

**Department of Marine Resources**  
**NOTICE OF AGENCY RULE-MAKING PROPOSAL**

**RULE TITLE OR SUBJECT:** Chapter 49 - Shellfish Bait ~~Permit~~ Regulations

**CONCISE SUMMARY:** The proposed regulations would allow recreational saltwater bait dealers to provide non-consumable marine mollusks and or shellfish bait. New sources of bait are coming into Maine that is not in compliance with the control of bait products and the certification of the State's National Shellfish Sanitation Program.

**STATUTORY AUTHORITY:** 12 M.R.S.A. §6621(3)(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)**

**Mail Written Comments To:** **Department of Marine Resources, attn L. Churchill**  
**ADDRESS:** **PO Box 8, West Boothbay Harbor, Maine 04575-0008**

**WEB SITE:** <http://www.maine.gov/dmr/rulemaking/>

**E-MAIL:** [laurice.churchill@maine.gov](mailto:laurice.churchill@maine.gov)

**TELEPHONE:** **(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.**

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**Additional information:**

*The proposed regulations would impact persons who hold a shellfish bait permit and recreational saltwater dealers who deal in the commerce of non-consumable marine mollusks and or shellfish bait.*

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**Proposed rulemaking – see underlined or ~~deleted~~ text below:**

Chapter 49 - Shellfish Bait ~~Permit~~ Regulations

49.01 Harvester Permit:

1. A permit is required to engage in the shellfish bait fishery. A permit may be obtained by applying in writing to the Commissioner. The application must contain the following information:

A1. Name and address of applicant

B2. Names of crew

C3. Vessel name and description

D4. Type of harvesting gear proposed

E5. Proposed areas of harvest

2. Harvester Permit Restrictions:

A1. Crew members must possess valid commercial shellfish license's issued under [12 M.R.S.A. §6601](#).

B2. Catch must be landed and distributed according to permit restrictions.

C3. Catch may not be sold to certified shellfish dealers.

D4. It shall be illegal for certified shellfish dealers to possess shellfish that is for bait only.

3. Reporting: See Chapter 8.20(J) Landings Program

*Continued on next page*

4. Area and/or Season Restrictions:

A1. Fishing is allowed only in closed areas specifically described on the permit.

B2. Fishing can occur only during daylight hours.

C3. No fishing will be allowed in areas classified as approved (open areas).

5. Species Restriction:

A1. The permit authorizes the harvest of surf clams (*Spisula solidissima*) only.

6. Limitations:

A1. Clams must be shucked and dyed on the vessel. All containers of shucked product must be dyed before they are landed. The dye must discolor the shucked product in a manner that distinguishes it from certified shellfish for human consumption.

B2. All containers must be labeled at sea with red tags stating –BAIT CLAMS ONLY - NOT FOR HUMAN CONSUMPTION.

49.05 Bait Dealer Regulations

Marine mollusks, including shucked shellfish, may be bought, possessed, transported and sold strictly as bait in Maine under the following conditions:

1. Labeling

All shucked shellfish bought, possessed, transported and sold as bait must be labeled in the following manner: "WARNING-BAIT CLAMS ONLY (NOT FOR HUMAN CONSUMPTION)". This warning must be placed on the container in plain view in a type size as large as the largest type of the label.

2. Limitations

A. All bait shellfish must contain dye that discolors it in a manner that distinguishes it from certified shucked shellfish suitable for human consumption.

B. It shall be illegal for persons who are certified dealers in accordance with 12 MRSA §6856 to possess shellfish that is for bait only.

C. It shall be illegal for bait shellfish to be kept in the same cooler or display case as food for human consumption.

3. Reporting: See Chapter 8.05 and 8.10 Landings Program.

4. No shellfish bait permit will be required to buy, possess, transport and sell bait shellfish as long as this rule is adhered to.

*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.*