

CHAPTER 603**DEPARTMENT ADMINISTRATION****§6021. Purpose**

The Department of Marine Resources is established to conserve and develop marine and estuarine resources; to conduct and sponsor scientific research; to promote and develop the Maine coastal fishing industries; to advise and cooperate with local, state and federal officials concerning activities in coastal waters; and to implement, administer and enforce the laws and regulations necessary for these enumerated purposes, as well as the exercise of all authority conferred by this Part. [PL 1977, c. 661, §5 (NEW).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW).

§6021-A. Marine Products Marketing Program

The Marine Products Marketing Program is established to encourage, promote and provide for direct participation of Maine seafood producers in joint public and private market development programs. The commissioner may enter into agreements or cooperative arrangements with any person for the purpose of advertising and increasing the sale and consumption of seafood products. The commissioner may receive, administer and disburse any funds or contributions from these persons, either independently or in conjunction with state funds allocated to the purpose, provided that funds so contributed shall be used only for the purposes of market development programs. [PL 1989, c. 57, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 57, §1 (NEW).

§6022. Commissioner's appointment, duties and powers

1. Appointment and term. The commissioner shall be appointed by the Governor and shall be subject to review by the Joint Standing Committee on Marine Resources and to confirmation by the Legislature. The commissioner shall serve at the pleasure of the Governor. [PL 1985, c. 481, Pt. A, §34 (AMD).]

2. General powers. The commissioner shall be responsible for the administration and enforcement of all marine resources' laws and shall have all the powers of a marine patrol officer. He shall maintain records of all leases, certificates or licenses issued by the commissioner or required to be filed under section 6027. [PL 1979, c. 541, Pt. B, §73 (AMD).]

3. Organization and personnel. The commissioner shall organize the department into the administrative units, including but not limited to the Bureau of Marine Patrol and the Bureau of Sea Run Fisheries and Habitat, that the commissioner decides are necessary to carry out its duties. The commissioner shall hire all necessary employees of the department subject to the Civil Service Law, except that persons in the following positions are appointed by and serve at the pleasure of the commissioner: Deputy Commissioner; Chief, Bureau of Marine Patrol; and Assistant to the Commissioner for Public Information. The Chief of the Bureau of Marine Patrol must be appointed from among the patrol personnel of the bureau with the rank of sergeant or higher. In the event that the Chief of the Bureau of Marine Patrol is not reappointed, that person has the right to be restored to the classified position from which that person was promoted or to a position equivalent thereto in salary grade without impairment of that person's personnel status or the loss of seniority, retirement or other

rights to which uninterrupted service in the classified position would have entitled that person. If that person's service in the position of Chief of the Bureau of Marine Patrol is terminated for cause, that person's right to be restored must be determined by the State Civil Service Appeals Board.

[PL 2021, c. 398, Pt. JJJ, §1 (AMD).]

4. Warden code. The commissioner shall prepare a written code governing the operating procedures of the Bureau of Marine Patrol services for submission to the Director of Human Resources. The code shall become effective when approved by the Director of Human Resources.

[PL 1985, c. 785, Pt. B, §66 (AMD).]

5. Property. The commissioner may acquire and hold any right or interest in real or personal property on behalf of the State. The commissioner may by sale, lease or otherwise dispose of any such property, or portion of any such property or interest in any such property, subject to the provisions of section 598-A.

[PL 2007, c. 615, §2 (AMD).]

6. Enforcement agreements. The commissioner may enter into reciprocal enforcement agreements with political subdivisions of the State and with other states, regional authorities and the Federal Government. Pursuant to these agreements, the commissioner may designate and deputize federal law enforcement personnel and law enforcement personnel from other states to enforce marine resource laws and rules. In that event, the commissioner shall designate the specific laws and rules to be enforced. Agents so deputized may enforce those laws and rules so designated by the commissioner. Agents so deputized by the commissioner shall have the powers of a marine patrol officer, as defined in section 6025.

[PL 1985, c. 24, §2 (AMD).]

7. Report. The commissioner shall report to the Governor and Legislature every 2 years. This report shall include a detailed statement of the department's actions and functions and a survey of the present state of the state's fishing industries and their anticipated future, including statistics and data. The report may include those recommendations for amendments to the laws and licensing procedures of the marine resources' laws as may be necessary for the operation of the department. The report shall cover the period ending June 30th of each even-numbered year and shall be due within 6 months of the end of the period which it covers.

[PL 1977, c. 661, §5 (NEW).]

8. Pamphlet laws. The commissioner shall publish a pamphlet of the sections of this Part as soon as possible after the adjournment of the first regular session of each Legislature. In addition, the commissioner may publish any other laws or regulations.

[PL 1977, c. 661, §5 (NEW).]

9. Federal expenditures. The commissioner may accept federal funds for use in department programs and to do such acts as are consistent with the powers of the commissioner and as are necessary to carry out federal laws pursuant to which those funds are provided. The commissioner may accept any other funds as may be available to carry out the purposes of the department.

[PL 1977, c. 661, §5 (NEW).]

10. Ecological impact. The commissioner shall advise the United States Army Corps of Engineers, the Department of Transportation, the Department of Environmental Protection and appropriate state agencies on the ecological effects of dredging, filling and depositing of soil or otherwise altering coastal wetlands, whether these actions will affect adversely estuarine or marine fisheries and what mitigation or compensatory measures are available. The commissioner shall also recommend to these agencies whether dredging, filling or otherwise altering coastal wetlands is permitted under current state and federal wetland rules and regulations.

[PL 1989, c. 501, Pt. P, §21 (AMD).]

11. Interagency cooperation. The commissioner shall consult with, offer advice to and cooperate with the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife and the Department of Agriculture, Conservation and Forestry in carrying out the commissioner's duties, and these agencies shall do the same in carrying out their duties. Cooperation includes the exchange of information and the filing of copies of any application, petition, request, report or similar document that may bear upon the responsibilities of any of these departments. Details of those exchanges must be worked out by the heads of the departments.

