

**Tabled Public Records Exceptions in Titles 8 to 12 For Review by Public Records
Exception Review Subcommittee**

REF. NO.	STATUTORY CITATION	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION
2020-3	8 MRSA 416-A, sub-§9	Title 8, section 416-A, subsection 9, relating to the Tri-State Lotto concerning personal records in connection with payment of prize	DAFS, Bureau of Alcoholic Beverages and Lottery Operations	No change
2020-4	8 MRSA 1006, sub-§1, ¶A	Title 8, section 1006, subsection 1, paragraph A, relating to information or records required by the Gambling Control Board for licensure: trade secrets and proprietary information	Department of Public Safety, Gambling Control Board	No change
2020-5	8 MRSA 1006, sub-§1, ¶B	Title 8, section 1006, subsection 1, paragraph B, relating to information or records required by the Gambling Control Board for licensure: would be unwarranted invasion of privacy of key executive, gaming employee or another person	Department of Public Safety, Gambling Control Board	No change
2020-6	8 MRSA 1006, sub-§1, ¶C	Title 8, section 1006, subsection 1, paragraph C, relating to information or records required by the Gambling Control Board for licensure: key executive or gaming employee compensation	Department of Public Safety, Gambling Control Board	No change
2020-7	8 MRSA 1006, sub-§1, ¶D	Title 8, section 1006, subsection 1, paragraph D, relating	Department of Public Safety, Gambling Control Board	No change

REF. NO.	STATUTORY CITATION	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION
		to information or records required by the Gambling Control Board for licensure: financial, statistical and surveillance information related to the applicant		
2020-8	§ MRSA 1006, sub-§1, ¶E	Title 8, section 1006, subsection 1, paragraph E, relating to information or records required by the Gambling Control Board for licensure: creditworthiness, credit rating or financial condition of person or project	Department of Public Safety, Gambling Control Board	No change
2020-9	§ MRSA 1006, sub-§1, ¶F	Title 8, section 1006, subsection 1, paragraph F, relating to information or records required by the Gambling Control Board for licensure: information from other jurisdictions conditioned on remaining confidential	Department of Public Safety, Gambling Control Board	No change
2020-10	§ MRSA 1006, sub-§1, ¶G	Title 8, section 1006, subsection 1, paragraph G, relating to information or records required by the Gambling Control Board for licensure: information designated confidential under federal law	Department of Public Safety, Gambling Control Board	No change
2020-11	§ MRSA 1006, sub-§1, ¶H	Title 8, section 1006, subsection 1, paragraph H, relating to information or records required by the Gambling	Department of Public Safety, Gambling Control Board	No change

REF. NO.	STATUTORY CITATION	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION
		Control Board for licensure: specific personal information, including Social Security number, of any individual		
2020-12	8 MRSA 1006, sub-§3	Title 8, section 1006, subsection 3, relating to records and information developed as part of suitability requirement to select operator of central site monitoring system, held by Gambling Control Board and Dept. of Public Safety	Department of Public Safety, Gambling Control Board	No change
2020-13	8 MRSA 1006, sub-§4	Title 8, section 1006, subsection 4, relating to financial, statistical and surveillance information from the central site monitoring system held by the Gambling Control Board and the Dept. of Public Safety	Department of Public Safety, Gambling Control Board	No change
2020-14	8 MRSA 1007, sub-§2	Title 8, section 1007, subsection 2, relating to information or records received by the Gambling Control Board or Department of Public Safety from another agency pursuant to agreement	Department of Public Safety, Gambling Control Board	No change
2020-15	8 MRSA 1052	Title 8, section 1052, relating to reports, information or records compiled by the Gambling Control Board and Dept. of Public Safety concerning noncompliance with or violation of the chapter by an	Department of Public Safety, Gambling Control Board	No change

REF. NO.	STATUTORY CITATION	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION
		applicant, licensee, owner or key executive		
2020-16	8 MRSA 1052, sub-§3	Title 8, section 1052, subsection 3, relating to all complaints and investigative records of the Gambling Control Board during the pendency of an investigation	Department of Public Safety, Gambling Control Board	No change
2020-44	12 MRSA 6072, sub-§10	Title 12, section 6072, subsection 10, relating to aquaculture lease seeding and harvesting reports	Department of Marine Resources	No change
2020-45	12 MRSA 6072-A, sub-§17-A	Title 12, section 6072-A, subsection 17-A, relating to aquaculture leasing research and development	Department of Marine Resources	No change
2020-46	12 MRSA 6077, sub-§4	Title 12, section 6077, subsection 4, relating to the aquaculture monitoring program	Department of Marine Resources	No change
2020-47	12 MRSA 6078-A, sub-§1	Title 12, section 6078-A, subsection 1, relating to the Aquaculture Monitoring, Research and Development Fund concerning harvest information from leaseholders	Department of Marine Resources	No change
2020-48	12 MRSA 6082	Title 12, section 6082, relating to information obtained from another jurisdiction that is designated confidential by that jurisdiction and must remain confidential	Department of Marine Resources	No change
2020-49	12 MRSA 6173, sub-§1	Title 12, section 6173, subsection 1, relating to marine resources statistics	Department of Marine Resources	No change

REF. NO.	STATUTORY CITATION	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION
2020-50	12 MRSA 6173-A, sub-§1	Title 12, section 6173-A, subsection 1, relating to information designated as proprietary information submitted under the Maine Working Waterfront Access Pilot Project	Department of Marine Resources	No change
2020-51	12 MRSA 6173-B, sub-§1	Title 12, section 6173-B, subsection 1, relating to information designated as proprietary information for research, aquaculture, education, surveillance and inspection, shellfish sanitation and depuration	Department of Marine Resources	No change
2020-52	12 MRSA 6310, sub-§3	Title 12, section 6310, subsection 3, relating to medical information pertaining to lobster and crab fishing license denials	Department of Marine Resources	No change
2020-53	12 MRSA 6455, sub-§1-B	Title 12, section 6455, subsection 1-B, relating to market studies and promotional plans of the Lobster Promotion Council <i>Repealed effective October 1, 2021 per operation of subsection 9</i>	Department of Marine Resources	Repealed
2020-54	12 MRSA 6749-S, sub-§1	Title 12, section 6749-S, subsection 1, relating to log book for sea urchin buyers and processors	Department of Marine Resources	Suggested repeal may be appropriate as this exception is no longer needed (confidentiality covered by another provision)

REF. NO.	STATUTORY CITATION	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION
2020-63	12 MRSA 8884, sub-§3	Title 12, section 8884, subsection 3, relating to landowner and wood processor reporting requirements concerning information about volume, species, product types, county of origin and personally identifying information of forest product suppliers	Department of Agriculture, Conservation and Forestry, Bureau of Forestry	<p>No change at this time—No longer pursuing amendment included in LD 35 submitted but later withdrawn</p> <p><i>Previously tabled in 2021 as agency indicated an amendment would be proposed to provide for limited disclosure; LD 35 submitted in 130th First Session, but withdrawn before consideration by Legislature</i></p>

**Ref. No. 3 8 MRSA §416-A. Payment of prize to another person
(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

1. Conditions permitting payment of a prize to another person. Payment of a prize may be made to a person other than the winner as follows:

A. To the estate of a deceased prizewinner upon receipt by the commission of a certified court order appointing an executor or administrator;

B. To any person pursuant to a certified final order of a court of competent jurisdiction, including orders pertaining to claims of ownership in the prize, division of marital property in divorce actions, bankruptcy, child support, appointment of a guardian or conservator and distribution of an estate; or

C. **(TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1995, c. 652, §4, sub-§§1-4)** To any person, including a trustee, pursuant to a certified final order of a court of competent jurisdiction of a party state approving the voluntary assignment of the right to a prize if the court affirmatively finds all of the following:

(1) That the assignor and the assignee are not represented by the same counsel;

(2) That the assignment is in writing and represents the entire agreement between the parties;

(3) That the assignment agreement contains the following provisions:

(a) The assignor's name, social security number or tax identification number and address;

(b) The assignee's name, social security number or tax identification number, citizenship or resident alien number, if applicable, and address;

(c) The specific prize payment or payments assigned or any portion of the payments, including:

(i) The payable due dates and amounts of each payment to be assigned; and

(ii) The gross amount of the annual payment or payments to be assigned before taxes; and

(d) A notice of right to cancel in immediate proximity to the space reserved for the signature of the assignor in boldface type of a minimum size of 10 points that provides that:

(i) The assignor may cancel the assignment without cost until midnight of the 15th business day after the day on which the assignor has signed an agreement to assign a prize or portion of a prize;

(ii) Cancellation occurs when notice of cancellation is given to the assignee;

(iii) Notice is sufficient if it indicates the intention of the assignor not to be bound;
and

(iv) Notice of cancellation, if given by mail, is deemed given when deposited in a mailbox properly addressed with first class mail postage prepaid.

Failure to provide the notice of right to cancel as provided in this division renders the assignment agreement unenforceable and the assignor may collect a reasonable attorney's fee in any action to enforce such agreement;

(4) That, prior to execution of the assignment agreement, the assignee has provided to the assignor in writing, on a disclosure form separate and apart from the agreement, the following:

(a) The aggregate dollar value of payments assigned;

(b) The total consideration paid to the assignor by the assignee; and

(c) An itemization of all other fees or costs to be paid by the assignor or deducted from the payment to the assignor;

(5) That the assignor has represented to the court in sworn testimony, if a personal appearance is required by the court, or in the assignor's written affidavit, sworn to under penalty of perjury, that:

(a) Prior to signing the assignment agreement, the assignor reviewed the agreement and understood its terms and effects;

(b) The assignor has consulted with independent financial and tax advisors not referred by or associated with the assignee;

(c) The assignor has signed the assignment agreement acting under free will without undue influence or duress;

(d) The assignor is not under any obligation to pay child support or is under that obligation and is in good standing with respect to that obligation or has agreed to a payment plan with the party state agency responsible for child support and is in full compliance with that plan; and

(e) The assigned payment or payments are not subject to any claims, liens, levies, security interests, assignments or offsets asserted by other persons or the party states or has provided the court with written consent of each person having such an interest;
and

(6) If the assignor is married, the assignor has submitted to the court a signed and notarized statement of the spouse consenting to the assignment. If a notarized statement is not presented to the court, the court shall determine the ability of the assignor to make the proposed assignment without the spouse's consent.

