

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 25.04 Lobster Trawl Limits; Chapter 25.97 Management Framework for Island Limited Entry Program

ADOPTED RULE NUMBER:

CONCISE SUMMARY: This rulemaking addresses two separate lobster trawl limits, one in the vicinity of Kittery and one off Hancock County, and also creates an island limited entry program for the island of Frenchboro.

The trawl limit that was proposed in the vicinity of Kittery is unchanged from the existing trawl limit in law. The Department is seeking to adopt this trawl limit in regulation for consistency with all other trawl limits, so that it is easier to make changes requested by industry as necessary. The trawl limit in law would subsequently be repealed. The trawl limit in Hancock County is proposed to be amended so that it does not conflict with changes to minimum trawl lengths that will be necessary for compliance with the National Marine Fisheries Service (NMFS) federal vertical line regulations (otherwise known as the "whale rules") published June 27, 2014, and which go into effect in Maine on June 1, 2015. The position coordinates in the proposed rule have been adjusted for precision and enforcement purposes, so that the outer perimeter of the restricted area coincides with the Federally established six mile line making them congruent at its' border. With the new whale rules, there will be a minimum number of lobster traps per trawl based on the different lobster zones and distance from shore to reduce the number of buoy lines in the water column. The measures necessary for compliance with the federal whale rules will be accomplished in a subsequent rulemaking in Chapter 75.

This rulemaking addresses a recent island limited entry referendum vote for Frenchboro. It would create the Frenchboro Island limited entry program, allowing up to 14 commercial island resident lobster licenses to be issued annually as authorized by 12 M.R.S. §6449.

EFFECTIVE DATE: March 9, 2015

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DEPARTMENT OF MARINE RESOURCES

Chapter 25 Lobster and Crab

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
3. Off Hancock County. ~~Beginning at Schoodic Point, Hancock County; thence running a True compass course of 159° for approximately 16 miles to latitude 44° 04.33' north and longitude 067° 54.64' west; thence running along a True compass course of 236° for approximately 11.4 miles, to and through Mt. Desert Rock to latitude 43° 57.87' north and longitude 068° 08.2' west; thence running in a True compass course of 336° for approximately 4.2 miles to latitude 44° 01.65' north and longitude 068° 10.55' west; thence running in a westerly direction to a point where that line intersects with the line described in subsection 2, paragraph B, if it is extended to that line.~~

Beginning at Schoodic Point, Hancock County; thence running a True compass course of 159° to latitude 44° 9.44'N and longitude 067° 57.54'W; thence running in a southwesterly direction to latitude 44° 3.42'N and longitude 068° 10.26'W and thence continuing in a southwesterly direction to latitude 44° 1.34'N and longitude 068° 13.85'W; thence running in a westerly direction to a point where that line intersects with the line described in subsection 2, paragraph B, if it is extended to that line.

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° 32.6' W 67° 21.1', Datum WGS84 (Loran 42009.5 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.

25.97 Management Framework for Island Limited Entry Program

A. Definitions

The following terms, as used in these regulations, shall have the following meanings:

- (1) "Established island resident lobster license holder" means a person who:
 - (a) has a permanent physical place of abode on the island, as demonstrated through payment of property taxes on land and buildings or a signed lease, and
 - (b) holds a current Class I, II, or III lobster and crab fishing license at the time the island limited entry process under Chapter 25.97(B) is initiated.
- (2) "New island resident lobster license holder" means a person who is issued a Class I, II, or III lobster and crab fishing license through the island limited entry program. The person remains a new island resident lobster license holder until they have documented 8 years of residency and lobster landings on the island. To document residency, the person must complete a statement of domicile provided by the Department of Marine Resources, establishing that they are domiciled on the island, including meeting all of the following criteria:
 - (a) has a permanent physical place of abode on the island, as demonstrated through payment of property taxes on land and buildings or a signed lease. Individuals residing with a parent on the island may provide evidence that the parent has paid property taxes or has signed a lease.
 - (b) If registered to vote, is registered to vote on the island where the person has a permanent physical place of abode, if the island is a municipality.
 - (c) has registered their motor vehicle on the island, if the island is a municipality;
 - (d) has provided an island address for their driver's license, if the person holds a driver's license;
 - (e) has registered their boat on the island, if the island is a municipality;
 - (f) has paid their boat excise tax to the island, if the island is a municipality; and
 - (g) has listed an island address as their home mailing address on their Maine Income Tax Return.
- (3) "Year-round island community" means the following islands: Swans Island, the Cranberry Isles, Frenchboro, Vinalhaven, Matinicus, Monhegan Island, North Haven, Isle au Haut, Islesboro, Great Diamond Island, Little Diamond Island, Long Island (Casco Bay), Chebeague Island, Cliff Island, and Peaks Island.