[PL 2011, c. 655, Pt. KK, §15 (AMD); PL 2011, c. 655, Pt. KK, §34 (AFF); PL 2011, c. 657, Pt. W, §5 (REV).]

12. Regulations. The commissioner may make regulations as authorized by marine resources' laws.

[PL 1977, c. 661, §5 (NEW).]

13. State map.

[PL 1989, c. 502, Pt. A, §35 (RP).]

14. Brands, labels and marks. The commissioner may develop, design and register brands, labels or marks, as that term is used in Title 10, section 1521, subsection 3, for identifying marine resource products packed in accordance with official grades and standards established by the department and shall furnish information to packers and shippers as to where these labels and marks may be obtained. A written application to the commissioner requesting permission to use these brands, labels or marks and a written acceptance thereto from the commissioner shall be a condition precedent to the use of these brands, labels or marks. The right to use these brands, labels or marks may be suspended or revoked by the commissioner according to the procedures set forth in section 6101, subsections 6 to 8, whenever it appears on investigation that they have been used to identify marine resource products not conforming to the grades or standards indicated.

[PL 1981, c. 684, §8 (NEW).]

15. Revolving fund. The commissioner may prepare and distribute printed and audio-visual materials on matters within his statutory jurisdiction. There is established within the department a revolving fund to cover the printing and distribution costs of these materials. The commissioner shall fix the prices at which publications of the department may be sold or delivered. The department shall retain, without charge, an appropriate number of each publication for complimentary distribution. Income from the sale of publications that were charged to the revolving fund and any other moneys the commissioner may receive, from whatever source, consistent with the purposes of this section, shall be credited to the revolving fund to be used as a continuing carrying account to carry out the purposes of the fund.

[PL 1983, c. 286, §1 (NEW).]

16. Atlantic salmon powers and responsibilities. The commissioner has the sole authority to introduce Atlantic salmon into the inland waters, other than in commercial aquaculture facilities. The commissioner has the sole authority to limit or prohibit the taking of Atlantic salmon and may adopt rules establishing the time, place and manner of Atlantic salmon fishing in all waters of the State. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2009, c. 561, §3 (NEW).]

17. Permit banking program. The commissioner may administer a permit banking program in which the department holds federal limited access fishing permits and distributes the rights associated with those permits to eligible residents of the State with the goal of restoring and preserving access to federally managed fisheries. The commissioner may lease fisheries allocations, as required, to fund the costs associated with the permit banking program and may use funds in excess of those needed to

administer the program to provide assistance to groundfish sectors consistent with the goals of the program.

[PL 2011, c. 598, §4 (AMD).]

18. Commissioner's authority. The State assents to the provisions of the Federal Aid in Sport Fish Restoration Act, 16 United States Code, Chapter 10B, as amended. The commissioner may perform all acts necessary for the establishment and implementation of cooperative fish restoration and management projects as defined by that Act and the implementing regulations promulgated under that Act.

[PL 2011, c. 266, Pt. A, §1 (NEW).]

19. Interstate wildlife violator compact. The commissioner may enter into an interstate wildlife violator compact to promote compliance with the laws, regulations and rules that relate to the management of marine resources in the respective member states and may adopt rules, which are routine technical rules as described in Title 5, chapter 375, subchapter 2-A, necessary to implement certain provisions of the compact.

[PL 2013, c. 468, §1 (NEW).]

20. Sale of general merchandise. The commissioner may engage in the selling and marketing of general merchandise products when the express purpose is to accommodate public demand and generate supplemental funds for the Bureau of Marine Patrol.

A. The commissioner may create dedicated accounts for depositing money received from the sale of general merchandise products pursuant to this subsection. [PL 2015, c. 172, §1 (NEW).]

B. Funds received by the commissioner from the sale of general merchandise products pursuant to this subsection must be deposited in a dedicated account to be used only to market, promote and increase public awareness of the Bureau of Marine Patrol and to recruit marine patrol officers. [PL 2015, c. 172, §1 (NEW).]

[PL 2015, c. 172, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1979, c. 127, §82 (AMD). PL 1979, c. 541, §B73 (AMD). PL 1981, c. 505, §3 (AMD). PL 1981, c. 684, §8 (AMD). PL 1983, c. 286, §1 (AMD). PL 1983, c. 489, §8 (AMD). PL 1985, c. 24, §2 (AMD). PL 1985, c. 481, §A34 (AMD). PL 1985, c. 785, §§B65,66 (AMD). PL 1989, c. 348, §3 (AMD). PL 1989, c. 501, §P21 (AMD). PL 1989, c. 502, §A35 (AMD). PL 2007, c. 615, §2 (AMD). PL 2009, c. 561, §3 (AMD). PL 2011, c. 10, §1 (AMD). PL 2011, c. 266, Pt. A, §1 (AMD). PL 2011, c. 598, §4 (AMD). PL 2011, c. 655, Pt. KK, §15 (AMD). PL 2011, c. 655, Pt. KK, §34 (AFF). PL 2011, c. 657, Pt. W, §5 (REV). PL 2013, c. 468, §1 (AMD). PL 2015, c. 172, §1 (AMD). PL 2021, c. 398, Pt. JJJ, §1 (AMD).

§6023. Deputy commissioner

The commissioner shall designate a deputy commissioner, who shall serve at the pleasure of the commissioner. The deputy commissioner shall be responsible, under the direction of the commissioner, for the administration and enforcement of the marine resources' laws and shall have all the powers of a marine patrol officer. He shall serve as the commissioner in the commissioner's absence or disability or if the office of the commissioner becomes vacant. The commissioner may appoint an appropriate administrative officer in the department to perform the functions of the commissioner if both the commissioner and deputy commissioner are disabled or absent. [PL 1979, c. 541, Pt. B, §73 (AMD).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1979, c. 541, §B73 (AMD).

