

Notice of Agency Rule-making Proposal

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 25.98 Electronic Tracking Requirements for Federally Permitted Lobster and Jonah Crab License Holders

TYPE OF RULE (*check one*): Routine Technical Major Substantive

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

This proposed rule-making incorporates the requirements in Addendum XXIX (American Lobster) and Addendum IV (Jonah crab) that were approved by the Atlantic States Marine Fisheries Commission (ASMFC) in March 2022. Specifically, for compliance with the Interstate Fisheries Management Plans, this regulation would require all federally-permitted lobster and Jonah crab license holders with commercial trap gear area permits to have approved electronic tracking devices. This requirement extends to all federally-permitted lobster and crab license holders with commercial trap gear for Lobster Conservation Management Areas (LCMAs) 1, 2, 3, 4, 5, and the Outer Cape Cod.

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

October 5, 2023 5:00 pm in person at the DMR offices at the Marquardt Building, 32 Blossom Lane, Augusta, Maine and remotely via Microsoft Teams. Remote Access information is posted to the DMR’s website under “Meetings”

COMMENT DEADLINE: October 16, 2023

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

NAME: Deirdre Gilbert

MAILING ADDRESS: 21 State House Station, Augusta, Maine 04333-0021

E-MAIL: dmr.rulemaking@maine.gov

TELEPHONE: 207-624-6553

FAX: 207-624-6024

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

Hearing facilities: If you require accommodations due to disability, please contact 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 MRS 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: _____

(authorized signature)

FUND	AGENCY	ORG	APP	OBJ	PROGRAM	FUNDING Profile JVC	FUND Pri JVC	FUND Line JVC
010	13A	1120	10	4946				

DEPARTMENT OF MARINE RESOURCES

Chapter 25: LOBSTER AND CRAB REGULATIONS

TITLE INDEX

- 25.01 Lobster Fishing in Waters Adjacent to Criehaven
- 25.02 Definitions
- 25.03 Taking of Lobsters in York River
- 25.04 Lobster Trawl Limits
- 25.05 Lobster Trap Removal
- 25.06 Vessel Ownership
- 25.07 ASMFC Lobster Management Areas and Limitations
- 25.08 Lobster Trap Tag System
- 25.09 Procedure for Issuing Seed Lobster Permits
- 25.10 Lobster Trap Limits Established by Lobster Management Zones
- 25.11 Lobster and Crab Bait Review Process
- 25.12 Alternative Bait Labeling
- 25.15 V-notching Lobsters
- 25.20 Protected Resources (*see Chapter 75*)
- 25.40 Green Crabs
- 25.45 Crab Fishing Limitations
- 25.50 Closed Season Regulation on Fishing for Crabs in Sheepscot River
- 25.55 Closed Season on Fishing for Crabs in Damariscotta River
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- 25.65 Lobster and Crab Closure in Penobscot River
- 25.70 Legal Lobster Tails
- 25.75 Lobster Import/Export Permit
- 25.80 Lobster Trap Construction Regulation
- 25.82 Lobster Trap Maximum Size
- 25.85 Lobster Trap Escape Vent Dimensions
- 25.90 Swans Island Area Lobster Trap Regulation
- 25.93 Management Framework for Limiting Lobster Fishing Effort on a Local or Regional Basis -
Operational Rules
- 25.94 Lobster Management Zones
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- 25.96 Lobster Apprentice Program
- 25.97 Management Framework for Island Limited Entry Program
- 25.98 Electronic Tracking Requirements for Federally-Permitted Lobster and Jonah Crab License
Holders

25.98 Electronic Tracking Requirements for Federally-Permitted Lobster and Jonah Crab License Holders

Effective December 15, 2023, the following electronic tracking device requirements apply to all federally permitted lobster and crab license holders, as defined in section A.

A. Definitions

1. Approved Tracking Device means an electronic device that meets all the specifications outlined in Section 3.1 of the Atlantic States Marine Fisheries Commission Addendum XXIX to the American Lobster Fishery Management Plan and which has been approved for use by the Atlantic States Marine Fisheries Commission.
2. Federally permitted lobster and crab fishing license holder means an individual who is licensed to fish for lobster and crab under 12 MRS 6421 or 12 MRS 6302-A who also holds a federal lobster and crab commercial trap gear permit for any of the Lobster Conservation Management Areas (LCMAs) 1, 2, 3, 4, 5, or the Outer Cape Cod on the vessel identified on their lobster and crab fishing license.

