

Notice of Agency Rule-making Proposal

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 25.76 Lobster Minimum Size

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 minimum lobster size required by Addendum XXVII: Increasing Protection of the Gulf of Maine/Georges Bank Spawning Stock that was originally approved by the Atlantic States Marine Fisheries Commission (ASMFC) in May 2023. In October 2024 Addendum XXXI postponed the implementation of certain measures from Addendum XXVII to July 1, 2025. For compliance with the current Interstate Fisheries Management Plan, this regulation implements changing the minimum size of lobster from 3 ¼ inches to 3 5/16 inches, effective July 1, 2025.

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

January 7, 2025 at 5:00 pm at Jeff's Catering, Brewer, ME

January 9, 2025 at 5:00 pm in DMR's Conference Room 118, Marquardt Building, 32 Blossom lane, Augusta ME, and remotely via Microsoft Teams. Remote access information is posted to <https://www.maine.gov/dmr/home> under "meetings".

If either hearing must be cancelled due to inclement weather, an alternate hearing will be held on January 10 at 3:00 pm in DMR's Conference Room 118, Marquardt Building, 32 Blossom lane, Augusta ME, and remotely via Microsoft Teams. Remote access information is posted to <https://www.maine.gov/dmr/home> under "meetings".

COMMENT DEADLINE: January 21, 2025

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

NAME: Deirdre Gilbert

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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 6431

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.

DEPARTMENT OF MARINE RESOURCES

Chapter 25: LOBSTER AND CRAB REGULATIONS

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- 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
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- 25.12 Alternative Bait Labeling
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- 25.20 Protected Resources (*see Chapter 75*)
- 25.40 Green Crabs
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- 25.50 Closed Season Regulation on Fishing for Crabs in Sheepscot River
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- 25.70 Legal Lobster Tails
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- 25.76 Lobster Minimum Size
- 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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- 25.97 Management Framework for Island Limited Entry Program

25.98 Electronic Tracking Requirements for Federally Permitted Lobster and Jonah Crab Vessel

25.76 Lobster Minimum Size

Except as provided in 12 MRS § 6431(1-A,) a person may not buy, sell, give away, transport, ship or possess any lobster that is:

- A.** Prior to July 1, 2025, less than 3 1/4 inches in length, as determined by the lobster measure certified in accordance with 12 MRS § 6431(3).
- B.** July 1, 2025 and after, any lobster that is less than 3 5/16 inches in length, as determined by the lobster measure certified in accordance with 12 MRS § 6431(3).

Grace period: See 12 MRS § 6431(6-A)

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) 624-6576; web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 25.76 Lobster Minimum Size

STATUTORY AUTHORITY: 12 MRS §6431

DATE AND PLACE OF PUBLIC HEARING(S):

January 7, 2025 at 5:00 pm at Jeff's Catering, Brewer, ME

January 9, 2025 at 5:00 pm in DMR's Conference Room 118, Marquardt Building, 32 Blossom lane, Augusta ME, and remotely via Microsoft Teams. Remote access information is posted to <https://www.maine.gov/dmr/home> under "meetings".

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COMMENT DEADLINE: January 21, 2025

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [*see* §8057-A(1)(A)&(C)] This proposed rule-making incorporates the minimum lobster size required by Addendum XXVII: Increasing Protection of the Gulf of Maine/Georges Bank Spawning Stock that was originally approved by the Atlantic States Marine Fisheries Commission (ASMFC) in May 2023. In October 2024 Addendum XXXI postponed the implementation of certain measures from Addendum XXVII to July 1, 2025. For compliance with the current Interstate Fisheries Management Plan, this regulation implements changing the minimum size of lobster from 3 ¼ inches to 3 5/16 inches, effective July 1, 2025.

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)] It will be unlawful for a person to buy, sell, give away, transport, ship or possess any lobster that is less than 3 5/16 inches effective July 1, 2025. A 180 day grace period is provided in law for a person holding a wholesale or retail seafood dealer license or a lobster transportation license to handle lobsters legally purchased or received in the prior year which do not meet the new minimum size requirement.

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]: ADDENDUMS XXVII AND XXXI TO AMENDMENT 3 TO THE INTERSTATE FISHERY MANAGEMENT PLAN FOR AMERICAN LOBSTER

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.

Note: If necessary, additional pages may be used.

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)]

Absent a change in the gauge, there is significant interannual variability in lobster landings and in lobster revenues. It is anticipated that a proportion of the catch will not be available to harvest until the following molt, which will impact the number of lobsters harvested in the second half of the year and the following spring. The overall value of the fishery is variable and depends heavily on market conditions. Increased price can compensate for decreases in landings, reducing economic impact.

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: *[see §8057-A(2)(B)] Lobster harvesters will be affected by a decrease in the number of lobsters they will be allowed to legally retain. Lobster dealers may be affected by a decrease in the supply of lobsters. Lobster dealers that import lobsters from Canada may be affected by a decrease in the number of lobsters that they may import from Canada because lobsters less than 3 5/16 inches will be prohibited from being imported after July 1, 2025. Lobster processors will also be affected by not being able to process lobsters less than 3 5/16 inches. However, the purpose of the management measure is to increase the resiliency of the lobster stock to ecosystem change, which is intended to benefit the industry that relies upon this resource.*

BENEFITS OF THE RULE: *[see §8057-A(2)(C)]*

Addendum XXVII, with which this rule complies, was implemented as a proactive measure to improve the resiliency of the Gulf of Maine/Georges Bank lobster stocks to ecosystem change, based on concerns about persistent low lobster settlement over the last decade. Addendum XXVII established a trigger mechanism to implement management measures – specifically gauge and escape vent sizes – to provide additional protection of the Gulf of Maine/Georges Bank spawning stock biomass. In October 2023, management measures including a series of gradual changes to gauge and escape vent sizes in LCMA 1, 3 and OCC were triggered based on an observed decline in recruit abundance indices. The Board set the implementation date for these measures to January 1, 2025. Addendum XXX was approved in August 2024 to clarify the Commission’s recommendation that the increased minimum gauge size in LCMA 1 triggered under Addendum XXVII would also apply to foreign imports of American lobster. In October 2024, the Board approved Addendum XXXI, postponing the implementation of certain measures from Addendum XXVII to July 1, 2025 to allow Canada more time to consider implementing complementary management measures, as well as reduce potential economic impacts to the US and Canadian lobster industries.