

# MAINE STATE LEGISLATURE

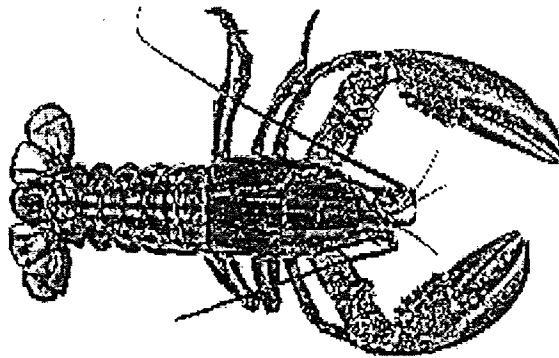
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# PROGRAM EVALUATION REPORT

## LOBSTER ADVISORY COUNCIL



**Submitted to the Joint Standing Committee on Marine  
Resources**

**Pursuant to the  
Government Evaluation Act (3 MRSA, Chapter 25)**

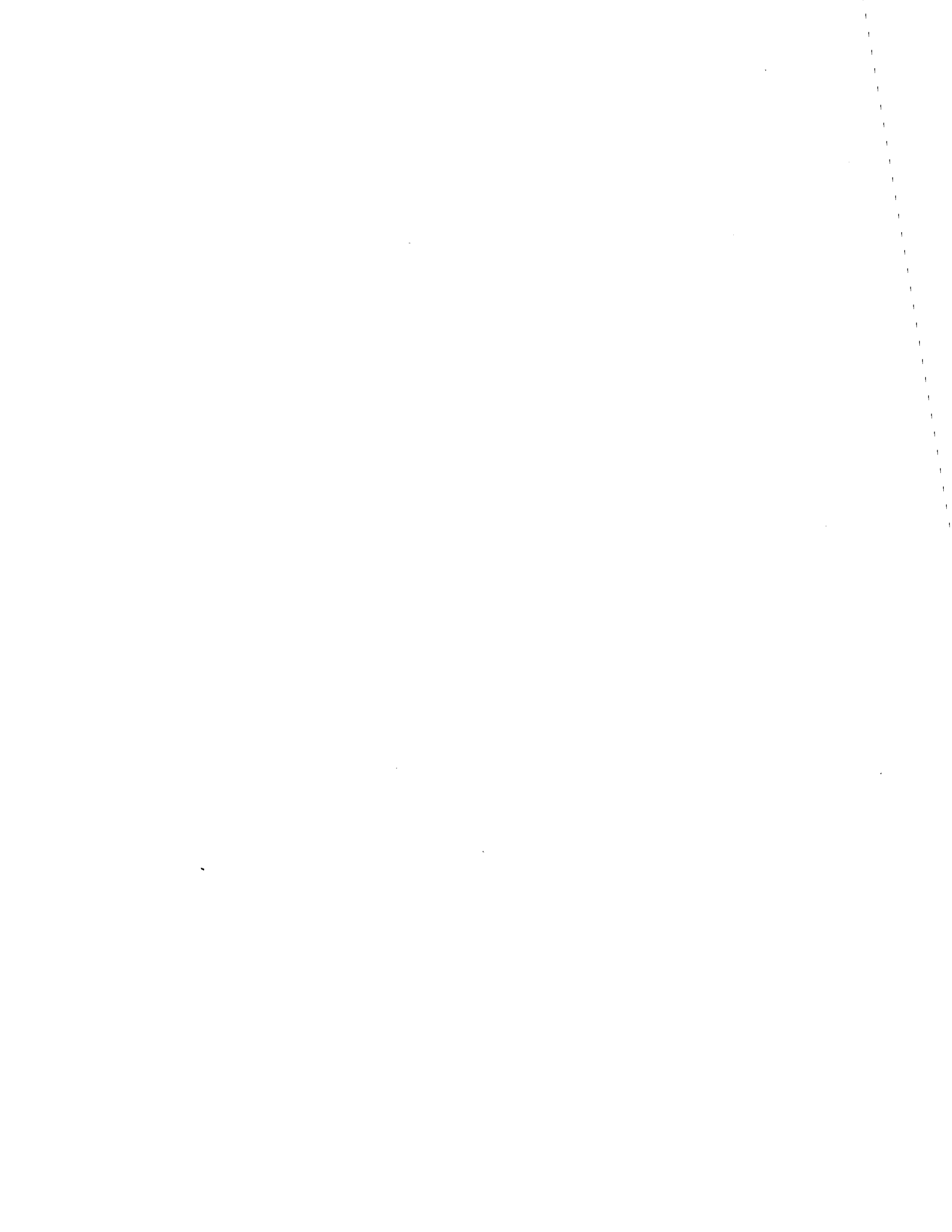
**by the Department of Marine Resources**