C. (TEXT REPEALED ON CONTINGENCY: See PL 1995, c. 652, §4, sub-§§1-4)

2. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1995, c. 652, §4, sub-§§1-4) Pledge of payment as collateral for a loan. A winner may pledge all or any part of a prize as collateral for a loan.

A. Notwithstanding any provision of the Uniform Commercial Code - Secured Transactions, Title 11, article 9, to the contrary, perfection of a security interest in a prize must be completed by filing, in addition to any other filings that may be required, a financing statement with the commission.

B. In order to be entitled to receive a prize payment or payments from the commission, a secured party must obtain a certified final order of a court of competent jurisdiction that:

- (1) Adjudges the prize winner in default of a loan agreement with the secured party;
- (2) Makes findings with respect to the loan agreements and financing statements constituting the loan transaction that are equivalent to those required pursuant to subsection 1, paragraph C and, in addition, a finding that truth-in-lending disclosures set forth in 12 Code of Federal Regulations, Sections 226.17, 226.18, 226.19 and 226.20 were made; and
- (3) Identifies specific payments and awards ownership of those payments to the secured party.

C. This subsection may not be construed to:

- (1) Create or enlarge a cause of action in favor of a secured party;
- (2) Alter or impair any rule of law applicable to or governing the rights of a debtor under federal or state lending statutes; or
- (3) Alter or impair the provisions of the Uniform Commercial Code - Secured Transactions, Title 11, article 9, except to the extent inconsistent with the provisions of this section.

2. (TEXT REPEALED ON CONTINGENCY: See PL 1995, c. 652, §4, sub-§§1-4) Pledge of payment as collateral for a loan.

3. Commission intervention. The commission may intervene as of right in any action pursuant to subsection 1, paragraph C or subsection 2, but may not be considered an indispensable or necessary party.

4. Service of final order. A certified copy of the final order required by subsection 1, paragraph B, a certified copy of the final order and the assignor's affidavit required under subsection 1, paragraph C and a certified copy of the final order required by subsection 2 must be served on the commission together with a nonrefundable processing fee of \$500 within 15 days after entry of the order.

5. Request to modify or vacate final order. The commission may file a request to modify or vacate a final order pursuant to subsection 1, paragraph C or subsection 2 within 15 days after service of the order on the commission.

6. Payments. Commencing on the 30th day after full compliance with subsection 4 or after final determination of any motion filed to vacate or modify a final order entered pursuant to subsection 5, the commission is obligated to make payments, subject to tax withholding, in accordance with that order.

7. Change in assignment. A modification or amendment to an order pursuant to subsection 1, paragraph B or C or subsection 2 or an additional or subsequent assignment of a prize is not valid or binding on the commission unless the modification, amendment or assignment is approved by a separate court order that meets the requirements of this section.

8. Discharge of liability. The commission, its officers, agents and employees are discharged of all further liability upon payment of a prize pursuant to this section.

9. Confidentiality of records. The financial, tax, trust or personal records filed, received, maintained or produced by the commission in connection with payment of a prize as provided in this section are confidential. Such records are not public records under Title 1, chapter 13. Upon written request, the commission may release the name, town of residence, date of prize and the gross and net amounts of the annual prize payment of a winner. Financing statements filed with the commission are public records.

10. Child support and other state debts. This compact recognizes that each party state has enacted laws authorizing a party state agency to offset against lottery winnings debts owed for child support, unemployment overpayment and tax liability. Upon receipt of notice from a party state agency, the commission shall suspend payment of winnings in the amount of the debt and notify the winner. Any debts of a winner under this subsection must be offset by the commission in the manner in which the state lottery or commission of a party state is required by law to offset those debts.

Ref. Nos. 4-13 8 MRSA §1006. Confidentiality of records and information

1. Application and licensing records and information. This subsection applies to information or records included in an application or materials required by the board for issuance of a license pursuant to this chapter, including records obtained or developed by the board or department related to an applicant or licensee. For the purposes of Title 1, section 402, subsection 3, the following records and information are designated as confidential and may not be disclosed except as provided:

A. Trade secrets as defined in Title 10, section 1542 and proprietary information that if released could be competitively harmful to the submitter of the information;

B. Information that if released would constitute an unwarranted invasion of personal privacy of a key executive, gaming employee or any other individual included in application materials, as

determined by the board. Upon request, the board shall release a summary of information confidential under this paragraph describing the basis for the board's action in granting, denying, renewing, suspending, revoking or failing to grant or renew a license issued under this chapter. In preparing a summary, the board shall maximize public access to that information while taking reasonable measures to protect the confidentiality of that information;

C. Key executive or gaming employee compensation, except that:

(1) Executive compensation required to be filed with the federal Securities and Exchange Commission or, with respect to applicants or licensees that are not publicly traded corporations, executive compensation that would be required to be filed with the federal Securities and Exchange Commission were the applicant or licensee a publicly traded corporation or controlled by a publicly traded corporation is not confidential; and

(2) Compensation of the officers of the business entity that is organized or authorized to do business in this State who are responsible for the management of gaming operations, as determined by the board, is not confidential;

D. Financial, statistical and surveillance information related to the applicant or licensee that is obtained by the board or department from the central site monitoring system or surveillance devices;

E. Records that contain an assessment by a person who is not employed by the board or the department of the creditworthiness, credit rating or financial condition of any person or project, including reports that detail specific information for presentation to the board or department. Persons retained by the board or department to provide such an assessment shall prepare reports that indicate their conclusions and summarize information reviewed by them in a way that maximizes public access to that information;

F. Information obtained from other jurisdictions designated as confidential by the jurisdiction from which it is obtained and that must remain confidential as a condition of receipt. The board and the department may use information designated as confidential by the jurisdiction from which it is obtained but shall first make reasonable efforts to use information that is known to be publicly available from another source;

G. Information that is designated confidential under federal law whether obtained from federal authorities or provided to the board or department by an applicant, licensee or key executive; and

H. Birth dates, social security numbers, home addresses and telephone numbers, passport numbers, driver's license numbers, fingerprints, marital status, family relationships and support information, health status, personal financial records and tax returns of any individuals.

2. Disclosure to applicant or licensee; written consent. Records from an applicant or licensee may be disclosed to the applicant or licensee upon written request or to another person with the written consent of the applicant or licensee who provided the record.

3. Central site monitoring system operator. Records and information obtained or developed by the board or the department as part of a suitability requirement for selecting a 3rd party to operate the central site monitoring system pursuant to section 1004 are confidential for the purposes of Title 1, section 402, subsection 3, except that such records or information may be disclosed with the written consent of the person applying as the central site monitoring system operator.

4. Monitoring and surveillance records and information. Financial, statistical and surveillance information obtained by the board or department from the central site monitoring system or surveillance devices is confidential and may not be disclosed. The board shall prepare and make publicly available monthly and annual reports on the results of slot machine and table game operations using the information described in this subsection pursuant to section 1003, subsection 2, paragraphs Q and R, as long as the board takes appropriate measures to protect the confidentiality of specific information designated as confidential by this section.

5. Application. This section applies to all records and information in the possession of the board or the department on the effective date of this section, and the confidentiality of such information is governed by this section, not by the law in effect when the board or the department obtained the records or information. Disclosure of the records or information is governed by this section.

6. Publicly available records. Except for the information described in subsection 1, paragraph H, nothing in this section may be construed as designating confidential any records or information that are otherwise publicly available, and the board and the department are not required to treat those records or that information as confidential.

7. Report on operations. When financial and operating information, business records, business plans and marketing plans that are confidential under this section are submitted, the board and the applicant or licensee shall prepare a publicly available document that summarizes the confidential information in a manner that maximizes public access to that information.

8. Voluntary exclusion. Notwithstanding Title 1, section 401, records and information obtained or developed by the board as part of establishing and administering the list of persons who voluntarily request exclusion from any slot machine facility or casino under section 1003, subsection 3, paragraph I are confidential except that information may be released with the written consent of the person requesting voluntary exclusion and as is necessary to inform the slot machine facility or casino licensee and enforce the voluntary exclusion. Statistical data and general information that do not allow for a person on the voluntary exclusion list to be personally identified are not confidential.

Ref. No. 14 8 MRSA §1007. Intelligence sharing, reciprocal use and restricted use agreements

1. Agreement. The board or the department may enter into intelligence sharing, reciprocal use or restricted use agreements with a department or agency of the Federal Government and law enforcement agencies and gaming enforcement or regulatory agencies of other jurisdictions. The board or the department may provide information or records designated as confidential under

section 1006 only after obtaining a signed authorization to release the information or records from the applicant, licensee, owner, key executive or gaming employee to which the information or records relate, pertain or belong. This authorization requirement does not apply to the sharing of information permitted under subsections 2 and 3.

2. Reports from other jurisdictions. Information or records in the possession of the board or the department received pursuant to an intelligence sharing, reciprocal use or restricted use agreement entered into by the board or the department with a federal department or agency or a law enforcement agency or gaming enforcement or regulatory agency of any jurisdiction are considered records or information within the meaning of section 1006, subsection 1 and may be disseminated only with the permission of the person or agency providing the information or records.

3. Investigation of violations. Records received by the board or the department as application materials or as part of an investigation related to an applicant or licensee may be disclosed to state or federal law enforcement entities when the Attorney General or the department determines that the information contains evidence of a possible violation of laws, rules or regulations enforced by those entities.