B. Island Limited Entry Referenda Procedures

- (1) Petition Process for Initiating Island Limited Entry Referenda
 - (a) An established island resident lobster license holder who wishes to initiate a referendum to create a limited entry system for the island must form an interim island committee, consisting of a minimum of three established island resident lobster license holders.
 - (b) The Commissioner will provide the interim island committee with a list of established island resident lobster license holders for the purpose of determining the number of signatures needed to initiate a referendum.
 - (c) Lobster license holders not included on the list of established island resident lobster license holders who have a permanent physical place of abode on the island may petition the Commissioner for inclusion on the list.
 - (d) The Commissioner will provide the interim island committee with a petition form to collect signatures for the purpose of initiating a referendum. The petition must include both a description of the island limited entry program, and the number of licenses proposed for the island. The number of licenses proposed for the island may not be smaller than the current number of established island resident lobster license holders.
 - (e) The interim island committee must collect a minimum of five signatures of established island residents who are Class I, II, or III license holders, or 10% of the established island residents who are Class I, II, or III license holders, whichever is greater.

- (f) If the required number of signatures is collected, a representative from the interim island committee must present the proposal to the Lobster Management Policy Council of the Zone in which the island is located before the referendum may be conducted.
- (g) Based on the feedback received from the Lobster Management Policy Council, the interim island committee may amend the number of licenses proposed before the referendum is conducted.

(2) Island Limited Entry Referenda

- (a) The referendum question shall be mailed to all eligible license holders identified as established island resident lobster license holders.
- (b) The referendum ballots will include a postage-paid return address at the Department of Marine Resources.
- (c) The interim island committee may submit a proposed island limited entry program to the Commissioner if it is approved by two-thirds of those voting in the referendum.
- (d) If a referendum to establish an island limited entry program fails to obtain the approval of two-thirds of those voting in the referendum, no further referenda will be approved for a minimum of 24 months from the date that the ballots of the previous referendum were due.

(3) Voter Qualifications

- (a) Only those individuals identified on the list of established resident island lobster license holders are eligible to vote in the island limited entry program referenda.
- (b) To be eligible to vote, a person must be at least 18 years of age or older.
- (c) Each person eligible to vote in the referendum shall have one vote.

(4) Adoption

- (a) If an island limited entry program is approved by two-thirds of those voting in the referendum, the Commissioner may adopt and publish the rules as proposed or may reject the proposed rule if it is found to be unreasonable.
- (b) If rules are adopted to establish a limited entry program for an island, the Commissioner shall, at the end of the licensing year, designate those licenses that are the established island resident lobster license holders, solely for the purpose of determining future entry through the island limited entry program.
- (c) Licenses issued pursuant to 12 M.R.S. §6448 sub-§8 to island residents during the licensing year shall be designated as established island resident lobster licenses, solely for the purpose of determining future entry through the island limited entry program.
- (d) If rules are adopted to establish a limited entry program for an island, no further referenda will be approved for a minimum of 36 months from the effective date of the regulation establishing the program. A change to the number of island resident licenses established through the referendum requires a new island limited entry referendum.

C. Island Limited Entry Program Procedures

(1) Island Waiting List

- (a) The Commissioner shall maintain and make available an island license waiting list of persons who have requested an island limited entry lobster and crab fishing license.
- (b) A person who did not hold a Class I, II, or III lobster and crab fishing license in the previous licensing year and wishes to be a new island resident lobster license holder shall notify the Department by submitting an island waiting list declaration form. The person must be put on the waiting list according to the date on which the form was received. If multiple persons submit forms on the same day, persons shall be placed on the list according to the date the Commissioner determined that the person is eligible for a Class I, II or III lobster and crab fishing license.
- (c) A person who held a Class I, II, or III lobster and crab fishing license in the previous calendar year in a Lobster Management Zone other than the one in which the island is located, and wishes to be a new island resident lobster license holder shall notify the Department by submitting an island waiting list declaration form. The person must be put on the waiting list according to the date on which the form was received. If multiple

persons submit forms on the same day, persons shall be placed on the list according to the date their lobster and crab fishing license was initially issued.