§6024. Advisory council

1. Appointment; composition; term; compensation.

[PL 1989, c. 8, §1 (AMD); PL 1989, c. 503, Pt. B, §§59, 60 (RP).]

1-A. Appointment; composition; term; compensation. The Marine Resources Advisory Council, established by Title 5, section 12004-G, subsection 27, consists of 16 members. The chair of the Lobster Advisory Council, the chair of the Sea Urchin Zone Council and the chair of the Shellfish Advisory Council are ex officio members of the council. Each other member is appointed by the Governor and is subject to review by the joint standing committee of the Legislature having jurisdiction over marine resources matters and to confirmation by the Legislature. Five members must be persons who are licensed under this Part to engage in commercial harvesting activities. Those 5 members are selected by the Governor from names recommended to the Governor by groups representing commercial harvesting interests. Each member must represent a different commercial harvesting activity, except that none of those 5 members may represent lobster harvesters. The remaining 8 members must include one public member, one member who is a member of a federally recognized Indian nation, tribe or band in the State, 4 persons who hold a nonharvesting-related license under this Part, one person representing recreational saltwater anglers and one person representing the aquaculture industry. The Governor shall select the person to represent the aquaculture industry from among the names recommended by the aquaculture industry. The Governor shall select the member who is a member of a federally recognized Indian nation, tribe or band in the State based on the joint recommendation of the tribal governments of the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe at Motahmikuk, the Passamaquoddy Tribe at Sipayik and the Penobscot Nation. If the tribal governments do not make a unanimous joint recommendation, the Governor shall appoint a member of a federally recognized Indian nation, tribe or band in the State and rotate the appointment among members of each federally recognized Indian nation, tribe or band in the State. The composition of the council must reflect a geographical distribution along the coast. All appointed members are appointed for a term of 3 years, except a vacancy must be filled in the same manner as an original member for the unexpired portion of the term. An appointed member may not serve for more than 2 consecutive terms. Appointed members serve until their successors are appointed. The chair of the Lobster Advisory Council, the chair of the Sea Urchin Zone Council and the chair of the Shellfish Advisory Council shall serve until a new chair of the Lobster Advisory Council, a new chair of the Sea Urchin Zone Council or a new chair of the Shellfish Advisory Council, respectively, is chosen. Members are compensated as provided in Title 5, chapter 379.

[PL 2021, c. 71, §1 (AMD).]

2. Powers and duties; meetings; officers. The council shall give the commissioner information and advice concerning the administration of the department and carry out other duties specifically delegated by marine resources' laws. The council shall hold regular quarterly meetings with the commissioner, or the commissioner's designee, and may hold special meetings at any time. The council shall elect one of its members as chair, one as vice-chair and one as secretary, all for a term of one year, at the first regular meeting in each year. The officers have the following duties.

A. The chair shall call and preside at all meetings of the council. [PL 1995, c. 382, §3 (AMD).]

B. The vice-chair shall call and preside at all meetings of the council in the chair's absence. [PL 1995, c. 382, §3 (AMD).]

C. The secretary shall cause records to be taken and to be preserved of all meetings of the council. [PL 1977, c. 661, §5 (NEW).]

[PL 1995, c. 382, §3 (AMD).]

3. Quorum. A quorum shall be a majority of the current members of the council.

[PL 1977, c. 661, §5 (NEW).]

4. Council actions. An affirmative vote of a majority of the members present at a meeting or polled shall be required for any action. No action may be considered unless a quorum is present or, if there is no meeting, a quorum responds to a written poll.

[PL 1977, c. 661, §5 (NEW).]

5. Research oversight. The commissioner shall annually report to the council on the research of the department. The report shall include the present research plan and its implementation, any necessary revision of the plan and its necessary extension over the planning period. The council may appoint marine scientists, who are not employees of the department, to advise it in considering the research plan. After completing its review, the council shall report the plan, and any recommendations or comments, to the joint standing committee of the Legislature having jurisdiction over marine resources. [PL 1985, c. 481, Pt. A, §36 (AMD).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1977, c. 713, §1 (AMD). PL 1979, c. 127, §83 (AMD). PL 1979, c. 357 (AMD). PL 1983, c. 383, §1 (AMD). PL 1983, c. 812, §81 (AMD). PL 1985, c. 481, §§A35,36 (AMD). PL 1987, c. 694, §1 (AMD). PL 1989, c. 8, §§1,2 (AMD). PL 1989, c. 503, §§B59-62 (AMD). PL 1989, c. 788, §1 (AMD). PL 1995, c. 382, §§2,3 (AMD). PL 1999, c. 85, §2 (AMD). PL 2007, c. 176, §1 (AMD). PL 2007, c. 240, Pt. QQ, §2 (AMD). PL 2007, c. 615, §3 (AMD). PL 2007, c. 695, Pt. K, §1 (AMD). PL 2009, c. 369, Pt. A, §23 (AMD). PL 2019, c. 225, §3 (AMD). PL 2021, c. 71, §1 (AMD).

§6025. Marine patrol officers

1. Appointment. Applicants for the position of a marine patrol officer who qualify under the officer's code and pass the examination administered by the Bureau of Human Resources may be appointed by the commissioner to hold office under Title 5, chapters 51 to 67 and under the officer's code.

[PL 1985, c. 785, Pt. B, §67 (AMD).]

2. Fees and other offices. Except before the District Court, officers are allowed the same fees as sheriffs and their deputies for like service which must be paid to the commissioner for use of the State. Officers may not hold any other state, county or municipal office for which they receive compensation, except elected positions in municipal or county government.