Ref. Nos. 15-16 8 MRSA §1052. Confidentiality

All reports, information or records compiled by the board or the department pursuant to this subchapter regarding noncompliance with or violation of this chapter by an applicant, licensee, owner or key executive are confidential, except that the board may disclose any confidential information as follows.

1. Hearings or proceedings. Confidential information may be released in an adjudicatory hearing or informal conference before the board or in any subsequent formal proceeding to which the information is relevant.

2. Consent agreements or settlements. Confidential information may be released in a consent agreement or other written settlement when the information constitutes or pertains to the basis of board action.

3. During investigation. All complaints and investigative records of the board are confidential during the pendency of an investigation. Notwithstanding section 1006, the complaints and records become public records upon the conclusion of an investigation unless confidentiality is required by some other provision of law. For purposes of this subsection, an investigation is concluded when:

- A. A notice of an adjudicatory hearing as defined under Title 5, chapter 375, subchapter 1 has been issued;
- B. A consent agreement has been executed; or
- C. A letter of dismissal has been issued or the investigation has otherwise been closed.

4. Exceptions. Notwithstanding subsection 3, during the pendency of an investigation, a complaint or investigative record may be disclosed:

- A. To the department;
- B. To other state or federal agencies when the record contains evidence of possible violations of laws, rules or regulations enforced by those agencies or as the board or the board's designee considers appropriate;
- C. When and to the extent considered necessary by the director to avoid imminent and serious harm. The authority of the director to make such a disclosure may not be delegated;
- D. Pursuant to rules adopted by the board, when it is determined that confidentiality is no longer warranted due to general public knowledge of the circumstances surrounding the complaint or investigation and when the investigation would not be prejudiced by the disclosure; or
- E. To the person investigated on request of that person. The director may refuse to disclose part or all of any investigative information, including the existence of an investigation if the director determines that disclosure would prejudice the investigation. The authority of the director to make such a determination may not be delegated.

Ref. No. 44 **12 MRSA §6072. Research and aquaculture leases**

1. Authority. The commissioner may lease areas in, on and under the coastal waters, including the public lands beneath those waters and portions of the intertidal zone, for scientific research or for aquaculture of marine organisms. The commissioner may grant a lease to any person. Except as provided in this Part, the commissioner's power to lease lands under this section is exclusive. For the purposes of this section, the deputy commissioner may serve in the place of the commissioner. For the purposes of this section, the commissioner or the deputy commissioner serving in the place of the commissioner may authorize in writing qualified professional department staff to sign lease documents.

1-A. Lease requirement; finfish and suspension culture. Except as provided in paragraphs B and B-1 and sections 6072-A, 6072-B and 6072-C, it is unlawful for a person who does not have a lease issued by the commissioner under this section to construct or operate in the coastal waters of the State a facility for the culture of finfish in nets, pens or other enclosures or for the suspended culture of any other marine organism.

- A.
- B. A person operating a facility in the coastal waters of the State, on or before the effective date of this subsection, for the culture of finfish in nets, pens or other enclosures or for the suspended culture of shellfish that is not leased under this section must register the facility with the commissioner on or before January 1, 1992 on a form specified by the commissioner. A person registering under this paragraph must submit a completed lease application on or before July 1, 1992. A registrant whose application under this paragraph is denied shall immediately cease operations at the facility and remove all related structures from the coastal waters of the State.

B-1. A person operating a facility in the coastal waters of the State for the suspended culture of a marine organism other than shellfish that is not leased under this section must register the facility with the commissioner on or before January 1, 1994 on a form specified by the commissioner. A person registering under this paragraph must submit a completed lease application on or before July 1, 1994. A registrant whose application under this paragraph is denied shall immediately cease operations at the facility and remove all related structures from the coastal waters of the State.

C. The commissioner may not consider an application for a lease under this section on an area registered under paragraph B or B-1 from a person other than the registrant prior to rendering a final decision on any application submitted by a registrant under paragraph B or B-1.

A person who violates this subsection is subject to a civil penalty, payable to the State, of no more than \$1,000 for each day of the violation.

2. Limitations of lease. The commissioner shall determine the provisions of each lease, provided:

A. A lease may not exceed a term of 20 years;

B.

C.

D.

E. Except as provided in subsection 13-A, the lease does not result in a person being a tenant of any kind in leases covering an aggregate of more than 500 acres; and

F. No single lease may exceed 100 acres in size.

3. Municipal approval. In any municipality with a shellfish conservation program under section 6671, the commissioner may not lease areas in the intertidal zone within the municipality without the consent of the municipal officers.

4. Applications. The application shall:

A. Be written on forms supplied by the commissioner;

B. Describe the location of the proposed lease area by coordinates or metes and bounds;

C. Identify the species to be cultivated;

D.

D-1. Characterize the physical and ecological impact of the project on existing uses of the site and any adverse effects on the existing uses of the area, as defined by regulation promulgated by the Commissioner of Marine Resources;

D-2.

- E. Describe the degree of exclusive use required by the project;
- F. Include written permission of every riparian owner whose land to the low water mark will be actually used;
- G. Include a map of the lease area and its adjoining waters and shorelands, with the names and addresses of the known riparian owners as listed in the municipal tax records;
- H. Include an environmental evaluation of the site upon which the decision to seek a lease was made. The evaluation shall include, but not be limited to, bottom characteristics, resident flora, fauna and hydrography of the site if appropriate for the proposed lease;
- I. Describe the proposed source of organisms to be grown at the site; and
- J. Include a nonrefundable application fee of at least \$100, but not more than \$2,000, the amount to be set by the commissioner depending on the proposed acreage, type of aquaculture proposed and complexity of the application.

4-A. Application information. A person who applies for a lease in an area for which that person has been issued a limited-purpose lease under section 6072-A or an emergency aquaculture lease under section 6072-B may submit any information utilized in applying for a limited-purpose lease or an emergency lease to meet the application requirements of this section. If the commissioner determines the information is not valid or relevant to a lease application under this section, the commissioner must require a person to submit additional information.

5. Application review. The commissioner shall review the application and set a hearing date if the commissioner is satisfied that the written application is complete, the application indicates that the lease could be granted and the applicant has the financial and technical capability to carry out the proposed activities. When the commissioner has determined that the application is complete, the commissioner shall forward a copy of the completed application and notice of hearing to the known riparian owners within 1,000 feet of the proposed lease and to the municipality or municipalities in which or adjacent to which the lease is proposed. A municipality must be granted intervenor status upon written request.

5-A. Department site review. Prior to the lease hearing, the department shall conduct an assessment of the proposed site and surrounding area to determine the possible effects of the lease on commercially and ecologically significant flora and fauna and conflicts with traditional fisheries and all other uses. This information must be provided to the intervenors and made available to the public 30 days before the hearing. As part of the site review, the department shall request information from the municipal harbor master about designated or traditional storm anchorages in proximity to the proposed lease. The commissioner may by rule establish levels of assessment appropriate to the scale or potential environmental risk posed by a proposed lease activity. The rules must provide a method of establishing a baseline to monitor the environmental effects of a lease activity. Rules adopted under this subsection are major substantive rules as defined by Title 5, chapter 375, subchapter 2-A.

6. Hearing procedure. Prior to granting a lease, the commissioner shall hold a hearing. The hearing shall be an adjudicatory proceeding and shall be held in the manner provided under the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV and the specific procedures of this section.

A. Notwithstanding the provisions of Title 5, section 9052, subsection 1, paragraph A, personal notice of the hearing shall be required to be given only to the lessee and the known riparian owners, the municipal officials of the municipality or municipalities in which or adjacent to which the lease is located and any interested parties that have provided a written request for notification.

B. Under the provisions of Title 5, section 9052, the leasing procedure shall require notice to the general public.

C. The Department of Environmental Protection, the Department of Agriculture, Conservation and Forestry and the Department of Inland Fisheries and Wildlife must be notified of all lease applications.

D.

7. Decision.

7-A. Decision. In evaluating the proposed lease, the commissioner shall take into consideration the number and density of aquaculture leases in an area and may grant the lease if the proposed lease meets the following conditions as defined by rule.

A. The lease will not unreasonably interfere with the ingress and egress of riparian owners.

B. The lease will not unreasonably interfere with navigation.

C. The lease will not unreasonably interfere with fishing or other uses of the area. For the purposes of this paragraph, "fishing" includes public access to a redeemable shellfish resource, as defined by the department, for the purpose of harvesting, provided that the resource is commercially significant and subject to a pollution abatement plan that predates the lease application, that includes verifiable activities in the process of implementation and that is reasonably expected to result in the opening of the area to the taking of shellfish within 3 years.

D. The lease will not unreasonably interfere with significant wildlife habitat and marine habitat or with the ability of the lease site and surrounding marine and upland areas to support existing ecologically significant flora and fauna.

E. The applicant has demonstrated that there is an available source of organisms to be cultured for the lease site.

F. The lease does not unreasonably interfere with public use or enjoyment within 1,000 feet of a beach, park or docking facility owned by the Federal Government, the State Government or a municipal governmental agency or certain conserved lands. For purposes of this paragraph, "conserved lands" means land in which fee ownership has been acquired by the municipal

government, State Government or Federal Government in order to protect the important ecological, recreational, scenic, cultural or historic attributes of that property.

The Department of Agriculture, Conservation and Forestry shall maintain a list of conserved lands. The commissioner shall request this information from the Department of Agriculture, Conservation and Forestry prior to holding a preapplication proceeding.

G. The lease will not result in unreasonable impact from noise or light at the boundaries of the lease site.

H. Upon the implementation of rules, the lease must be in compliance with visual impact criteria adopted by the commissioner relating to color, height, shape and mass.

The commissioner shall adopt rules to establish noise, light and visual impact criteria under paragraphs G and H, which are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

7-B. Conditions. The commissioner may establish conditions that govern the use of the leased area and limitations on the aquaculture activities. These conditions must encourage the greatest multiple, compatible uses of the leased area, but must also address the ability of the lease site and surrounding area to support ecologically significant flora and fauna and preserve the exclusive rights of the lessee to the extent necessary to carry out the lease purpose.