- (d) If persons described under both (b) and (c) above submit island waiting list declaration forms on the same day, placement on the waiting list shall be determined through a random lottery drawing.
- (e) A person who is on a Zone waiting list may remain on that list when they make the island waiting list declaration, but they are no longer eligible to remain on the Zone waiting list if they accept a new island resident lobster license.

(2) Licenses Issued

- (a) For islands that have established limited entry programs, in the initial year the Commissioner shall determine the number of new island resident licenses that may be authorized at the conclusion of the rule-making process. The number of new island resident lobster licenses must be calculated by determining the number of established island resident license holders. The number of established island resident lobster license holders shall be subtracted from the number of island resident licenses established through the referendum process. The number of licenses remaining is the number of new island resident licenses that may be authorized.
- (b) In subsequent years, by February 1 of each licensing year, the Commissioner shall determine the number of new island resident licenses that may be authorized. The total number of established island resident license holders and new island resident license holders at the end of the previous calendar year shall be subtracted from the number of island resident licenses established through the referendum. The number of licenses remaining is the number of new island resident licenses that may be authorized.
- (c) Once the number of new island resident licenses to be issued has been calculated, a list of authorized new island resident license holders shall be determined from the waiting list pursuant to Chapter 25.97(C)(1).
- (d) Authorized new island resident license holders will be informed in writing, and mailed a license application form by certified mail.
- (e) Authorized new island resident license holders must submit their completed license application, with correct fees and documentation to the Department. The application must be received by the Department within 30 days of receipt by the applicant of the notice described in Chapter 25.97(C)(2)(d) above, or the new island resident will lose his/her authorization to qualify for a new island resident license.
- (f) If an authorized new island resident has not complied with (e) above, the next person on the island limited entry waiting list will be sent a license application and have 30 days to comply in the same manner.
- (g) If a person who is authorized as a new island resident license holder is not an island resident at the time of authorization, he/she will have 120 days to begin residency on the island. That person's new island resident lobster and crab fishing license may not be issued until residency is established. If an authorized new island resident has not established residency within 120 days, the next person on the island limited entry waiting list will be sent a license application.
- (h) New island resident licenses will be designated in a manner suitable to enable the Department to ensure that the license holder is complying with the requirements of Chapter 25.97(C)(3).

(3) Requirements of New Island Resident License Holders

- (a) Persons holding new island resident lobster licenses must submit annually proof of lobster landings to the Department, or indicate that they did not fish. This requirement remains in effect until they have documented eight years of lobster landings.
- (b) Persons holding new island resident licenses must confirm annually that they are continuing to meet residency requirements by completing the statement of domicile as provided by the DMR Licensing Division. Pursuant to 12 M.R.S. §6303, any license issued through misrepresentation or misstatement shall be void.
- (c) A new island resident lobster license becomes void when a person no longer meets the residency requirements in accordance with 12 M.R.S. §6449 sub-§2.

(4) Residency Requirement Waivers

- (a) A person who is unable to continue to meet the definition of a new island resident lobster license holder because a substantial illness or medical condition on the part of the person or an immediate family member prevented that person from continuing their residency on the island may appeal to the Commissioner for a residency waiver at the time of license renewal. The person must provide the Commissioner documentation from a physician describing the illness or other medical condition. In the case of illnesses or medical conditions lasting longer than a year, the Commissioner will annually review the circumstances to determine whether or not to extend the residency waiver. The person must demonstrate intent to return to residency on the island in order to be eligible for an extension of the residency waiver.
- (b) A person who is unable to continue to meet the definition of a new island resident lobster license holder because their child is enrolled as a student in a mainland community up to grade 12 may appeal to the Commissioner for a residency waiver at the time of license renewal. The person must provide the Commissioner documentation that their child is enrolled as a full-time student in accordance with 20-A M.R.S. §5001-A. This waiver may be renewed annually for the duration of the child's enrollment.

D. Island Limited Entry Program Committee

An island committee composed of resident lobster license holders of the island that has established a limited entry program must be established within three months of the adoption of the regulations establishing the limited entry program, to provide advice to the Commissioner on issues affecting the island limited entry program.

(1) Composition: The Committee shall be composed of five members, as follows:

- (a) Three established island resident lobster license holders, and
- (b) Two new island resident lobster license holders

If there are less than two new island resident lobster license holders, the Committee shall include only one new island resident lobster license holder.

