

Department of Marine Resources

NOTICE OF AGENCY RULE-MAKING PROPOSAL

RULE TITLE: Chapter 25.08(F) Lobster Trap Tag System, Special Circumstances Permit

CONCISE SUMMARY: The proposed rule would require that requests for a variance from the requirements of Chapter 25.08(B)(2)&(5) be made to the department in writing, and that any such approvals would be in the form of a special circumstances permit. The existence of a such a permit would provide a mechanism to allow the Maine Patrol to better enforce Chapter 25.08(B)(2)&(5) Trap tags, and limit potential abuses.

STATUTORY AUTHORITY: 12 M.R.S.A. §6431-E

PUBLIC HEARING: ***March 3, 2009, 6:00pm**, Department of Marine Resources, Large Conference Room, 200 McKown Point Road, West Boothbay Harbor

**The public hearings for four proposed rules will be held in numerical order starting with Chapter 13, followed by Chapters 25, 49 and 90. Each separate hearing will be held immediately upon the conclusion of the previous hearing. See separate rulemaking notices for rules not listed in this notice.*

DEADLINE FOR COMMENTS: March 13, 2009

To ensure consideration, comments must include your name and the organization you represent, if any. Please be aware that any risk of non-delivery associated with submissions by fax or e-mail is on the sender.

AGENCY CONTACT PERSON: Lt. Jon Cornish (207- 633-9595)

AGENCY NAME: Department of Marine Resources, attn L. Churchill

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TEL.: (207) 633-9584 FAX: (207) 633-9579 TTY: (207) 633-9500 (Deaf/Hard of Hearing) Hearing facilities: If you require accommodations due to disability, please contact Amanda Beckwith, at (207) 287-7578.

Additional information:

According to the Licensing Division and Bureau of Marine Patrol they receive several hundred "special circumstance" requests per year by lobster and crab license holders. These are persons who find themselves in need of assistance under special circumstances. The proposed rulemaking would require that these requests be in writing and, should the request be granted, that it would be administered in the form of a special circumstances permit. A written permit would assist the Marine Patrol in the enforcement of the requirements of Chapter 25.08(B)(2)&(5).

Proposed rulemaking – see underlined or deleted text below:

25.08 Lobster Trap Tag System

B. Trap Tags

(2) Except as approved by the Commissioner, no license holder shall be issued trap tags in an amount that causes a declared vessel to exceed the applicable vessel trap limit established pursuant to 12 M.R.S.A. §6431-A and §6421(3-A)(F). Such approvals shall be consistent with the individual trap limits, zone trap limits, boat trap limits and vessel limitation law and regulation. Except as approved by the Commissioner, no license holder may set, haul, retrieve or take lobsters from a trap unless the trap contains a trap tag issued to that license holder or to another license holder who is then present on the vessel. No license holder may use a vessel to set, haul, retrieve or take lobsters from a trap unless that trap contains a trap tag allocated to that vessel in accordance with the license holder's vessel declaration.

(5) License holder's presence aboard

A license holder must be present aboard any vessel involved in setting, hauling, retrieving or taking lobsters from lobster traps for which such license holder has been assigned tags under this regulation. The Commissioner may authorize another person to fish for or take lobsters from a vessel when an owner is not on board if an illness or disability temporarily prevents that owner from fishing for or taking lobsters from that vessel and provided that person holds a Class I, II or III lobster and crab fishing license. For the purpose of this section temporary means up to the end of the current license year, unless otherwise specified by the Commissioner in the authorization. Such notification shall describe the disability or illness, the identity of the person who will be acting on the license holder's behalf and the time period involved. The Commissioner may approve of such substitution under such reasonable conditions as he may require in order to effectuate the purpose and intent of this regulation.

(F) All requests for approval by the Commissioner of a variance from the requirements of Chapter 25.08 B(2) and or (5) must be made to the department in writing; and any such approvals which are granted will be in the form of a special circumstances permit. Any fishing activity not expressly authorized in the special circumstance permit granted by the Commissioner shall be a violation of this subsection and subject to prosecution and or seizure.

If you are unable to attend the hearing persons are encouraged to submit written comments from the receipt or posting of this notice through close of business on the deadline listed.