8. Preference. If more than one person applies to lease an area, preference must be given as follows:

A. First, to the person who holds a lease for the area or a portion of the area under section 6072-A and who submitted an application for a lease under this section for the area or a portion of the area before the lease under section 6072-A expired;

A-1. Second, to the person who holds a license for the area or a portion of the area under section 6072-C and who submitted an application for a lease under this section for the area or a portion of the area before the license under section 6072-C expired;

B. Third, to the department;

C. Fourth, to the riparian owner of the intertidal zone in which the leased area is located;

D. Fifth, to a person who fishes commercially and who has traditionally fished in or near the proposed lease area; and

E. Sixth, to the riparian owner within 100 feet of leased coastal waters.

8-A. Preference for limited-purpose lease areas.

9. Rents. After consulting with the Director of the Bureau of Parks and Lands, the commissioner shall determine the rent that must be paid under each lease. The rent must represent a fair value based upon the use of and any structures in the leased area, but in no instance may the rental fee be set at less than \$50 an acre or more than \$100 an acre. The commissioner has the discretion to

increase the rental fees for categories of leases. These changes may take effect over the term of a lease. The commissioner also may discount a portion of the rental fee during the first 2 years of operation of a new lease. This discounted rate may not be less than \$50 an acre.

10. Notification of granted leases. After the granting of a lease:

A.

B. The department shall notify all riparian owners, intervenors and the municipality in which the lease is located that a lease has been granted. The notice must include a description of the area and how a copy of the lease may be obtained;

C. The lessee shall mark the leased area in a manner prescribed by the commissioner; and

D. The lessee shall annually submit to the department a seeding and harvesting report for the past year and a seeding and harvesting plan for the coming year. Upon written request, the department shall provide a copy of the report to the municipality or municipalities in which or adjacent to which the lease is located. The seeding and harvesting reports submitted by a lessee under this paragraph are considered confidential statistics for the purposes of section 6173.

11. Monitoring and revocation of leases. The department shall monitor a lease under this section on an annual basis. If aquaculture has been conducted in a manner substantially injurious to marine organisms, if no substantial aquaculture or research has been conducted over the course of the lease or if any condition of the lease has been violated, the commissioner may initiate revocation proceedings and revoke the lease. A lease revocation is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4. The department shall hold a hearing with public notice prior to revoking any lease.

11-A. Lease assignment. The commissioner shall assign leases in accordance with this subsection.

A. When a lease under this section has been terminated by the lessee or has been revoked by the commissioner and all appeals have been exhausted, the commissioner may lease the same site on the same terms and conditions to a new lessee for the amount of time remaining in the term of the previous lease, subject to the requirements of this section. A lease that has been terminated or revoked may be assigned pursuant to this subsection at any time before its term expires. A lease assignment pursuant to this subsection is not an adjudicatory proceeding.

B. Before assigning a lease pursuant to this subsection, the commissioner shall give notice to the public of the opportunity to submit proposals to assume and operate the lease. The commissioner shall determine that a proposal is eligible for consideration if:

- (1) The application is complete, using forms provided by the commissioner;
- (2) The change in lessee would not violate any of the standards in subsection 7-A;
- (3) The assignment is not intended to circumvent the intent of subsection 8;
- (4) The assignment is not for speculative purposes; and

(5) Except as provided in subsection 13-A, the assignment will not cause the assignee to be a tenant of any kind in leases covering an aggregate of more than 500 acres.

C. The commissioner shall consider the eligible proposals under paragraph B and shall either:

(1) Select for assignment the proposal that is best suited to the lease site and in the best interests of the State;

(2) Declare all proposals unsuitable and solicit new proposals; or

(3) Suspend the assignment process for the lease site in question.

D. After a proposal is selected pursuant to paragraph C, but before the lease is assigned, the commissioner shall give notice of the pending assignment to the public, the owners of riparian land within 1,000 feet of the lease site and the municipal officers of the municipality within which the lease is located. The notice must provide an opportunity to submit written comments on the proposed lease assignment within 14 days. The commissioner may decline to assign the lease and may select another proposal for assignment or proceed as described in paragraph C, subparagraph (2) or (3).

E. A decision by the commissioner to assign a lease or to decline to assign a lease to an applicant whose proposal was selected pursuant to paragraph C must be rendered in writing and must include findings of fact and conclusions of law. The decision by the commissioner to assign or not to assign a lease is a final decision.

F. The commissioner shall establish by rule the fee for assigning a lease under this subsection, which may not exceed \$5,000, based on the type of aquaculture conducted and the size of the lease. The assignee must pay the fee prior to the execution of the lease. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

12. Renewal. The commissioner shall renew a lease if:

A. The commissioner receives, at least 90 days prior to the expiration of a lease, an application for renewal that includes information on the type and amount of aquaculture to be conducted during the new lease term;

B. The lessee has complied with the lease agreement during the term of the lease;

C. The commissioner determines that renewal of the lease is in the best interest of the State;

D. Except as provided in subsection 13-A, the renewal will not cause the lessee to become a tenant of any kind in leases covering an aggregate of more than 500 acres; and

E. The lease is not being held for speculative purposes.

If a person who holds a lease pursuant to this section applies to renew the lease, the lease remains in effect until the commissioner makes a decision on the renewal application. If the renewal is denied, the lease expires 30 days after the date of the commissioner's decision.

When aquaculture has not been routinely or substantially conducted on a lease that is proposed for renewal, the commissioner may renew the lease, as long as the proposed renewal will continue to meet the criteria for approval in subsection 7-A.

A lease renewal is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4. Public notice must be given as required under subsection 6 and a hearing must be held if it is requested in writing by 5 persons. The commissioner may review multiple leases concurrently during the lease renewal process.

A lease renewal application must include a nonrefundable application fee of no more than \$1,500, the amount to be set by the commissioner depending on the type of aquaculture permitted by the lease.

12-A. Transferability. A lease under this section may be transferred to another person for the remaining portion of its term subject to the conditions in this subsection. A lease transfer is not an adjudicatory proceeding.

A. An application to transfer a lease pursuant to this subsection must be made on forms provided by the commissioner. When the commissioner determines that the application is complete, the commissioner shall give notice of the proposed transfer to the public, the owners of riparian land within 1,000 feet of the lease site and the municipal officers of the municipality within which the lease is located. The notice must provide an opportunity to submit written comments on the proposed lease transfer within 14 days.

B. The commissioner may grant lease transfers pursuant to this subsection if the commissioner determines that:

- (1) The change in lessee does not violate any of the standards in subsection 7;
- (2) The transfer is not intended to circumvent the intent of subsection 8;
- (3) The transfer is not for speculative purposes; and
- (4) Except as provided in subsection 13-A, the transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 500 acres.

A decision by the commissioner on an application to transfer a lease must be rendered in writing and must include findings of fact and conclusions of law. The decision by the commissioner on the transfer application is a final decision.

C. The commissioner shall establish by rule the fee for transferring a lease under this subsection, which may not exceed \$5,000, based on the type of aquaculture conducted and the size of the lease. The transferee must pay the fee prior to the execution of the lease. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

12-B. Extension of lease.

12-C. Expansion of lease. A person who holds a lease under this section may apply to the commissioner to expand the contiguous area of the lease by up to 25%, but may not expand by more than 4 acres, once during the duration of the term of the lease pursuant to this subsection.

A. The lease holder shall submit an application written on forms supplied by the commissioner:

(1) Describing the location of the proposed lease expansion area by coordinates or metes and bounds;

(2) Characterizing the physical and ecological impact of the lease expansion on existing uses of the site and any adverse effects on existing uses of the area, as defined by rules adopted by the commissioner;

(3) Including the written permission of every riparian owner whose land to the low-water mark will be used;

(4) Including a map of the lease area and its proposed expansion, and its adjoining waters and shorelands, with the names and addresses of the known riparian owners as listed in the municipal tax records and documentation showing that the lease holder has informed each of those riparian owners of the application and the opportunity for comment as provided in paragraph B;

(5) Including an environmental evaluation of the site upon which the decision to seek an expansion of the lease was made. The evaluation must include, but is not limited to, bottom characteristics, resident flora and fauna and hydrography of the site if appropriate for the proposed lease; and

(6) Including a nonrefundable application fee of at least \$100, but not more than \$2,000, the amount to be set by the commissioner depending on the proposed acreage, type of aquaculture proposed and complexity of the expansion application.

B. The commissioner shall review the application. When the commissioner has determined that the application for the lease expansion is complete, the commissioner shall provide notice to the municipal officers of the municipality or municipalities in which or adjacent to which the lease expansion is proposed. The commissioner shall publish in a newspaper of general circulation in the municipality or municipalities in which the lease expansion is proposed a summary of the application and notice of the opportunity to submit comments regarding the proposed lease expansion to the commissioner during a period of at least 30 days following the date of publication of the lease expansion summary.

C. The commissioner may conduct an assessment of the proposed lease expansion area to determine possible effects of the lease on commercially and ecologically significant flora and fauna.

D. The commissioner shall consider comments received during the period for comments set pursuant to paragraph B.

E. If the commissioner determines that, based upon the application and comments received, the lease expansion meets the requirements of subsection 7-A, the commissioner may approve the request for the lease expansion.