[PL 2001, c. 340, §1 (AMD).]

3. Powers and duties. Officers shall enforce all marine resources' laws and may arrest and prosecute all violators. They may serve all process pertaining to marine resources' laws. They shall have jurisdiction and authority in all areas where the laws for which they have responsibility apply. In addition to their specified powers and duties, the marine patrol officers are vested with the authority to enforce all laws of the State and may arrest for violations of any criminal laws. Any officer may require suitable aid in the execution of the duties of his office. Marine patrol officers may receive complete law enforcement training within one year from the date of employment and in-service training privileges at the Maine Criminal Justice Academy.

[PL 1979, c. 541, Pt. B, §14 (AMD).]

4. Search powers. Any marine patrol officer, in uniform, may search without a warrant and examine any watercraft, aircraft, conveyance, vehicle, box, bag, locker, trap, crate or other receptacle or container for any marine organism when he has probable cause to believe that any marine organism taken, possessed or transported contrary to law is concealed thereon or therein.

[PL 1981, c. 433, §2 (AMD).]

5. Sheriff and police powers as marine patrol officers. A sheriff, deputy sheriff, police officer, constable or inland fisheries and wildlife warden, within their respective jurisdiction, shall be vested with the powers of a marine patrol officer, except the powers provided in sections 6306 and 6434. When an officer acts under this section, the same fees shall be paid for his services to the usual recipient of the officer's fees.

[PL 1979, c. 541, Pt. B, §14 (AMD).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1979, c. 541, §B14 (AMD). PL 1981, c. 433, §2 (AMD). PL 1985, c. 785, §B67 (AMD). PL 2001, c. 340, §1 (AMD).

§6025-A. New Hampshire marine patrol

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL CONTINGENCY: See 2003, c. 519, §2)

A member of the New Hampshire marine patrol who, in the course of patrolling the waters of the Piscataqua River or Portsmouth Harbor, observes activity that the officer reasonably suspects may result in loss of life, widespread injury or widespread and severe property damage has authority to enter Maine and has the same authority to investigate, detain and execute an arrest as a Maine marine patrol officer. When a member of the New Hampshire marine patrol is engaged in Maine in carrying out the purpose of this subsection, that member has all the same privileges and immunities as Maine marine patrol officers in addition to privileges and immunities available under New Hampshire law. [PL 2003, c. 519, §1 (NEW); PL 2003, c. 519, §2 (AFF).]

The commissioner shall immediately notify the Secretary of State of New Hampshire if this section is repealed or amended to significantly alter its application. [PL 2003, c. 519, §1 (NEW); PL 2003, c. 519, §2 (AFF).]

REVISOR'S NOTE: §6025-A. New Hampshire marine patrol (WHOLE SECTION TEXT REPEALED ON CONTINGENCY: See PL 2003, c. 519, §2)

SECTION HISTORY

PL 2003, c. 519, §1 (NEW). PL 2003, c. 519, §2 (AFF).

§6026. False personation

Impersonation of a marine patrol officer shall be a violation of Title 17-A, section 457. [PL 1979, c. 541, Pt. B, §73 (AMD).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW).

§6027. Other governmental units to file documents

Every state department, government agency or official and municipal or political subdivision shall file with the commissioner copies of all leases, permits, grants or licenses issued to carry on activities in the coastal waters. [PL 1977, c. 661, §5 (NEW).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW).

§6028. Volunteer marine patrol officers

1. Appointment. The commissioner may appoint volunteer marine patrol officers upon such conditions as the commissioner may determine. Volunteer marine patrol officers shall serve without compensation and may be paid actual automobile costs at the rate paid to state employees. [PL 1983, c. 449 (NEW).]

2. Powers and duties. Volunteer marine patrol officers shall have the same powers and duties as marine patrol officers specified in section 6025, except that the exercise of these powers and duties shall be limited to marine resources laws set out in chapters 601 to 627, inclusive, and department regulations adopted pursuant to these statutes. Volunteer marine patrol officers shall complete reserve officer training at the Maine Criminal Justice Academy pursuant to Title 25, section 2805-A prior to assuming these duties.

[PL 1983, c. 449 (NEW).]

SECTION HISTORY

PL 1979, c. 541, §B73 (AMD). PL 1983, c. 449 (NEW).

§6029. Search and rescue operations

The Department of Marine Resources may provide search and rescue services in the coastal waters of the State and shall be the responsible state agency for those services, except when they involve lost or downed aircraft. The department shall develop a formal plan for those activities and designate one person within the department as coordinator of search and rescue to work with other search and rescue agencies, both governmental and private. The department shall attempt to establish and train regional volunteer organizations to assist with search and rescue and include them in plans and joint training exercises as appropriate. [PL 1989, c. 489, §3 (RPR).]

SECTION HISTORY

PL 1987, c. 814, §1 (NEW). PL 1989, c. 489, §3 (RPR).

§6029-A. Safety and security services

1. Enforcement of federal safety and security zones. At the request of and as expressly provided by the United States Coast Guard in accordance with federal law, marine patrol officers may assist the United States Coast Guard in the enforcement of safety and security zones established by the United States Coast Guard Captain of the Port for Maine. Marine patrol officers may take all action necessary to assist the United States Coast Guard in enforcing security and safety zones to the extent authorized by the United States Coast Guard.

[PL 2003, c. 60, §1 (NEW).]

2. Memorandum of agreement. Prior to engaging in the activities authorized under this section, the Bureau of Marine Patrol must enter into a memorandum of agreement with the United States Coast Guard that establishes the appropriate procedures and protocols for enforcement activities authorized under this section. Any funds received from the Federal Government for reimbursement to the State for activities authorized under this section must be deposited in the Bureau of Marine Patrol federal programs account.

[PL 2007, c. 615, §4 (AMD).]