**January 2000**



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## SECTION 1: STATE ENABLING LAW AND FEDERAL MANDATES

### *State Enabling Law*

12 M.R.S.A. § 6461 - §6463

MAINE REVISED STATUTES ANNOTATED  
TITLE 12. CONSERVATION  
PART 4. MARINE RESOURCES  
CHAPTER 619

SUBCHAPTER IV--Lobster Advisory Council

§6461. Purpose

The lobster fishing industry is one of the most important industries in the State because of its contribution to the economy and also because of its unique social, historic and cultural contributions to this State's quality of life.

This subchapter is enacted to help conserve and promote the prosperity and welfare of the State and its citizens and the lobster fishing that helps to support them. This subchapter will accomplish these goals by fostering and promoting better methods of conserving, utilizing, processing, marketing and studying the lobster.

§6462. Repealed by P.L. 1997 c. 208, §2.

§6462-A. Lobster Advisory Council

1. Appointment; composition. The Lobster Advisory Council, established by Title 5, section 12004-I, subsection 58 and in this subchapter known as the "council," consist of the following members:

- A. One person from each lobster management policy council established under section 6447. Each lobster management policy council shall choose by majority vote a member to serve on the council.
- B. Two persons who hold wholesale seafood licenses and are primarily dealers in lobsters, appointed by the commissioner;
- C. One person who is a member of the general public and does not hold any license under this subchapter, appointed by the commissioner; and
- D. Three persons who hold lobster and crab fishing licenses and who are not members of lobster management policy councils established under section 6447,

appointed by the commissioner. Each person appointed under this paragraph must reside in a different county.

2. Term. The term for a member who represents a lobster management policy council is coterminous with that person's term on that policy council. All other members serve for terms of 3 years, except that a vacancy must be filled by the commissioner for the unexpired portion of the term. A vacancy for a member representing a lobster management policy council must be appointed by that policy council using procedures defined in subsection 1. Members continue to serve until their successors are appointed.

1998, c. 572.

3. Compensation. Members are entitled to compensation according to Title 5, chapter 379.

4. Quorum. A quorum is a majority of the members of the council, at least 4 of whom must be lobster and crab fishing license holders.

5. Chair and officers. The council shall annually choose one of its members to serve as chair for a one-year term. The council may select other officers and designate their duties.

6. Meetings. The council shall meet at least 4 times a year at regular intervals. It may also meet at other times at the call of the chair or the commissioner.

1981, c. 377, §1 & 2; 1989, c. 503, §63; 1997, c. 208, §3.

#### §6463. Council programs and activities

1. Advise. The council shall advise the commissioner on activities of the department that relate to the lobster industry. The council may investigate problems affecting the lobster industry and make recommendations to the commissioner and the Marine Resources Advisory Council concerning its investigations.

2. Research plans. The council may review current lobster research programs and plans for research on the lobster stock, and submit to the commissioner and Marine Resources Advisory Council, annually, its recommendations on those programs and plans.

3. Dispute resolution. The council may consider disputed issues brought to the council by any lobster management policy council established under section 6447. The council may make recommendations to the commissioner with regard to resolving such issues.

1979, c. 355, §1; 1997, c. 208, 1997, c. 208, §4.