13. Regulations. The commissioner may adopt or amend regulations:

- A. Establishing minimum standards for maintaining leases;
- B. For procedures to issue, transfer, review, assign, expand or revoke leases;
- C. For notices and hearings to the extent that those procedures are not established by this section or the Maine Administrative Procedure Act, Title 5, chapter 375;
- D. For regulating the harvest of wild organisms to be cultured on aquaculture leases;
- E. For establishing and revaluing fees and rents related to aquaculture;
- F. For defining application requirements, an application review process and decision criteria;
- G. For adding or deleting authorization for the holder of an aquaculture lease to grow specific species and use specific gear on the lease site. A change in authorization is not an adjudicatory proceeding. The regulations must provide for notice of proposed changes in gear authorization to the public, riparian landowners and the municipality in which the lease is located and an opportunity to submit written comments on the proposal. Authorization to add species or gear must be consistent with the findings made under subsection 7-A when the lease was approved; and
- H. For establishing following requirements and procedures.

13-A. Lease acreage increase; fallowing. The commissioner may require a person to submit an annual fallowing plan and a reassessment schedule for that plan to the commissioner that identifies lease sites that have been actively operated during the lease period and that will be fallowed. The commissioner shall review the plan and reassessment schedule and may approve them, reject them or request changes. Revisions to the plan must be submitted in accordance with the reassessment schedule unless the commissioner authorizes an exception due to extraordinary circumstances.

- A. Except as provided in paragraph B, a person may not be a tenant of any kind in leases covering an aggregate of more than 500 acres including fallowed leases at any time.
- B. The commissioner may by rule authorize leases in excess of the 500-acre limit if the commissioner determines that the increase is beneficial for the management of aquaculture and is environmentally and economically appropriate. The commissioner may not authorize a person to be a tenant of any kind in leases covering an aggregate of more than 1,500 acres. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

For purposes of this subsection, "fallow" means a lease site without cultured organisms. A lease site fallowed pursuant to an enforcement action may not be considered fallowed for the purpose of this subsection.

14. Conflicts. Whenever a project described in a pending aquaculture lease conflicts or could conflict with a project described in a pending submerged lands act lease, the commissioner and the Commissioner of Agriculture, Conservation and Forestry shall determine which project is in the best interests of the State.

15. Rules. The commissioner shall promulgate rules by January 1, 1988, to define a mussel seed size or seed management and harvest season.

16. Lease-by-rule; small-scale finfish and suspended shellfish operations.

17. Restitution. A person who cuts any lines or marker buoys or intentionally damages approved aquaculture gear commits a civil violation for which a fine of not less than \$100 for each violation may be adjudged. In addition, the court shall:

A. Order that person to pay to the owner of the approved aquaculture gear that was cut or damaged an amount equal to twice the replacement value of the gear that was damaged or lost as a result of the cutting or damaging action; and

B. Direct that person to provide the commissioner, upon making full payments as ordered by the court, proof of that payment.

18. Violation. A person who violates a condition of a lease under this section commits a civil violation for which a fine of not less than \$100 for each violation may be adjudged.

Ref. No. 45 **12 MRSA §6072-A. Limited-purpose lease for commercial or scientific research**

1. Authority. The commissioner may issue a limited-purpose lease for areas in, on and under the coastal waters, including the public lands beneath those waters and portions of the intertidal zone, for commercial aquaculture research and development or for scientific research. The commissioner or the deputy commissioner acting on the commissioner's behalf may authorize in writing qualified professional department staff to issue a final decision and sign a lease document on an application for a limited-purpose lease. A decision issued by department staff pursuant to this subsection is a final agency action with respect to that lease application.

A.

B.

2. Suspended culture. A person issued a limited-purpose lease under this section may construct or operate in the coastal waters of the State a facility for the culture of finfish in nets, pens or other enclosures or for the suspended culture of any other marine organism.

3. Limit on duration. A limited-purpose lease may not be issued for a period greater than 3 years.

4. Size limitation. A limited-purpose lease may not be issued for an area in excess of 4 acres.

5. Notice of application. Upon determining that an application is complete, the commissioner shall provide notice of a limited-purpose lease application to owners of riparian land within 1,000 feet of the proposed location of the lease and to the municipal officers of the municipality in which the limited-purpose lease activity would take place. The applicant shall provide the names and addresses of known riparian landowners within 1,000 feet of the proposed location of the lease. The names and addresses must be taken from the current property tax roster on file at the local municipal office or with the Department of Administrative and Financial Services, Bureau of Revenue Services for an unorganized territory. The commissioner shall publish a summary of the application in a newspaper of general circulation in the area proposed for a limited-purpose lease. A person may provide, within 30 days of receipt of notice or within 30 days of publication of a limited-purpose lease summary, to the commissioner comments on the proposed limited-purpose lease.

6. Public hearing. The commissioner may hold a public hearing on the proposed limited-purpose lease. The commissioner shall hold a public hearing if 5 or more persons request a public hearing within the 30-day comment periods provided in subsection 5.

7. Notice of public hearing. The commissioner shall provide notice of a public hearing to owners of riparian land within 1,000 feet of the proposed location of the lease and to the municipal officers of the municipality in which the limited-purpose lease activity would take place. The commissioner shall publish notice of a public hearing in a newspaper of general circulation in the area proposed for a limited-purpose lease at least 30 days before the hearing.

8. Rules; general and lease application. The commissioner may adopt rules to implement the provisions of this section. Within 180 days of the effective date of this section, the commissioner shall adopt rules regarding a limited-purpose lease application. The rules must require an applicant to, at a minimum, meet the requirements of section 6072, subsection 2, paragraph E and subsection 4, paragraphs A, B, C, E, F, G and J. The rules must also require an applicant to provide to the department proof of access to the lease area. If access will be across riparian land, the applicant shall provide to the department the written permission of every riparian owner whose land will be used to access the lease area. The commissioner may adopt rules to add or delete authorization for the holder of an aquaculture lease to grow specific species and to use specific gear on the lease site. A change in authorization is not an adjudicatory proceeding. The rules must provide for notice of proposed changes in gear authorization to the public, riparian landowners and the municipality in which the lease is located and an opportunity to submit written comments on the proposal. Authorization to add species or gear must be consistent with the findings made under subsection 13 when the lease was approved.

9. Application information. A person who applies for a lease in an area for which that person has been issued an emergency aquaculture lease under section 6072-B may submit any information utilized in applying for an emergency aquaculture lease to meet the application requirements of this section. If the commissioner determines the information is not valid or relevant to a lease application under this section, the commissioner must require a person to submit additional information.

10. Assessment of proposed activities. Within 180 days of the effective date of this section, the commissioner shall by rule establish a method for conducting an assessment of the proposed limited-purpose lease site and surrounding area to determine the possible effects of the proposed limited-purpose lease activity on commercially and ecologically significant flora and fauna and conflicts with traditional fisheries. The rules must establish levels of assessment appropriate to the scale or potential environmental risk posed by a proposed limited-purpose lease activity. The rules must provide a method for establishing a baseline to monitor the environmental effects of a limited-purpose lease activity.

11. Municipal approval. In any municipality with a shellfish conservation program under section 6671, the commissioner may not issue a limited-purpose lease under this section for the intertidal zone within the municipality without the consent of the municipal officers.

12. Preference. If more than one person applies to lease an area, preference must be given as follows:

- A. First, to the department;
- B. Second, to the riparian owner of the intertidal zone in which the leased area is located;
- C. Third, to a person who fishes commercially and who has traditionally fished in or near the proposed lease area; and
- D. Fourth, to the riparian owner within 100 feet of leased coastal waters.

13. Decision. The commissioner may grant a lease if a proposed project:

- A. Will not unreasonably interfere with the ingress and egress of riparian owners;
- B. Will not unreasonably interfere with navigation;
- C. Will not unreasonably interfere with fishing or other uses of the area taking into consideration the number and density of aquaculture leases in an area;
- D. Will not unreasonably interfere with the ability of the lease site and surrounding areas to support existing ecologically significant flora and fauna;
- E. The applicant has demonstrated that there is an available source of organisms to be cultured for the lease site; and
- F. The lease does not unreasonably interfere with public use or enjoyment within 1,000 feet of municipally owned, state-owned or federally owned beaches and parks or municipally owned, state-owned or federally owned docking facilities.

The commissioner may by rule develop criteria for an applicant to meet the terms of this subsection.

14. Fee. The commissioner shall by rule determine the rental fee for a limited-purpose lease.

15. Conditions. The commissioner may establish conditions that govern the use of the leased area and limitations on the aquaculture activities. These conditions must encourage the greatest

multiple, compatible uses of the leased area, but must also address the ability of the lease site and surrounding area to support ecologically significant flora and fauna and preserve the exclusive rights of the lessee to the extent necessary to carry out the lease purpose. The commissioner may grant the lease on a conditional basis until the lessee has acquired all the necessary federal, state and local permits.

16. Statement of rights conveyed. The commissioner shall include the following statement in a lease issued under this section: "A limited-purpose lease for scientific research or commercial aquaculture research and development conveys only those rights specified in the lease."

17. Actions required of lease holder.

17-A. Notification of granted leases. After the granting of a limited-purpose lease:

A. The department shall notify all riparian owners, intervenors and the municipality in which the lease is located that a lease has been granted. The notice must include a description of the area and how a copy of the lease may be obtained;

B. The lessee shall mark the leased area in a manner prescribed by the commissioner;

C. The lessee shall annually submit to the commissioner a report for the past year on results of the scientific research or commercial research and development undertaken at the lease site and a plan for the coming year. Results of commercial research and development submitted to the commissioner are confidential records for the purposes of Title 1, section 402, subsection 3, paragraph A; and

D. The lessee shall annually submit to the department a seeding and harvesting report for the past year and a seeding and harvesting plan for the coming year. Upon written request, the commissioner shall provide a copy of the report to the municipality or municipalities in which or adjacent to which the lease is located. The seeding and harvesting reports submitted by a lessee under this paragraph are considered confidential statistics for the purposes of section 6173.

18. Scientific lease renewal. A limited-purpose lease for scientific research may be renewed. A scientific research lease renewal is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4, but a public hearing is not mandatory unless it is requested in writing by 25 or more persons. The commissioner may review multiple leases concurrently during the lease renewal process. The commissioner shall renew a limited-purpose lease for scientific research unless the commissioner finds that:

A. The lease holder has not complied with the terms of the limited-purpose lease;

B. Research has not been conducted during the term of the lease; or

C. It is not in the best interest of the State to renew the limited-purpose lease.

19. Commercial lease not renewable. A limited-purpose lease for commercial aquaculture research and development may not be renewed.

