicant is permanently blind. "Blind" means having visual acuity for a distance vision of 20/200 if the widest diameter of field of vision subtends to an angle no greater than 20 degrees.

(2) Paraplegics

The application for a waiver must be accompanied by a letter from a licensed physician certifying that the individual has lost, or who has permanently lost the use of, both lower extremities.

(3) Individuals who have an acquired brain injury

The application for a waiver must be accompanied by a letter from a licensed physician certifying that the individual has a head injury as defined by Title 22, §3086.

(4) Individuals who have a mental handicap

The application for a waiver must be accompanied by a letter from a licensed physician or psychologist certifying that the individual has mental retardation, as defined in Title 34-B, §5001, subsection 3.

(5) Disabled veterans

The application for a waiver must be accompanied by a letter from the Veterans Administration certifying that the individual

(a) has a service-connected disability evaluated at 100%, or

(b) has a service-connected disability evaluated at 70% or more, who has served in a combat zone during any armed conflict in which participants were exposed to war risk hazards.

85.04 Striped Bass Endorsement

A Striped bass endorsement issued in accordance with [12 M.R.S. §6312](#) is required for registrants who land or possess striped bass. This includes any incidental catch or bycatch of striped bass as well as the landing of striped bass for the purposes of a "catch and release" fishery. The landing or possession of strip bass for any amount of time shall be considered prima facie evidence of the need to possess a striped bass endorsement by an individual required to be registered.