- (2) Election: The Committee shall be elected by established island resident lobster license holders and new island lobster license holders. Member(s) shall be elected for two-year terms. Members may be re-elected.
- (3) Meetings of Members: The Committee shall meet at least annually, or more often as needed to address issues of importance concerning the island limited entry program. Committee meetings shall be open to the public.

E. Islands with Approved Limited Entry Programs

- (1) Chebeague Island
The Chebeague Island limited-entry program allows up to 31 commercial island resident lobster licenses to be issued annually.
- (2) Cliff Island
The Cliff Island limited-entry program allows up to 12 commercial island resident lobster licenses to be issued annually.
- (3) Cranberry Isles
The Cranberry Isles limited-entry program allows up to 23 commercial island resident lobster licenses to be issued annually.
- (4) Monhegan Island
The Monhegan Island limited-entry program allows up to 17 commercial island resident lobster licenses to be issued annually.
- (5) Frenchboro
The Frenchboro Island limited-entry program allows up to 14 commercial island resident lobster licenses to be issued annually.

Basis Statement

Chapter 25.04 Lobster Trawl Limits; Chapter 25.97 Management Framework for Island Limited Entry Program.

This rulemaking addresses two separate lobster trawl limits, one in the vicinity of Kittery and one off Hancock County, and also creates an island limited-entry program for the island of Frenchboro.

The trawl limit that was proposed in the vicinity of Kittery is unchanged from the existing trawl limit in law. The Department is seeking to adopt this trawl limit in regulation for consistency with all other trawl limits, so that it is easier to make changes requested by industry as necessary. The trawl limit in law would subsequently be repealed. The trawl limit in Hancock County is to be amended so that it does not conflict with changes to minimum trawl lengths that will be necessary for compliance with the National Marine Fisheries Service (NMFS) federal vertical line regulations (otherwise known as the "whale rules") published June 27, 2014, and which go into effect in Maine on June 1, 2015. The position coordinates in the proposed rule have been adjusted for precision and enforcement purposes, so that the outer perimeter of the restricted area coincides with the Federally established six mile line making them congruent at its' border. With the new whale rules, there will be a minimum number of lobster traps per trawl based on the different lobster zones and distance from shore to reduce the number of buoy lines in the water column. The measures necessary for compliance with the federal whale rules will be accomplished in a subsequent rule-making in Chapter 75.

This rulemaking also addresses a recent island limited entry referendum vote for Frenchboro. It would create the Frenchboro Island limited entry program, allowing up to 14 commercial island resident lobster licenses to be issued annually as authorized by 12 M.R.S. §6449.

Summary of Comments

Chapter 25.04 Lobster Trawl Limits; Chapter 25.97 Management Framework for Island Limited Entry Program.

Notice of this proposed rulemaking was advertised in the Secretary of State's Rulemaking column on January 21, 2015. A public hearing was held on February 11, 2015 in Ellsworth.

Frenchboro Island Limited Entry

Arthur L Fernald and Ann Heikkinen-Fernald, Frenchboro residents and fishermen; comment received via e-mail:

"Having lived on Maine islands most of our lives, we realize how important population and economic stability are. By providing a gateway for new-comers, and expediting their entry into primary Zone B fishing, there could be an attraction or interest by fishermen from away, as well as ensure those already residing on Frenchboro the same. Passage of this limited Entry Program for Frenchboro would help protect this lifestyle for future generations on an island where there are very limited opportunities for other means of employment."

David Lunt, Frenchboro resident and fishermen; comment received via e-mail:

"I am in favor of the proposed Island Limited Entry Program for Frenchboro. I have held a commercial lobster license for over 40 years, and fished Frenchboro's waters the entire time. The island is unique in that the only industry is lobster fishing, and keeping full time fishermen in our waters is important to the community stability.

As the current system stands, new residents must wait years to obtain the zone license, and fishing in the adjacent zones involves a great deal of travel and risk. Holding 14 Island Resident licenses could be a significant factor in allowing new fishermen and their families to make the move to Frenchboro.

Frenchboro has been a vibrant fishing community for over a hundred years, but as the next generations grow and decide fishing is not the way of life for them, the fishing fleet has diminished. Without a course of action that allows new fishermen from other communities to move to the island and support their families, the year round community could cease to exist in the not-to-distant future. As a member of the island's founding family, I would hate to see that happen."