SECTION HISTORY

RR 2003, c. 2, §17 (COR). PL 2003, c. 60, §1 (NEW). PL 2007, c. 615, §4 (AMD).

§6030. Department of Marine Resources Educational Fund

1. Fund. There is established the Department of Marine Resources Educational Fund, referred to in this section as the "fund." The department is authorized to set and receive fees to be deposited in the fund. The fund receives all funds collected by the department from the operation of the Aquarium and Resource Center at West Boothbay Harbor and the Burnt Island Living Lighthouse, including admission fees, the proceeds of sales at the Aquarium and Resource Center at West Boothbay Harbor and the Burnt Island Living Lighthouse and donations, grants or other funds presented to the department for the benefit of the Aquarium and Resource Center at West Boothbay Harbor and the Burnt Island Living Lighthouse and their educational programs. All money deposited in the fund and the earnings on the money remain in the fund to be used for the management and maintenance of the Aquarium and Resource Center at West Boothbay Harbor and the Burnt Island Living Lighthouse and their programs that educate the State's children, teachers and visitors about the State's marine resources. Unexpended balances in the fund at the end of the fiscal year do not lapse but must be carried forward to the next fiscal year to be used for the same purpose.

[PL 2003, c. 520, §1 (AMD).]

2. Annual report.

[PL 2011, c. 598, §5 (RP).]

SECTION HISTORY

PL 1995, c. 507, §1 (NEW). PL 2003, c. 520, §1 (AMD). PL 2011, c. 598, §5 (AMD).

§6030-A. Burnt Island; Burnt Island Living Lighthouse; rules

The commissioner may adopt such rules as are necessary to protect and preserve Burnt Island and the Burnt Island Living Lighthouse. In addition, the commissioner may adopt such rules as are necessary to provide for the successful implementation of the department-authorized educational and recreational programs that are conducted on the island. The rules may include restrictions on public access to Burnt Island and the Burnt Island Living Lighthouse as determined reasonably necessary for these purposes. [PL 2005, c. 56, §1 (NEW).]

Rules adopted pursuant to the section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2005, c. 56, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 56, §1 (NEW).

§6031. Governor's Marine Studies Fellowship Program

1. Fellowship program established. There is established within the department the Governor's Marine Studies Fellowship Program to encourage the study of disciplines important to the conservation, management and utilization of marine resources. Those disciplines include, but are not limited to: applied aquaculture research in culture techniques, engineering, disease prevention, diagnosis and treatment and product technology; marine science with focus on research in support of resource management and sustainability, including marine fisheries science and assessment, ecology and life history, water quality and contaminants, coastal oceanography, marine biotechnology and technology development and transfer; and marine resource policy and management. The program must provide support for undergraduate and graduate students at colleges and universities chartered in the State. [PL 1997, c. 24, Pt. UU, §1 (NEW).]

2. Program administration. The commissioner shall seek the advice and participation of academic and aquaculture and fisheries industry representatives in administering the Governor's Marine Studies Fellowship Program and in the award process. The commissioner shall establish program guidelines that provide for contributing support from academic institutions and aquaculture and fishing industry organizations at a minimum matching level for non-state participation of 2 non-state dollars for each state dollar and may provide for contributions by other interests that wish to provide fellowship support. [PL 1997, c. 24, Pt. UU, §1 (NEW).]

3. Fund established. There is established within the department the Governor's Marine Studies Fellowship Fund. The commissioner may receive funds from nongeneral fund sources for use in the Governor's Marine Studies Fellowship Program. All money received into the fund must be used for the purposes of the program. Unexpended balances in the fund at the end of the fiscal year do not lapse but must be carried forward to the next fiscal year to be used for the purposes of the fellowship fund. [PL 1997, c. 24, Pt. UU, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 24, §UU1 (NEW).

**§6032. Marine Recreation Fishing Conservation and Management Fund
(REPEALED)**

SECTION HISTORY

PL 1999, c. 85, §3 (NEW). PL 2009, c. 559, §1 (RPR). PL 2009, c. 559, §4 (AFF). PL 2011, c. 421, §1 (RP).

§6032-A. Marine Recreation Fishing Conservation and Management Fund

1. Fund established. The Marine Recreation Fishing Conservation and Management Fund, referred to in this section as "the fund," is established within the department. The commissioner may receive on behalf of the fund funds from any source. All money received into the fund must be used for the purposes of the fund under subsection 2. Unexpended balances in the fund at the end of the fiscal year do not lapse but must be carried forward to the next fiscal year to be used for the purposes of the fund. Any interest earned on the money in the fund must be credited to the fund. [PL 2011, c. 598, §6 (NEW).]

2. Uses of fund. The commissioner may authorize the expenditure of money from the fund for research and conservation efforts related to the saltwater recreational fishery. [PL 2011, c. 598, §6 (NEW).]

SECTION HISTORY

PL 2011, c. 598, §6 (NEW).

§6033. Marine Recreational Fishing Advisory Council

(REPEALED)

SECTION HISTORY

PL 1999, c. 85, §4 (NEW). PL 2009, c. 369, Pt. A, §24 (RP).