## *Applicable Federal Laws*

### ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT

In 1993, the *Atlantic Coastal Fisheries Cooperative Management Act* was signed into law. The act directs the Atlantic States Marine Fisheries Commission to adopt fishery management plans for coastal fisheries, and establishes an affirmative obligation on the part of states to implement the Commission's plans. The Commission must adopt standards and procedures to ensure that fishery resources are conserved, that the best scientific information is used, and that the public has adequate opportunity to participate in the process. The Commission is required to continuously review state implementation, and report its results to the Secretaries of Commerce and Interior. If it finds that a state is not in compliance, the Commission must report that finding to the Secretaries. If the Secretary of Commerce agrees with the Commission, he may impose a moratorium on all fishing for the species in question within the offending state waters until they come into compliance. Violation of the moratorium is a federal offense punishable by criminal and civil penalties and forfeitures. ASMFC currently has the lead role in lobster management. December 1997, the ASMFC approved Amendment #3 to the lobster plan. The National Marine Fisheries Service has jurisdiction over all federally permitted lobstermen and has adopted new rules to work in partnership with the ASMFC lobster management plan and designated management areas and management measures as prescribed under Amendment #3.

## **Section 2: PROGRAM DESCRIPTION AND COORDINATION**

The Lobster Advisory Council (Council) was established in 1979 to provide advice to the Commissioner of Marine Resources on activities of the Department of interest to the lobster industry, including research programs. The Commissioner shall also consult the Council regarding expenditure of funds under the Lobster Fund (12 M.R.S.A. § 6451 sub§ 7). The Council was given the additional task of recommending to the Commissioner how to resolve disputes among lobster policy management councils when they were established by the Legislature in 1997. The Council meets on a regular basis throughout the year, typically monthly.

The membership of the Council was reorganized in 1997 to reflect the newly established seven lobster policy management councils and their role in lobster management. There is one member from each of the management councils on the Lobster Advisory Council. In addition, there are seats for two people with a wholesale seafood license, three people who hold a lobster and crab fishing license and are not members of a lobster policy management council, and one person from the general public. See Section 6 for a list of current members.



## SECTION 3: EMERGING ISSUES

The lobster industry has been faced with many changes in the past decade. The pace of this change has increased dramatically in recent years. The Lobster Advisory Council has been working through many of these new developments and providing advice to both the Commissioner and the Legislature. The Council submitted a report to the Marine Resources Committee during the First Session of 119<sup>th</sup> Legislature to recommend legislative changes to address many of the concerns within the industry. In the report, the Council defined the following management objectives for the lobster fishery:

- Control, or reduce, effort in the lobster fishery.
- Reduce the amount of gear in the water.
- Maintain traditional fishing practices.
- Increase stability in the fishery.
- Improve the biological and socioeconomic information available for management.

The legislative changes recommended by the Council included establishing: 1) a process to limit the number of new participants by zone based on a ratio (i.e., limited entry); 2) a freeze on increases in trap tags until December 31, 2001; 3) an appeal process for individuals who were denied a license or trap tags; and 4) a method to allow student license holders to become eligible for a commercial license. Legislative Documents 1345, 1982, and 1992 reflected many of these recommendations.

The report from Council also acknowledged that there remained other issues that the Council had not been able to resolve. Primary among these was the desire of some members of the Council to establish a licensing system that distinguished between “full-time” commercial harvesters and “limited” commercial harvesters. The Council is required to report back to the Legislature by February 1, 2000 on other matters related to limited entry.

### *Limited Entry*

The new limited entry law (12 M.R.S.A. § 6448) has had a substantial impact on fishermen who want to gain access to the lobster fishery. The effects are just now being realized. In the coming years, the Lobster Advisory Council will continue to be faced with suggestions about how to alter the legislation and reduce the negative impacts. These limited entry measures may have little effect on effort in the fishery because recent increases in effort have not been attributed to new entrants. Rather, it is the current license holders who continue to increase their gangs of gear that have been impacting the fishery most heavily.

### *Trap Restrictions*

Each zone has established a trap limit of 800 traps in 2000 in accordance with state law and the ASMFC Amendment #3. Zone E has further reduced the limit to 600 traps in 2000. Although there has been a two year moratorium on new lobster licenses beginning in 1998, the fishermen have seen an increase in traps in the water. License holders who were inactive, have been forced to become active lobster fishermen as other fisheries (such as groundfish) have declined. In response to this, the Legislature established a limit on the number of trap tags an individual can purchase each year, based on the number of trap tags they held as of November 20, 1998. Trap tag restrictions will continue to be an ongoing issue for the Lobster Advisory Council in concert with license limitations and other measures designed to reduce effort.