Zac Ransom, Frenchboro lobsterman; comment received at public hearing:

"I'm not much of a big public speaker but I would think it would give an opportunity to any young fisherman anywhere in the state to be able to come to the island and live an island life to raise a family to put more kids into the schoolhouse. Right now we currently have two children in the school. One of them being my daughter and another fisherman's daughter and to have more families there, there would be more kids around and more kids at the school. And I think it would help and definitely favor the island in order to sustain the community."

Zach Lunt, Frenchboro lobsterman; comment received at public hearing:

"I would like to say I'm for the island limited entry license because I think there is no other way for us to sustain for the years to come. All of our licenses eventually retire and just get put back into the Zone B pool. Where there are already 50 or 60 people waiting, most likely those licenses would to Bass Harbor and Bar Harbor and our community would fizzle off basically as we know it today. People there have been struggling to stay a community since probably the '60s or longer than that so I'm in favor of it."

Jay Fiandacca, Frenchboro resident and harbormaster; comment received at public hearing:

"We have so few people up in our community that everybody has to hold a job in order to be a town. And every town in the state is struggling and so are we and we are an island town. And exactly what Zach said about the licenses going back into the pool. I am living proof because I moved from southern Maine when the Zones were established. My friends on Frenchboro when I was attempting to move there and they

were—his grandfather, the Sawyers, a whole lot of people were getting me to move there with my wife and child at the time. They had housing and approved me and I was going there. My folks got sick and I couldn't go at that time but they called me up and I put in for a Zone B license and there were no zones. You have until tomorrow to get it in. I put my license in for Zone B and I'm living proof and that was almost 19 years ago. There hasn't been one other fisherman because they can't. And I do support the Zones because the Zones support ourselves. We have a saying but for the islands in the state of Maine, it's a death sentence and we are dying. There are two people on Frenchboro tonight. Two. And you're looking at the rest of us who are able to be here. And someone had to hold the fort down and I am the last one almost 18 years ago and the only one who could move there is from Zone B. But if they are established they aren't going to want to move. And I came from Zone G—a long ways away and that's because there wasn't zones and I got in and I got a license today. Tomorrow the Zones went in and not one more person has been able to move in their since. It isn't just about children. I got grandchildren that I would like to bring there and on top of that we have to have jobs like every other town. There's Selectman, I'm the Truant Officer, the Harbormaster. I'm on the Appeals Board. But what a lot of people don't understand is that there are very few island communities and there are only two tonight and we are here fighting for this to move up there to protect the whole place. And what a shame if another island goes by the wayside. And one of the other things people don't realize—I don't have any exact figures here but I got a rough idea what lobstermen gross out there and there is some summer tourism out there with some big, expensive sailboats but this little rock that is going by the wayside probably generates four or five million dollars a year in income and then some in economic activity and I dare say that there is a lot of towns in Maine that don't come anyways near that. And I'm gonna say this—being on welfare they probably suck more money out of the town. We are all hard working people out there that contribute to this state and we are slowly dying because of the Zone and I support the Zones but they don't understand what they have done to all of the outer islands. And that's why you find a lot of islands in here fighting to get island licenses because we have two families that could be there but really can't be there because this hasn't passed yet. It was not just about sustaining the waters and fishing. If you are not a town, you don't get grants; you don't get your school. The ferry doesn't get used enough. Whoop. There goes the ferry. Once the ferry goes, it will die. There are thousands of islands that people lived on. And one's going fast if something isn't done. And I guess that is all I have to say."

Nate Lunt, Frenchboro resident and lobsterman; comment received at public hearing:

"I would just like to say I support it for most of the reasons that have already been said so I really don't feel like repeating them. I also think it gives a chance for people who might go away and never have a license. And a kid might want to move back and do it but they can't. So I think it is a good reason for that and to help to support the community. We need people like they said to fill the jobs in the community and makes things happen. And like they said, our families would benefit from it now. It would help the community. It may give an opportunity for someone else to come in and do well for themselves as well."

Laurette Lunt, Frenchboro resident; comment received at public hearing:

"I think what Nate said kind of sums it up. I'm for the island license for those reasons as well. Thank you."

Cheryl Averill, Frenchboro resident; comment received at public hearing:

"I just want to say I support everything that everyone has had to say and you can't go and get another job. And when people come here they will have to fish. That's all I really have. I love it and I support it."