20. Extension of commercial lease. If a person who holds a limited-purpose lease for commercial aquaculture research and development submits an application under section 6072 for that lease area or a portion of that area before the expiration of that limited-purpose lease, and if the commissioner's decision under section 6072 occurs after the expiration of that limited-purpose lease, the lease remains in effect until the commissioner makes a decision. If the commissioner grants that person a lease under section 6072, that person's limited-purpose lease remains in effect until the effective date of the lease issued under section 6072. If the commissioner denies that person a lease under section 6072, that person's limited-purpose lease remains in effect until 30 days after the commissioner's decision.

21. Monitoring lease.

22. Monitoring and revocation of leases. The department shall monitor a lease under this section on an annual basis. If aquaculture has been conducted in a manner substantially injurious to marine organisms, if no substantial aquaculture or research has been conducted over the course of the lease or if any condition of the lease has been violated, the commissioner may initiate revocation proceedings and revoke the lease. The department shall hold a hearing with public notice prior to revoking any lease. A lease revocation is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4.

23. Restitution. A person who cuts any lines or marker buoys or intentionally damages approved aquaculture gear commits a civil violation for which a fine of not less than \$100 for each violation may be adjudged. In addition, the court shall:

- A. Order that person to pay to the owner of the approved aquaculture gear that was cut or damaged an amount equal to twice the replacement value of the gear that was damaged or lost as a result of the cutting or damaging action; and
- B. Direct that person to provide the commissioner, upon making full payments as ordered by the court, proof of that payment.

24. Violation. A person who violates a condition of a lease under this section commits a civil violation for which a fine of not less than \$100 for each violation may be adjudged.

Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Ref. No. 46 **12 MRSA §6077. Aquaculture monitoring program**

The department may establish and maintain an information base pertaining to the siting, development and operation of finfish aquaculture facilities within the State.

1. Coordination. The commissioner shall coordinate the data collection efforts of the department with those of other state agencies that regulate or assist the finfish aquaculture industry. All agencies of the State shall cooperate with the department in the establishment of the information system and shall provide all available information requested by the commissioner.

2. Data requirements. The commissioner may collect information in site-specific categories, including, but not limited to, those listed in this subsection, to allow effective enforcement of all laws pertaining to finfish aquaculture at individual facilities:

- A. Geophysical site characteristics, including currents and bathymetry;
- B. Benthic habitat characteristics and effects, including changes in community structure and function;
- C. Water column effects, including water chemistry and plankton;
- D. Feeding and production data sufficient to estimate effluent loading;
- E. Smolt and broodstock introduction and transfer data;
- F. Disease incidence and use of chemical therapeutics; and
- G. Other ancillary information as the commissioner may find necessary.

3. Data collection; authority. The commissioner may require persons holding licenses related to finfish aquaculture under this Title to report information in the categories listed in subsection 2. Personnel retained by leaseholders to perform tasks required for data collection as specified in subsection 2 and this subsection must be reviewed and approved by the commissioner for acceptable professional qualifications and experience prior to performing any data collection services. Routine notations of site operation do not require approved personnel.

4. Confidentiality. Notwithstanding section 6173 and except as provided in paragraphs A and B, information obtained by the department under this section is a public record as provided by Title 1, chapter 13, subchapter I.

In addition to remedies provided under Title 1, chapter 13, subchapter I, the Superior Court may assess against the department reasonable attorney's fees and other litigation costs reasonably incurred by an aggrieved person who prevails in the appeal of the department's denial for a request for information.

- A. Information submitted to the department under this section may be designated by the submitter as proprietary information and being only for the confidential use of the department, its agents and employees, other agencies of State Government, as authorized by the Governor, employees of the United States Environmental Protection Agency, the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the National Marine Fisheries Services, the United States Department of Agriculture, the Attorney General and employees of the municipality in which the aquaculture facility is located. The designation must be clearly indicated on each page or other portion of information. The commissioner shall establish procedures to ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the submitter and the general nature of the information. Upon a request for information, the scope of which includes information so designated, the commissioner shall notify the submitter. Within 15 days after

receipt of the notice, the submitter shall demonstrate to the satisfaction of the department that the designated information should not be disclosed. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for the whole or any part of the designated information requested and within 15 days shall give written notice of the decision to the submitter and the person requesting the designated information. A person aggrieved by a decision of the department may appeal to the Superior Court. Information that has been designated by the submitter as proprietary information may not be disclosed in a manner or form that permits identification of any person or vessel, except when required by court order or when specifically permitted under this section. All information provided by the department to the municipality under this paragraph is confidential and not a public record under Title 1, chapter 13. If a request for the information is submitted to the municipality, the municipality shall submit that request to the commissioner to be processed by the department as provided in this paragraph.

B. The commissioner may not release the designated information prior to the expiration of the time allowed for the filing of an appeal or to the rendering of the decision on any appeal.

C. Any information that is collected by any other state or federal agency or information required by the department for the purpose of obtaining a permit, license, certification or other approval may not be designated or treated as designated information under paragraph A.

D. The commissioner may adopt rules to carry out the purposes of this section. The rules must be consistent with the provisions of Title 1, chapter 13, subchapter I.

E. It is unlawful to disclose designated information to any person not authorized by this section.

(1) Any person who solicits, accepts or agrees to accept, or who promises, offers or gives any pecuniary benefit in return for the disclosure of designated information is guilty of a Class D crime.

(2) A person who knowingly discloses designated information, knowing that the disclosure is not authorized, commits a civil violation for which a penalty of not more than \$5,000 may be assessed.

(3) In any action under this paragraph, the court shall first declare that the information is proprietary information.

F. For the purposes of this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information, the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available.

Ref. No. 47 12 MRSA §6078-A. **Aquaculture Monitoring, Research and Development Fund**

1. Fund established. The Aquaculture Monitoring, Research and Development Fund, referred to in this section as "the fund," is established. In addition to the fees derived pursuant to rules

adopted under subsection 6, the commissioner may receive on behalf of the fund funds from any source. All income received by the commissioner under this section must be deposited with the Treasurer of State, tracked according to its source and credited to the fund. Any balance remaining in the fund at the end of a fiscal year does not lapse but must be carried forward to the next fiscal year. Any interest earned on assets of the fund is credited to the fund. All records related to harvests submitted by aquaculture lease holders are considered proprietary information for the purposes of section 6077, subsection 4.

2. Fees.

3. Expenditures; purpose. The commissioner may make expenditures from the fund to develop effective and cost-efficient water quality licensing and monitoring criteria, analyze and evaluate monitoring data and process lease applications. The commissioner shall expend the fund amounts in proportion to the amounts of revenue from finfish sources and shellfish sources. The commissioner may contract for services privately or under memoranda of agreement with other state agencies.

4. Additional revenues.

5. Reports.

6. Rules. The commissioner may adopt rules pursuant to this section only after consultation with the aquaculture industry that clearly establish the recommended framework for lease rents, application fees and production fees as well as the related personnel or contracting costs funded by the recommended fee increases. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Ref. No. 48 12 MRSA §6082. Confidentiality provisions for aquaculture information from other jurisdictions

Information obtained from other state, federal or foreign government agencies about aquaculture operations in other states, foreign countries or the exclusive economic zone that is designated as confidential by the jurisdiction from which it is obtained and that must remain confidential as a condition of receipt must be kept confidential by the department. Such information is not a public record as defined in Title 1, section 402, subsection 3. This section does not apply to aquaculture operations conducted in Maine.

Ref. No. 49 12 MRSA §6173. Confidentiality of statistics

1. Collection and reporting of statistics. The commissioner may, with the advice and consent of the advisory council, adopt rules to collect pertinent data with respect to the fisheries, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight, areas in which fishing was conducted, time of fishing, number of hauls and the estimated processing capacity of, and the actual processing capacity utilized by United

States fish processors. The commissioner may collect statistics from any source and may require reporting of these statistics. The information collected by or reported to the commissioner is confidential and may not be disclosed in a manner or form that permits identification of any person or vessel, except when required by court order or when specifically permitted under this section. The commissioner may share data collected under this section with the National Marine Fisheries Service or successor organization for research or fisheries management purposes as long as federal laws and regulations protect the confidentiality of the shared data. The commissioner may share landings data collected under this subsection with the Bureau of Marine Patrol when necessary for the enforcement of reporting requirements under this section. The commissioner shall adopt rules to carry out the purposes of this section. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

2. Renewal of licenses. If a holder of a license issued under this Part fails to provide information required under this section, the commissioner may refuse to renew that holder's license until the holder complies with the requirements of this section.

3. Equipment required. The commissioner may require a person licensed under chapter 625 to purchase specific equipment that is necessary to comply with rules regarding electronic reporting adopted pursuant to this section as a condition of engaging in the licensed activities.

4. Reimbursement for equipment provided. If the holder of a license issued under chapter 625 fails to pay a fee or charge for equipment that is necessary to comply with rules regarding electronic reporting adopted pursuant to this section and that was provided by the department and either not returned to the department by the license holder or returned in poor condition, the commissioner may refuse to renew or issue any marine resources license or permit to that license holder.

Ref. No. 50 12 MRSA §6173-A. Maine Working Waterfront Access Pilot Program; confidentiality for proprietary information

Except as provided in subsections 1 and 2, information obtained by the department under this section is a public record as provided by Title 1, chapter 13, subchapter 1.