### *Marine Mammals*

Protection of marine mammals will continue to require significant time and effort from Maine lobstermen and advice from the Lobster Advisory Council. The recent sighting of a right whale in Portland Harbor has galvanized the conservation community and they have suggested, once again, severely restrictive action by the federal National Marine Fisheries Service (NMFS) to protect the remaining population. Integral to their plan is eliminating all vertical lines in the Gulf of Maine in the next five years. This would have a direct and fatal impact upon the lobster industry in Maine. The response to an endangered species protection need is not to reject the need but to openly participate in the process to find reasonable and effective means for providing protection from fisheries impacts. Accomplishing that objective requires that all participants actively engage in order to arrive at a balanced and workable solution. This will require a significant amount of time in the coming months and years by members of the lobster industry.

### *Dispute Resolution*

The Lobster Advisory Council has to date not fully participated in resolving disputes among the seven lobster policy management councils. This new function for the Council may increase in the coming years as the Council develops and lobster policy management councils approach the Council for assistance.

### *Other Zone Management Issues*

The seven lobster management councils continue to address many local and regional issues. These include implementation of the owner-operator law, further development of the apprentice program and gear conflicts. As these issues are brought forward to the Lobster Advisory Council through the Zone Representatives, they will need to be discussed and resolved by the Council.

## **SECTION 4**

### **A. REGULATORY AGENDA**

The Lobster Advisory Council does not establish its own regulatory agenda. The recommendations for legislative or regulatory changes have been developed as part of the Department of Marine Resources regulatory agenda. Issue-specific reports to the Legislature have also been written suggesting legislative changes to the Marine Resources Committee.

### **B. CONSTITUENCY SERVED**

The Lobster Advisory Council serves the lobster industry through representatives of the seven lobster policy management councils, two lobster dealers, three general members of the lobster industry and a member of the public. The Council also serves the Commissioner as an advisory board.

### **C. ALTERNATIVE DELIVERY SYSTEMS**

The Lobster Advisory Council is staffed from within the Office of the Commissioner within the Department of Marine Resources. This remains the most appropriate arrangement for developing advice and guidance for the Commissioner on issues related to the lobster industry.

### **D. HEALTH AND SAFETY LAWS**

All staff within the Department of Marine Resources are subject to state and federal health and safety laws.

## SECTION 5: FINANCIAL SUMMARY

FISCAL YEAR	TOTAL EXPENSES
FY 99	\$ 2,909.19
FY 98	\$ 2,454.18
FY 97	\$ 103.52
FY 96	\$ 409.84
FY 95	\$ N/A
FY 94	\$ 476.76
FY 93	\$ 758.56
FY 92	\$ 649.88
FY 91	\$ 853.63

The Lobster Advisory Council is allocated up to \$2,500 in general funds out of the Department's Administrative budget. These funds go toward travel and mailing expenses of the Council members. In recent years, however, the activity within the Council has increased dramatically and they have met on a more regular basis. This is reflected in an increase in the expenses. It is anticipated that this level of activity will continue. Given these circumstances, it may be prudent to consider an increase in the allocation for the Lobster Advisory Council.

## SECTION 6: LOBSTER ADVISORY COUNCIL MEMBERSHIP

SEPTEMBER 15, 1999

### JAMES ALWIN

32 Old Cape Road  
Kennebunkport, ME 04046  
Tel: 967-2640  
Zone G Council Member  
Appt: 9/19/97  
Exp: 9/18/2000

### JON CARTER

PO Box 355  
Hulls Cove, ME 04644  
Tel: 288-4528  
Cell: 266-3068  
e-mail: penny@acadia.net  
Zone B Council Member  
Appt: 9/19/97  
Exp: 9/18/2000

### EVERARD DODGE

PO Box 1371  
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Exp: 4/22/2001

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### LEWIS E. KELSEY

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### LARRY KNAPP

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Appt: 9/19/97  
Exp: 9/18/2000

### ALFRED MCLAUGHLIN

Box 252  
Port Clyde, ME 04855  
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Zone D Council Member  
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Exp: 5/12/2001

### DANA RICE

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**RICHARD SAWYER**

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Exp: 9/18/2000

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Exp: 12/14/2000