§6034. Commercial Fishing Safety Council

1. Appointment; composition. The Commercial Fishing Safety Council, referred to in this section as "the council" and established by Title 5, section 12004-I, subsection 57-E, consists of 9 members appointed by the commissioner as follows:

- A. One member who is a license holder under this Part and a member of the Lobster Advisory Council, recommended by the chair of the Lobster Advisory Council; [PL 2003, c. 90, §2 (NEW).]
- B. [PL 2011, c. 128, §1 (RP).]
- C. One member who is a license holder under this Part and a member of the Sea Urchin Zone Council or the Scallop Advisory Council, recommended by the chair of the Sea Urchin Zone Council or the Scallop Advisory Council; [PL 2011, c. 128, §1 (AMD).]
- D. Three members who are license holders under this Part and who represent commercial marine harvesting activities; [PL 2011, c. 128, §1 (AMD).]
- E. An educator experienced in community-based adult education and volunteer safety training or an expert in fishing industry risk analysis and occupational health; [PL 2011, c. 128, §1 (AMD).]
- F. [PL 2011, c. 128, §1 (RP).]
- G. An expert in marine safety equipment; [PL 2003, c. 90, §2 (NEW).]
- H. [PL 2011, c. 128, §1 (RP).]
- I. [PL 2011, c. 128, §1 (RP).]
- J. A spouse or domestic partner of a license holder under this Part; and [PL 2003, c. 90, §2 (NEW).]
- K. A member of the public. [PL 2003, c. 90, §2 (NEW).]

The composition of the council must reflect a geographic distribution along the coast of the State. The council may invite to carry out the duties of the council other participants on an ad hoc basis, including representatives of private or governmental organizations or individuals with expertise or interest in marine, education, labor or health matters.

[PL 2011, c. 128, §1 (AMD).]

2. Term. The term of an appointed member is 3 years, except a vacancy of a member before the expiration of the member's term must be filled in the same manner as the original member for the unexpired portion of the member's term.

[PL 2011, c. 128, §2 (AMD).]

3. Officers. The officers of the council are the chair, vice-chair and secretary. The term of the officers is one year. The Governor shall appoint the first chair of the council. Except for the appointment of the original chair, the council shall elect a member of the council for each officer position at the first regular meeting of each year. The officers have the following duties:

A. The chair shall call and preside at council meetings; [PL 2003, c. 90, §2 (NEW).]

B. The vice-chair shall call and preside at council meetings when the chair is absent; and [PL 2003, c. 90, §2 (NEW).]

C. The secretary shall record all meetings of the council and preserve these records. [PL 2003, c. 90, §2 (NEW).]

[PL 2003, c. 90, §2 (NEW).]

4. Meetings. The council shall hold regular quarterly meetings and may hold special meetings with the commissioner or the commissioner's designee. A member of the council may participate and is deemed present at a meeting of the council or of a subcommittee of the council by telephone, electronically or by any other means by which all members participating in the meeting are able to communicate with each other. The council shall ensure adequate facilities for full attendance at council meetings by the public.

[PL 2003, c. 90, §2 (NEW).]

5. Quorum. A quorum exists when a majority of the members of the council are present, either actually or pursuant to subsection 4.

[PL 2003, c. 90, §2 (NEW).]

6. Council actions. The council may act in the following ways:

A. If a quorum is present, in person or pursuant to subsection 4, by a majority vote of the members present or polled; or [PL 2003, c. 90, §2 (NEW).]

B. If there is no meeting, by written poll of a quorum of members responding. [PL 2003, c. 90, §2 (NEW).]

[PL 2003, c. 90, §2 (NEW).]

7. Duties. The council shall carry out duties specifically delegated to the council by law or by the commissioner and give the commissioner information and advice concerning fishing safety issues, including:

A. Minimum safety equipment, training and operational standards; [PL 2003, c. 90, §2 (NEW).]

B. Community-based education programs that provide practical safety training and fisheries-specific safety training; [PL 2003, c. 90, §2 (NEW).]

C. An outreach program to promote the culture of safety; and [PL 2005, c. 505, §2 (AMD).]

D. Opportunities to minimize the costs and seek alternative funding sources, fees, incentives, grants or partnerships to minimize the financial impact of safety requirements. [PL 2005, c. 505, §2 (AMD).]

E. [PL 2005, c. 505, §2 (RP).]
[PL 2005, c. 505, §2 (AMD).]

8. Report.

[PL 2005, c. 505, §3 (RP).]

9. Compensation. Members of the council are entitled to compensation according to Title 5, chapter 379.

[PL 2007, c. 34, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 90, §2 (NEW). PL 2003, c. 510, §C3 (AMD). PL 2005, c. 505, §§1-3 (AMD). PL 2007, c. 34, §2 (AMD). PL 2009, c. 369, Pt. A, §25 (AMD). PL 2011, c. 128, §§1, 2 (AMD).

§6035. Commercial safety fishing plan

No later than October 1st of each year, the Commercial Fishing Safety Council shall submit a commercial fishing safety plan to the commissioner that includes, but is not limited to, the council's fishing safety initiatives, any revisions to those initiatives and any new initiatives for the department to consider. [PL 2005, c. 505, §4 (AMD).]

SECTION HISTORY

PL 2003, c. 90, §2 (NEW). PL 2005, c. 505, §4 (AMD).

§6036. Marine Fisheries Research and Development Fund

1. Fund established. The Marine Fisheries Research and Development Fund, referred to in this section as the "fund," is established as a dedicated, nonlapsing fund within the department. Unexpended balances in the fund at the end of the fiscal year may not lapse and must be carried forward to the next fiscal year and used for the purposes of this section.

[PL 2003, c. 520, §2 (NEW).]

2. Sources and uses of fund. Revenues from the total gasoline tax revenues credited to the fund under Title 36, section 2903-D may be used for research, development, propagation and management activities of the department. The commissioner may select activities and projects that will be most beneficial to the commercial fisheries of the State as well as the development of sport fisheries in the State. In addition to the revenues derived from the total gasoline tax revenues, the fund may receive money from any source for the purposes of this subsection.

[PL 2003, c. 520, §2 (NEW).]

3. Allocations from fund.

[PL 2013, c. 368, Pt. LLLL, §3 (RP).]

SECTION HISTORY

PL 2003, c. 520, §2 (NEW). PL 2013, c. 368, Pt. LLLL, §3 (AMD).