Andy Smith, Frenchboro resident and lobsterman; comment received at public hearing:

"I'm definitely for this. I hope it goes through. It will be really good for the island and I think it really needs it. There's only two kids in the school right now and you never know in the future if there are no more kids and once that school gets closed, it going to be opened back up and keep the ferry going. It's a great life and I hope it goes through."

Tim Wiggins, Frenchboro resident; comment received at public hearing:

"I've lived on Frenchboro for nearly 22 years and I saw it go up, down, down, up, back down. Good. Bad. I've seen a lot of bad things and I've seen a lot of great things. But this is the worst I've ever seen it. If we don't do something about the school and we get more kids in there, then we lose that and the ferry and then we are not going to get it back. When I first came there a long time ago, my girlfriend brought me there and I married into the family. And everybody hated you like one of her old boyfriends. But as soon as I set foot on that property, it was beautiful and I would never leave there. Right now, I think it is savable but if we don't open it up, we will lose Frenchboro. It will just be a bunch of snotty, overweight, rich people. And it's awful when they go down and take over. And I think Frenchboro is going to make it."

Kim Smith, Frenchboro resident; comment received at public hearing:

"I want to thank everyone for coming here tonight. We have our three interim island committee members, the Island Institute and the rest of the residents all here supporting this bill. I just want to say a couple of things. Frenchboro has been struggling to keep its economy. I recently came across an article from 1974 that talked about in 1965 bringing 14 foster children out to try and bolster the economy for residents who can fish and keep the economy going. Then in the 1980s, they created the FFC housing which many of us live in to try and get more families to come out and live there. I don't think anyone escaped except for one. Now we have the conflict of a remote island with the challenges of living on it, now we have the challenge of the Zone. People cannot move there—easily anyway. I want to say that four years ago when we moved there, when we started there was 13 or 14 children in the school and now we have two—one of which is my granddaughter. My son and fiancé came up to live with us. If we weren't there, there would only be one child in the school. And I honestly wanted to say that on September 17th, we went to the Zone Council meeting we had a unanimous vote to support the Frenchboro limited island program. I did not see one person not raise their hand. With everything else that has been said—ferries, schools—this is very important and I'm going to hope that this goes through."

Nick Battista, Island Institute; comment received at public hearing:

"We strongly support this rule and urge that it goes forward. We really appreciate the Department's willingness to establish 14 licenses for the working community. The process has been going on for a while using a number of license when the process started and it is much appreciated. Beyond that, we will submit some written comments but I encourage the Department to listen to what the folks said here tonight particularly the fishermen on the island who would be welcoming more effort to the community and that says a lot that you guys care enough about the community that you want more people to come and fish and be out there. And that's not every community. It speaks to the challenges of being one of the outer island communities with limited economic opportunity and difficult ferry schedules for getting to shore on a regular basis. Also I would like to note that just about everybody here is spending the night on the mainland so they could attend this hearing and that also speaks to the importance of it."

Additional comment submitted via e-mail:

"The Island Institute strongly supports the inclusion of Frenchboro in the Island Limited Entry program with 14 licenses. Frenchboro is a great example of the kind of community this program was established to serve, and I greatly appreciate the Department's working with the community to establish that 14 licenses is currently the right number for Frenchboro.

It is critically important for the future of their community that Frenchboro establish a floor for the number of community lobster licenses available to the community. . As the Department is well aware, lobstering is the primary source of economic activity for these outer island communities. For communities that have infrequent ferry service, commuting to a job on the main land for work may be very difficult and not a viable option. However, the Island Limited Entry program is not solely about the economics of fishing. The ability to make a living from fishing allows enough people to live on the island and keep the important functions of the community going. The Island Limited Entry program will help make sure there is enough economic opportunity available on the island to keep the school open. As an organization, the Island Institute has seen multiple communities suffer when the presence of one family makes the difference between the island school being open or closed.

Frenchboro is its own small town and it has all of the governmental responsibilities that any town would have – there are just fewer people who live on the island year-round than in many communities. There has to be at least a minimum number of people living in the community in order to staff essential government functions, including the town selectmen and essential emergency services. The Island Limited Entry program helps ensure the island population level remains sufficient to carry out these functions. Again, the presence of one family can make all the difference here.

Zone B is a closed zone and there are limited opportunities for entry into the zone for anybody who does not enter through the student license program. The Island Limited Entry program was designed to make sure that island communities are not disproportionately impacted by the combination of their unique geographies and long waiting lists. Frenchboro a prime candidate for the Island Limited Entry program, since it is a small island community with a decreasing number of fishermen and on Frenchboro, the

programming will function to support and sustain the entire community, just as the legislature intended.