1. Confidential information. Information submitted to the department under the provisions of the Maine Working Waterfront Access Protection Program established by section 6042 may be designated by the submitter as proprietary information and as being only for the confidential use of the department, its agents and employees, other agencies of State Government, as authorized by the Governor, and the Attorney General. The designation must be clearly indicated on each page or other unit of information. The commissioner shall establish procedures to ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the submitter and the general nature of the information. Upon a request for information the scope of which includes information so designated, the commissioner shall notify the submitter. Within 15 days after receipt of the notice, the submitter shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the

information is proprietary information. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for all or any part of the designated information requested and within 15 days shall give written notice of the decision to the submitter and the person requesting the designated information. A person aggrieved by a decision of the department under this subsection may appeal to the Superior Court.

2. Release information. The commissioner may not release information designated under subsection 1 prior to the expiration of the time allowed for the filing of an appeal or to the rendering of the decision on any appeal.

3. Nonconfidential information. Any information that is collected by any other local, state or federal agency or information required by the department for the purpose of obtaining a permit, license, certification or other approval may not be designated or treated as confidential information under subsection 1.

4. Definition. For the purposes of this section, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available.

Ref. No. 51 12 MRSA §6173-B. Special licenses; mandatory quality control program; shellfish sanitation and depuration certificates; confidentiality of proprietary information

Except as provided in subsections 1 and 2, information obtained by the department under this section is a public record as provided by Title 1, chapter 13, subchapter 1.

1. Confidential information. Information submitted to the department pursuant to provisions regarding special licenses for research, aquaculture or education under section 6074, surveillance and inspection of all segments of the State's fishing industries under section 6102 or the shellfish sanitation certificate and the depuration certificate under section 6856 may be designated by the submitter as proprietary information and as being only for the confidential use of the department, its agents and employees, other agencies of State Government, as authorized by the Governor, and the Attorney General. The designation must be clearly indicated on each page or other unit of information. The commissioner shall establish procedures to ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the submitter and the general nature of the information. Upon a request for information the scope of which includes information so designated, the commissioner shall notify the submitter. Within 15 days after receipt of the notice, the submitter shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is proprietary information. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for all or any part of the designated information requested and within 15 days shall give written notice of the decision to the

submitter and the person requesting the designated information. A person aggrieved by a decision of the department under this subsection may appeal to the Superior Court.

2. Release information. The commissioner may not release information designated under subsection 1 prior to the expiration of the time allowed for the filing of an appeal or to the rendering of the decision on any appeal.

3. Definition. For purposes of this section, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available.

Ref. No. 52 12 MRSA §6310. **Appeal of license denial; illness or medical condition**

1. Appeal of license denial. A person who is denied a Class I, Class II or Class III lobster and crab fishing license because that person does not meet the eligibility requirements of section 6421, subsection 5, paragraph A; a person who is denied a handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license because that person does not meet the eligibility requirements of section 6749-O, subsection 2-A; or a person who is denied a hand fishing scallop license or a scallop dragging license because that person does not meet the eligibility requirements of section 6706, subsection 2 may appeal to the commissioner under this section for a review of that license denial.

2. Criteria for license issuance on appeal. The commissioner may issue a license on appeal only if the criteria in this subsection are met.

A. A Class I, Class II or Class III lobster and crab fishing license may be issued to a person on appeal only if:

(1) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for a license in 1997, 1998 or 1999, and the person documents that the person harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person may not request an appeal under this subparagraph after December 31, 2001; or

(2) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for a license in licensing year 2000 or in subsequent years, and the person documents that the person harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person must request an appeal under this subparagraph within one year of the onset of the illness or medical condition.

B. A handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license may be issued to a person on appeal only if:

(1) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for that license, and the person documents that the person harvested sea urchins while in possession of the same license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person must request an appeal under this subparagraph within one year of the onset of the illness or medical condition.

C. A hand fishing scallop license or a scallop dragging license may be issued to a person on appeal only if:

(1) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for that license, and the person documents that the person harvested scallops while in possession of the same license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person must request an appeal under this subparagraph within one year of the onset of the illness or medical condition.

For the purposes of this subsection, "family member" means a spouse, brother, sister, son-in-law, daughter-in-law, parent by blood, parent by adoption, mother-in-law, father-in-law, child by blood, child by adoption, stepchild, stepparent, grandchild or grandparent.

3. Appeals process. A person appealing a license denial under this section must request the appeal in writing. The commissioner shall hold a hearing on the appeal if a hearing is requested in writing within 10 days of the initial request for appeal. If a hearing is requested, it must be held within 30 days of the request unless a longer period is mutually agreed to in writing, and it must be conducted in the Augusta area.

A hearing held under this subsection is informal. At the hearing, the appellant may present any evidence concerning the criteria listed in subsection 2 that might justify issuing a license to the person, and the commissioner may request any additional information the commissioner considers necessary. Any medical information provided as part of the appeal is a confidential record for the purposes of Title 1, section 402, subsection 3, paragraph A.

4. Issuance on appeal. Issuance of a license on appeal is at the discretion of the commissioner, except that a license may not be issued unless the criteria in subsection 2 are met. Decisions of the commissioner must be in writing.

SUBCHAPTER 3-A

MAINE LOBSTER MARKETING COLLABORATIVE

Ref. No. 53 12 MRSA §6455. Maine Lobster Marketing Collaborative

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 10/1/21)

(WHOLE SECTION TEXT REPEALED 10/1/21)

1. Collaborative established; purpose. The Maine Lobster Marketing Collaborative, established in Title 5, section 12004-H, subsection 14 and referred to in this subchapter as the "collaborative," is created to promote and market actively Maine lobsters in state, regional, national and international markets. The collaborative shall draw upon the expertise of the Maine lobster industry and established private marketing firms to identify market areas that will provide the greatest return on the investments made by lobster license holders and undertake those media or promotional efforts that represent the most cost-effective use of a limited promotional budget. The collaborative shall remain responsive to the Maine lobster industry, conduct its business in a public manner and undertake marketing efforts that promote the quality and full utilization of the product and the unique character of the coastal Maine lobster fishery.

A.

B.

C.

1-A. Collaborative is a public instrumentality. The collaborative is established as a public instrumentality serving a public purpose. As a public instrumentality:

A. Employees of the collaborative may not be construed to be state employees for any purpose, including the state civil service provisions of Title 5, Part 2 and Title 5, chapter 372 and the state retirement system provisions of Title 5, Part 20;

B. The collaborative may not be construed to be a state agency for any purposes, including the budget, accounts and control, auditing, purchasing or other provisions of Title 5, Part 4; and

C. Notwithstanding any provisions of paragraphs A and B:

(1) All meetings and records of the collaborative are subject to the provisions of Title 1, chapter 13, subchapter 1, except as provided in subsection 1-B. The commissioner and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over marine resource matters have access to all material designated confidential by the collaborative;

(2) Members of the collaborative are governed by the conflict of interest provisions set forth in Title 5, section 18; and

(3) For the purposes of the Maine Tort Claims Act, the collaborative is a "governmental entity" and its employees are "employees" as those terms are defined in Title 14, section 8102.

1-B. Market studies and promotional plans; proprietary information. Information provided to or developed by the collaborative and included in a promotional plan or market study is public unless the collaborative determines that it contains proprietary information. For the purposes of this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the collaborative or the person submitting the information and would make available information not otherwise publicly available.

1-C. Collaborative members; appointments; terms. The collaborative consists of 11 voting members, 9 appointed by the commissioner as follows:

A. Four individuals representing the lobster management policy councils established pursuant to section 6447. Each lobster management policy council shall prepare a list of up to 3 nominees from its zone for consideration by the commissioner for the appointments under this paragraph. In making appointments under this paragraph, the commissioner shall select members to ensure a geographic distribution of representation from lobster management zones established pursuant to section 6446;

B. Three individuals:

(1) At least 2 of whom are owners, managers or officers of business entities operating in the State that hold valid wholesale seafood licenses with lobster permits, from a list of nominees prepared for the commissioner by the Lobster Advisory Council established under section 6462-A; and

(2) At least one of whom represents the interests of lobster dealers and processors; and

C. Two individuals who are public members with experience in marketing and promotion, retail sales, food service or food science, from a list of nominees prepared for the commissioner by the Lobster Advisory Council established under section 6462-A.

Members are appointed by the commissioner for terms of 3 years. A person may not serve more than 2 consecutive 3-year terms as a member of the collaborative.

The commissioner or the commissioner's designee serves as an ex officio member of the collaborative. The Commissioner of Economic and Community Development or the commissioner's designee serves as an ex officio member of the collaborative.

2. Qualifications of members.

2-A. Officers. By majority vote, the collaborative shall annually elect a chair from among its members and may elect other officers in accordance with its bylaws.

2-B. Executive committee. The collaborative shall establish an executive committee of no fewer than 5 members, who are appointed by a majority vote of the collaborative. The collaborative shall specify in its bylaws when the executive committee may act on behalf of the collaborative with regard to oversight of collaborative staff, daily operations of the collaborative and addressing unexpected expenditures to be made by the collaborative. The bylaws must specify what constitutes a quorum of the executive committee and how many votes are necessary for the executive committee to take a valid action. In addition to any other restrictions adopted by the collaborative, the executive committee may not act on behalf of the collaborative to:

- A. Adopt or amend an annual budget;
- B. Adopt or amend an annual marketing plan;
- C. Hire or terminate the employment of the executive director of the collaborative; or
- D. Amend the bylaws of the collaborative.

3. Meetings. The collaborative shall meet at least quarterly. A quorum of 6 members is required to conduct the business of the collaborative. Additional meetings may be called by the chair. If 3 or more members of the collaborative submit to the chair a written request for a meeting, the chair shall call a meeting to be held no sooner than 14 days after receipt of the written request. The commissioner may remove any member with unexcused absences from 2 or more consecutive meetings of the collaborative.

3-A. Employees. The collaborative shall hire an executive director and may hire staff as needed to perform its duties. Employees of the Maine Lobster Marketing Collaborative serve at the pleasure of the collaborative. The salary and benefits for employees of the collaborative are determined by the collaborative.