§6037. Marine Fisheries Stock Enhancement Fund

1. Fund established. The Marine Fisheries Stock Enhancement Fund, referred to in this section as "the fund," is established as a nonlapsing fund within the department to improve the marine economy in this State. Unexpended balances in the fund at the end of the fiscal year do not lapse and must be carried forward to the next fiscal year and used for the purposes of this section.

[PL 2007, c. 240, Pt. VVVV, §1 (NEW).]

2. Uses of fund. Money in the fund must be administered by the department for commercial marine stock enhancement to improve the marine economy in this State through applied research, development, production of harvested marine species, infrastructure, monitoring and assessment. Money in the fund may be used as federal matching funds.

[PL 2007, c. 240, Pt. VVVV, §1 (NEW).]

3. Department may accept contributions to fund. The department may accept money from any public or private source to augment state contributions to the fund.

[PL 2007, c. 240, Pt. VVVV, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 240, Pt. VVVV, §1 (NEW).

§6038. Shellfish Advisory Council

1. Appointment; composition. The Shellfish Advisory Council, referred to in this section as "the council" and established by Title 5, section 12004-I, subsection 57-G, consists of 14 members who are appointed by the commissioner as follows:

A. Four members who are commercial shellfish license holders. In making the appointments under this paragraph, the commissioner shall consider up to 6 recommendations from associations representing the interests of persons who harvest shellfish commercially; [PL 2019, c. 600, §1 (AMD).]

B. Two members who are shellfish aquaculture lease holders. In making the appointments under this paragraph, the commissioner shall consider up to 3 recommendations from associations representing the interests of persons who raise shellfish under aquaculture leases; [PL 2007, c. 606, Pt. A, §2 (NEW).]

C. One member who is a municipal official involved in pollution permitting or mitigation; [PL 2019, c. 600, §1 (AMD).]

D. Two members who are licensed wholesale seafood dealers who have been issued a shellfish sanitation certificate by the department pursuant to section 6856, subsection 1. In making the appointments under this paragraph, the commissioner shall consider up to 3 recommendations from associations representing the interests of persons who buy and sell shellfish; [PL 2019, c. 600, §1 (AMD).]

E. One public member with knowledge of and interest in coastal water quality; [PL 2007, c. 606, Pt. A, §2 (NEW).]

F. Two members who are municipal shellfish officials, including, but not limited to, a municipal shellfish conservation warden or a member of a municipal shellfish management committee, as described in section 6671, subsection 2; [PL 2019, c. 600, §1 (AMD).]

G. One member who has been issued a shellfish depuration certificate under section 6856, subsection 3 or who is designated by the department as an authorized representative of the holder of the shellfish depuration certificate; and [PL 2019, c. 600, §1 (AMD).]

H. One member who has a demonstrated knowledge of biological science and, at a minimum, a bachelor's degree. The commissioner shall make a reasonable effort to appoint a member who has at least 5 years of relevant experience. [PL 2019, c. 600, §1 (NEW).]

The commissioner shall make appointments so that the composition of the council reflects a geographic distribution along the coast of the State.

[PL 2019, c. 600, §1 (AMD).]

2. Purpose. The council shall make recommendations to the commissioner and the joint standing committee of the Legislature having jurisdiction over marine resources matters concerning:

A. How best to utilize state agencies, municipal governments, the shellfish industry and citizen groups to make improvements to and maintain the quality of the State's coastal waters and to expedite the opening of closed shellfish flats; and [PL 2007, c. 606, Pt. A, §2 (NEW).]

B. Matters of interest to the State's shellfish industry, including, but not limited to, shellfish resource management, public health protection and the activities and recommendations of a multistate organization that promotes shellfish sanitation. [PL 2007, c. 606, Pt. A, §2 (NEW).]

The council is responsible for bringing forward to the commissioner matters of concern to the shellfish industry and for assisting the commissioner with the dissemination of information to members of the shellfish industry.

[PL 2007, c. 606, Pt. A, §2 (NEW).]

3. Term. The term of a member appointed to the council is 3 years, except that a vacancy during an unexpired term must be filled in the same manner as for the original member for the unexpired portion of the member's term. A member may not serve more than 2 consecutive terms.

[PL 2007, c. 606, Pt. A, §2 (NEW).]

4. Officers. The officers of the council are the chair, vice-chair and secretary. The term of the officers is one year. The council shall elect a member of the council for each officer position at the first regular meeting of each year.

[PL 2007, c. 606, Pt. A, §2 (NEW).]

5. Meeting. The council shall meet at least once a year. It may also meet at other times at the call of the chair or the commissioner. In advance of a meeting of a multistate organization that promotes shellfish sanitation, the council shall meet to discuss matters of interest to the shellfish industry, the department and the multistate organization and to make recommendations as necessary.

[PL 2007, c. 606, Pt. A, §2 (NEW).]

6. Compensation. Council members are entitled to expenses according to Title 5, chapter 379, which are paid from the Shellfish Fund established in section 6651.

[PL 2007, c. 606, Pt. A, §2 (NEW).]

REVISOR'S NOTE: §6038. Watercraft Fund (As enacted by PL 2007, c. 615, §5 is REALLOCATED TO TITLE 12, SECTION 6040)

SECTION HISTORY

RR 2007, c. 2, §3 (RAL). PL 2007, c. 606, Pt. A, §2 (NEW). PL 2007, c. 615, §5 (NEW). PL 2019, c. 600, §1 (AMD).

§6039. Halibut Fund

The Halibut Fund, referred to in this section as "the fund," is established within the department. [PL 2007, c. 615, §6 (NEW).]

1. Sources. The fund is capitalized by fees received through the sale of halibut tags. In addition to those revenues, the commissioner may accept and deposit into the fund money from any other source, public or private. All money in the fund must be used for the purposes set forth in this section.

[PL 2007, c. 615, §6 (NEW).]