B. Electronic Tracking Device Requirements

1. Prior to their first lobster and crab fishing trip following December 15, 2023, federally permitted lobster and crab fishing license holders are required to install an approved tracking device.
2. Federally permitted lobster and crab fishing license holders are required to certify to the Department of Marine Resources when they have completed the installation of the approved tracking device. To submit their certification, federally permitted lobster and crab fishing license holders must complete an electronic form available through the Department of Marine Resources publicly accessible website.

C. Prohibitions

1. It is unlawful for a federally permitted lobster and crab fishing license holder to fish for, take, possess, or land lobster or Jonah crab taken with trap gear without having an approved tracking device installed aboard the permitted vessel listed on their license.
2. It is unlawful for a federally permitted lobster and crab fishing license holder to remove or have removed the approved tracking device from the permitted vessel listed on their license without written approval from the Department of Marine Resources.
3. It is unlawful for a federally permitted lobster and crab fishing license holder to allow the permitted vessel listed on their license to be operated in the coastal waters of the State without the approved tracking device being powered by an external power source at all times; an exception to this requirement exists when the vessel is moored or docked at berth.

4. The approved tracking device must remain in an operational condition, minimally powered by an internal battery, when a permitted vessel is docked, moored, or removed from the water. The license holder shall notify the Department of Marine Resources prior to an approved tracking device being rendered inoperative in instances where the permitted vessel is removed from the coastal waters for an extended period of time or for purposes of repairing or replacing an approved tracking device.
5. It is unlawful for a person to tamper with an approved tracking device or device signal; tampering includes any activity that may affect the unit's ability to operate or signal properly or to accurately compute or report the vessel's position. Tampering with an approved tracking device is not considered to occur in circumstances where an approved tracking device is being repaired or replaced provided the license holder has written approval from the Department of Marine Resources.

D. Exemptions

The following federally permitted lobster and crab fishing license holders are exempt from the electronic tracking requirements.

1. A federally permitted license holder who holds a federal commercial trap gear permit that has been placed in confirmation of permit history (CPH), a permit status for when a vessel with limited access permits has sunk, been destroyed, or has been sold to another person without its permit history.
2. A federally permitted license holder who holds a federal lobster commercial trap gear permit that does not fish trap gear at any point in the fishing year (i.e., only fishes other gear under a federal lobster commercial/non-trap permit, charter/party non-trap permit, and/or does not fish any trap gear at any point in the fishing year).

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Deirdre Gilbert, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6553; web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 25.98 Electronic Tracking Requirements for Federally Permitted Lobster and Jonah Crab License Holders

STATUTORY AUTHORITY: 12 MRS 6171

DATE AND PLACE OF PUBLIC HEARING(S): October 5, 2023: 5:00 pm in person at the DMR offices at the Marquardt Building, 32 Blossom Lane, Augusta, Maine and remotely via Microsoft Teams. Remote Access information is posted to the DMR's website under "Meetings"

COMMENT DEADLINE: October 16, 2023

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [*see* §8057-A(1)(A)&(C)] This rule is proposed to ensure compliance with Addendum XXIX (American Lobster) and Addendum IV (Jonah crab) that were approved by the Atlantic States Marine Fisheries Commission (ASMFC) in March 2022. Specifically, for compliance with the Interstate Fisheries Management Plans, this regulation would require all federally-permitted lobster and Jonah crab license holders with commercial trap gear area permits to have electronic tracking devices. This requirement extends to all federally-permitted license holders with commercial trap gear for Lobster Conservation Management Areas (LCMAs) 1, 2, 3, 4, 5, and the Outer Cape Cod.

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)] Maine lobster and crab fishing license holders who also hold a federal permit to fish for lobster and Jonah crab with trap gear will be required to install and keep operational an approved tracking device.

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 XXIX TO AMENDMENT 3 TO THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN; ADDENDUM IV TO THE JONAH CRAB FISHERY MANAGEMENT PLAN and input from Maine Marine Patrol.

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

Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.