4. Powers and duties. The collaborative may:

- A. Undertake promotional marketing programs in cooperation with the lobster industry;
- B. Promote national and international markets for lobsters harvested or processed in the State;
- C. Provide material and technical assistance to persons seeking to market lobsters harvested or processed in the State;
- D. Conduct other efforts as determined necessary to increase the sales of lobsters harvested or processed in the State;
- D-1. Market and sell goods directly related to the functions of the collaborative and deposit all proceeds in the Lobster Promotion Fund;
- E. Make expenditures from the Lobster Promotion Fund to carry out the purposes of this subchapter. Money in the fund may be used only for the following purposes:

- (1) Promotion, advertising and marketing development. The collaborative may implement programs and activities to promote, advertise and develop markets for lobster and make or

enter into contracts with any local, state, federal or private agency, department, firm, corporation, entity or person for those purposes; and

(2) The hiring of staff and the payment of compensation for employees, payment of per diem and reimbursement of expenses for members pursuant to Title 5, section 12004-H and payment of administrative and overhead costs associated with the business of the collaborative; and

F. Accept and deposit in the fund additional funding from any source, public or private.

5. Lobster Promotion Fund established. The Lobster Promotion Fund, referred to in this subchapter as the "fund," is established to carry out the purposes of this subchapter. The department shall pay to the fund all money appropriated or received by the department for the purposes of this subchapter, except that the department may retain funds necessary to reimburse the department for the actual cost of collecting the license surcharges established in subsection 5-A. The fund is capitalized from the annual surcharges set out in subsection 5-A.

A.

B.

C.

D.

E.

F.

5-A. License surcharge assessed. The fund is capitalized from annual surcharges assessed on licenses issued by the department for calendar years as follows.

A. For the year 2013 the surcharges are, for:

(1) Class I lobster and crab fishing licenses for persons 18 to 69 years of age, \$31.25;

(2) Class II lobster and crab fishing licenses, \$62.50, except that for license holders 70 years of age or older the surcharge is \$32;

(3) Class III lobster and crab fishing licenses, \$93.75, except that for license holders 70 years of age or older the surcharge is \$47;

(4) Nonresident lobster and crab landing permits, \$250;

(5) Wholesale seafood licenses with lobster permits, \$250; and

(6) Lobster transportation licenses, \$250.

B. For the year 2014 the surcharges are, for:

(1) Class I lobster and crab fishing licenses for persons 18 to 69 years of age, \$55.25;

- (2) Class II lobster and crab fishing licenses, \$110.50, except that for license holders 70 years of age or older the surcharge is \$55;
- (3) Class III lobster and crab fishing licenses, \$160.75, except that for license holders 70 years of age or older the surcharge is \$80;
- (4) Nonresident lobster and crab landing permits, \$160.75;
- (5) Wholesale seafood licenses with lobster permits if the license holders hold no supplemental wholesale seafood licenses with lobster permits, or lobster transportation licenses if the license holders hold no supplemental lobster transportation licenses, \$400;
- (6) Supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses as follows:
 - (a) Six hundred dollars for up to 2 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses;
 - (b) Eight hundred dollars for 3 to 5 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and
 - (c) One thousand dollars for 6 or more supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and
- (7) Lobster processor licenses, \$333 if less than 1,000,000 pounds of raw product is processed, and \$1,333 if 1,000,000 pounds or more of raw product is processed.

C. For the year 2015 the surcharges are, for:

- (1) Class I lobster and crab fishing licenses for persons 18 to 69 years of age, \$110.25;
- (2) Class II lobster and crab fishing licenses, \$220.50, except that for license holders 70 years of age or older the surcharge is \$110;
- (3) Class III lobster and crab fishing licenses, \$320.75, except that for license holders 70 years of age or older the surcharge is \$160;
- (4) Nonresident lobster and crab landing permits, \$320.75;
- (5) Wholesale seafood licenses with lobster permits if the license holders hold no supplemental wholesale seafood licenses with lobster permits, or lobster transportation licenses if the license holders hold no supplemental lobster transportation licenses, \$800;
- (6) Supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses as follows:
 - (a) One thousand two hundred dollars for up to 2 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses;
 - (b) One thousand six hundred dollars for 3 to 5 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and

(c) Two thousand dollars for 6 or more supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and

(7) Lobster processor licenses, \$666 if less than 1,000,000 pounds of raw product is processed, and \$2,666 if 1,000,000 pounds or more of raw product is processed.

D. For the years 2016 to 2021 the surcharges are, for:

(1) Class I lobster and crab fishing licenses for persons 18 to 69 years of age, \$165.25;

(2) Class II lobster and crab fishing licenses, \$330.50, except that for license holders 70 years of age or older the surcharge is \$165;

(3) Class III lobster and crab fishing licenses, \$480.75, except that for license holders 70 years of age or older the surcharge is \$240;

(4) Nonresident lobster and crab landing permits, \$480.75;

(5) Wholesale seafood licenses with lobster permits if the license holders hold no supplemental wholesale seafood licenses with lobster permits, or lobster transportation licenses if the license holders hold no supplemental lobster transportation licenses, \$1,200;

(6) Supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses as follows:

(a) One thousand eight hundred dollars for up to 2 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses;

(b) Two thousand four hundred dollars for 3 to 5 supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and

(c) Three thousand dollars for 6 or more supplemental wholesale seafood licenses with lobster permits or supplemental lobster transportation licenses; and

(7) Lobster processor licenses, \$1,000 if less than 1,000,000 pounds of raw product is processed, and \$4,000 if 1,000,000 pounds or more of raw product is processed.

A person holding more than one of the following licenses is assessed only the highest applicable surcharge for those licenses under this subsection: a wholesale seafood license with a lobster permit, a supplemental wholesale seafood license with a lobster permit, a lobster transportation license or a supplemental lobster transportation license.

Beginning in 2014, the commissioner shall review annually the surcharges established in this subsection and recommend changes to the joint standing committee of the Legislature having jurisdiction over marine resource matters, which after receiving the recommendations may report out a bill to the Legislature to adjust surcharges.

The Treasurer of State shall hold all surcharges assessed by this subsection in the fund and invest all money in the fund until disbursed to the collaborative upon request of the collaborative. Interest from investments accrues to the fund.

All money in the fund is subject to allocation by the Legislature. Unexpended balances in the fund at the end of the fiscal year may not lapse but must be carried forward to be used for the same purposes.

In addition to payment of the regular license fee and the surcharge, a person purchasing a license subject to the surcharges established in this subsection may make voluntary contributions to the fund at the time the license is purchased. Voluntary contributions received by the department from a licensee or any other source pursuant to this subsection must be deposited in the fund by the department and must be used by the collaborative for the purposes of this subchapter.

6. Reports. The collaborative shall report annually on its activities and expenditures to the joint standing committee of the Legislature having jurisdiction over marine resource matters, to the Lobster Advisory Council established under section 6462-A and, at a statewide meeting of interested license holders, to the lobster industry. The collaborative shall provide notice of the date and location of the statewide meeting of license holders at the time of license issuance or renewal.

7. Audit. An annual audit of the expenditures of the collaborative must be performed. The collaborative may contract with the Office of the State Auditor or with a private sector accounting firm to conduct the audit. The collaborative shall report the results of that audit to the joint standing committee of the Legislature having jurisdiction over marine resource matters. If the annual audit is performed by the Office of the State Auditor, the collaborative shall reimburse the department for its costs to conduct that audit.

8. Review.

9. Repeal. This section is repealed October 1, 2021.

Ref. No. 54 12 MRSA §6749-S. Log books for sea urchin buyers and processors

1. Log book; rules. The commissioner shall adopt rules requiring any person holding a wholesale seafood license with a sea urchin buyer's permit or a wholesale seafood license with a sea urchin processor's permit to maintain a log book. The rules must indicate the type of data that must be recorded in the log book, the manner for producing the log books and the method for analyzing data from the log books. The commissioner shall charge a fee for the log book that is sufficient to recover all costs associated with the production of the log book and analysis of the data, except that any personnel and operating costs associated with the log book must be paid from allocations from the Sea Urchin Research Fund. Fees received by the department from the sale of log books are dedicated revenue and must be used by the department for the purposes of this section. The log book and data analysis may be produced and conducted by the department or may be produced and conducted by a public or private entity under contract with the department. Disclosure of any data collected under this section is subject to the confidentiality provisions of section 6173.

2. Reporting. The commissioner may deny an application for the renewal of a wholesale seafood license with a sea urchin buyer's permit or a wholesale seafood license with a sea urchin

processor's permit if the license holder fails to maintain a log book or report the data required by rule pursuant to subsection 1.

Rules adopted by the commissioner to implement this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Ref. No. 63 12 MRSA §8884. Annual wood processing reports

1. Wood processor reports. Owners or operators of all roundwood processing operations shall submit an annual report to the director of the bureau during the month of January for the roundwood used or processed by the operation during the preceding year. The report shall specify the amount of roundwood processed by species and county where cut from the stump.

1-A. Reclaimed waste wood and cedar waste report.

2. Imports and exports. Persons, firms, corporations or companies selling forest products out of the State or buying forest products to bring into the State shall submit an annual report to the director of the bureau during the month of January for the forest products sold out of the State or brought into the State. The report must also identify the origin of imported forest products by state or country, the county in the State in which exported forest products were harvested and the destination of exported forest products by state or country.

3. Confidentiality. Information collected by the bureau under this section is public except for:

A. Volumes of forest products;

B. Species of forest products;

C. Types of forest products;

D. County of origin of forest products; and

E. Personally identifying information of forest product suppliers to roundwood processing operations and importers and exporters of forest products.

Summary reports that use aggregate data that do not reveal the activities of an individual person or firm are public records.

4. Failure to submit report; penalty. Failure to submit reports pursuant to this section constitutes a civil violation for which a fine not to exceed \$1,000 for each failure may be adjudged.