2. Purposes. The commissioner shall use the fund for halibut research and for the implementation of management measures needed for the halibut fishery.

[PL 2007, c. 615, §6 (NEW).]

3. Interest and balances credited to fund. Any interest earned on the money in the fund must be credited to the fund. Unexpended balances in the fund at the end of the fiscal year do not lapse but must be carried forward to the next fiscal year and credited to the fund.

[PL 2007, c. 615, §6 (NEW).]

SECTION HISTORY

PL 2007, c. 615, §6 (NEW).

§6040. Watercraft Fund**(REALLOCATED FROM TITLE 12, SECTION 6038)**

The Watercraft Fund, referred to in this section as "the fund," is established within the department. [RR 2007, c. 2, §3 (RAL).]

1. Sources. The fund is capitalized by money collected from boat registrations pursuant to section 10206, subsection 3 and fines. In addition to those revenues, the commissioner may accept and deposit into the fund money from any other source, public or private.

[RR 2007, c. 2, §3 (RAL).]

2. Purposes. The commissioner shall use the fund primarily for the purpose of funding vessel operations and maintenance and safety and enforcement programs.

[RR 2007, c. 2, §3 (RAL).]

3. Interest and balances credited to fund. Any interest earned on the money in the fund must be credited to the fund. Unexpended balances in the fund at the end of the fiscal year do not lapse but must be carried forward to the next fiscal year and credited to the fund.

[RR 2007, c. 2, §3 (RAL).]

SECTION HISTORY

RR 2007, c. 2, §3 (RAL).

§6041. Pelagic and Anadromous Fisheries Fund

The Pelagic and Anadromous Fisheries Fund, referred to in this section as "the fund," is established within the department. Balances in the fund may not lapse and must be carried forward to the next fiscal year. [PL 2009, c. 527, §1 (NEW).]

1. Uses of fund. The commissioner shall use the fund for research directly related to pelagic or anadromous fishery management and the processing of landings data. The commissioner may authorize the expenditure of money in the fund for research and development programs that address the restoration, development or conservation of pelagic or anadromous fish resources.

[PL 2009, c. 527, §1 (NEW).]

2. Sources of revenue. The fund is capitalized by surcharges assessed under section 6502-A, subsection 7 and section 6502-C, subsection 5 and fees collected pursuant to section 6502-B, subsection 4. In addition to those revenues, the commissioner may accept and deposit in the fund money from any other source, public or private.

[PL 2019, c. 640, §1 (AMD).]

SECTION HISTORY

PL 2009, c. 527, §1 (NEW). PL 2019, c. 332, §1 (AMD). PL 2019, c. 332, §3 (AFF). PL 2019, c. 640, §1 (AMD).

§6042. Maine Working Waterfront Access Protection Program

1. Program established; administration. The Maine Working Waterfront Access Protection Program, referred to in this section as "the program," is established to provide protection to strategically significant working waterfront property whose continued availability to commercial fisheries businesses is essential to the long-term future of the economic sector. The department shall administer the program either directly or by contract with a suitable organization.

[PL 2011, c. 266, Pt. B, §6 (NEW).]

2. Review panel. The department shall organize a review panel to advise the commissioner in the operation of the program, including, but not limited to, evaluating applications and recommending to the department applicants for participation in the program.

[PL 2011, c. 266, Pt. B, §6 (NEW).]

3. Selection criteria. The selection criteria with which to evaluate applications for protection of working waterfront property must include, but are not limited to:

A. The economic significance of the property to the commercial fisheries industry in the immediate vicinity and in the State as a whole; [PL 2011, c. 266, Pt. B, §6 (NEW).]

B. The availability of alternative working waterfront property in the same vicinity; [PL 2011, c. 266, Pt. B, §6 (NEW).]

C. The degree of community support for the proposed protection; [PL 2011, c. 266, Pt. B, §6 (NEW).]

D. The probability of conversion of the working waterfront property to uses incompatible with commercial fisheries businesses; and [PL 2011, c. 266, Pt. B, §6 (NEW).]

E. The utility of the working waterfront property for commercial fisheries business uses in terms of its natural characteristics and developed infrastructure. [PL 2011, c. 266, Pt. B, §6 (NEW).]

[PL 2011, c. 266, Pt. B, §6 (NEW).]

4. Grant agreements. The commissioner shall enter into grant agreements with state agencies and designated cooperating entities for the purpose of receiving grants from the Maine Working Waterfront Access Protection Fund under Title 5, section 6203-B.

[PL 2011, c. 266, Pt. B, §6 (NEW).]

5. Right of first refusal. The commissioner shall retain a permanent right of first refusal on any working waterfront property acquired in fee or protected by working waterfront covenant or other less-than-fee interests under Title 5, section 6203-B. Exercise of the right of first refusal must be at a price determined by an independent professional appraiser based on the value of the working waterfront property to a commercial fisheries business at the time of the exercise of the right. The commissioner may assign this right to a commercial fisheries business or to a local government if, in the commissioner's judgment, such an assignment is consistent with the purposes of this section.

[PL 2011, c. 266, Pt. B, §6 (NEW).]

6. Termination. If the commissioner determines that the public purposes of a grant made under subsection 4 are no longer served, the commissioner may, consistent with the provisions of Title 33, chapter 6-A, terminate a grant agreement made under subsection 4 conditional on repayment of the original grant amount or an amount equal to that proportion of the then-current value of the protected property that represents the ratio of the original grant amount to the original fee interest value at the time of the grant. Any funds recovered under this subsection must be deposited into the Maine Working Waterfront Access Protection Fund under Title 5, section 6203-B and may be expended only for the purposes of this section.

[PL 2011, c. 266, Pt. B, §6 (NEW).]

SECTION HISTORY

PL 2011, c. 266, Pt. B, §6 (NEW).

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