The Island Institute strongly supports the inclusion of Frenchboro in the Island Limited Entry program with 14 licenses. We urge you to remember the passion and testimony from nine community members from Frenchboro who attended the public hearing in Ellsworth on February 11, 2015. That they made the trip and spent the night on the mainland is a testament to how important this rule is to the future of their community. Thank you for your consideration."

Rule-Making Fact Sheet

(5 M.R.S.A., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Kevin Rousseau, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021
Telephone: (207) 624-6573; E-mail: kevin.rousseau@maine.gov, web address:
<http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 25.04 Lobster Trawl Limits; Chapter 25.97 Management Framework for Island Limited Entry Program.

STATUTORY AUTHORITY: 12 M.R.S. §§ 6171, 6439-A, 6449.

DATE AND PLACE OF PUBLIC HEARING: February 11, 2015. 6:00 PM, Ellsworth City Hall Auditorium, One City Hall Plaza, Ellsworth.

COMMENT DEADLINE: February 23, 2015

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:

This rulemaking addresses two separate lobster trawl limits, one in the vicinity of Kittery and one off Hancock County, and also creates an island limited-entry program for the island of Frenchboro.

The trawl limit that was proposed in the vicinity of Kittery is unchanged from the existing trawl limit in law. The Department is seeking to adopt this trawl limit in regulation for consistency with all other trawl limits, so that it is easier to make changes requested by industry as necessary. The trawl limit in law would subsequently be repealed. The trawl limit in Hancock County is to be amended so that it does not conflict with changes to minimum trawl lengths that will be necessary for compliance with the National Marine Fisheries Service (NMFS) federal vertical line regulations (otherwise known as the "whale rules") published June 27, 2014, and which go into effect in Maine on June 1, 2015. The position coordinates in the proposed rule have been adjusted for precision and enforcement purposes, so that the outer perimeter of the restricted area coincides with the Federally established six mile line making them congruent at its' border. With the new whale rules, there will be a minimum number of lobster traps per trawl based on the different lobster zones and distance from shore to reduce the number of buoy lines in the water column. The measures necessary for compliance with the federal whale rules will be accomplished in a subsequent rule-making in Chapter 75.

This rulemaking would also address a recent island limited entry referendum vote for Frenchboro. It would create the Frenchboro Island limited entry program, allowing up to 14 commercial island resident lobster licenses to be issued annually as authorized by 12 M.R.S. §6449.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: These regulations would amend the trawl limit off of Hancock County, and create an island limited entry program for Frenchboro.

FISCAL IMPACT OF THE RULE: Enforcement of these amendments would not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

Rulemaking statement of impact on small business
5 MRS §8052, sub-§5-A and §8053, sub-§3, ¶F, and
Executive Order 20 FY 11/12, August 24, 2011 (replaces EO's 09, 13 & 14)

Agency: Department of Marine Resources

Chapter Number and Title of Rule: Chapter 25.04 Lobster Trawl Limits; Chapter 25.97 Management Framework for Island Limited Entry Program

1. An identification of the types and an estimate of the number of the small businesses subject to the proposed rule; and EO20 1.A. The impact of the proposed rule on job growth or creation:

The proposed rulemaking would result in would create the Frenchboro Island limited entry program, allowing up to 14 commercial island resident lobster licenses. Other areas of the rule would have no measurable impact on small businesses.

2. The projected reporting, record-keeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

It is anticipated that the addition of these 14 commercial island resident lobster license will require minimal additional administrative costs for the Department.

3. A brief statement of the probable impact on affected small businesses; and EO20 1.D. The extent to which other laws and regulations already address the subject matter of the rule:

There will be a positive impact on small businesses as it would create the Frenchboro Island limited entry program, allowing up to 14 commercial island resident lobster licenses to be issued annually as authorized by 12 M.R.S. §6449.

4. A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed rule; and EO20 1.E. The relevant Federal standards, if any and the specific need for Maine's rules to differ from them if such a need exists:

None can be envisioned.

5. Indicate where a copy of the statement of impact on small business pursuant to section 8052, subsection 5-A may be obtained:

Information is available upon request from the DMR Commissioner's Office, State House Station #21, Augusta, Maine 04333-0021, telephone (207) 624-6553.