

Department of Marine Resources

NOTICE OF AGENCY RULE-MAKING PROPOSAL

RULE TITLE OR SUBJECT: Chapter 7 Requirements for Municipalities having Shellfish Conservation Programs
Chapter 7.70 Intertidal mussel harvesting by drag or dredge

CONCISE SUMMARY:

The Commissioner proposes rules to establish intertidal mussel harvesting areas and the permit process to harvest mussels by drag in these areas. The proposed rules would provide compliance with statutes effective June 30, 2008 in accordance with 12 M.R.S.A. §6671(3)(A)(5) and (12) that give municipalities a mechanism to designate specific areas of their flats that have been seeded and need protection from intertidal dragging while allowing mussel harvester's using drags to have access to areas that are not being actively managed by a town. A copy of the new statutes is available online at: <http://janus.state.me.us/legis/ros/lom/LOM123rd/123R2/PUBLIC494.asp>.

STATUTORY AUTHORITY: 12 M.R.S.A. §6171 & §6671

PUBLIC HEARINGS: October 14, 2008, 6:00pm, Ellsworth City Hall (Auditorium), One City Hall Plaza, **Ellsworth**
October 15, 2008, 6:00 PM**, Department of Marine Resources, Large Conference Room, 200 McKown Point Road,
West Boothbay Harbor

** *The public hearing for the proposed rules in Chapter 7.70 will be held immediately upon the conclusion of the hearing for Chapter 16.27 Shellfish receiving. See separate rulemaking notice for rules not listed in this notice.*

DEADLINE FOR COMMENTS: October 27, 2008

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: Denis-Marc Nault (207- 422-2092)
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

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.

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

Chapter 7 - Requirements for Municipalities having Shellfish Conservation Programs

7.70 Intertidal mussel harvesting by drag or dredge

1. Municipal responsibilities

A municipality with an approved municipal shellfish conservation program may, specify intertidal areas to be limited for mussel harvesting by drag, in accordance with 12 M.R.S.A. §6671. The municipality's Intertidal Mussel Management Plan and procedures for enforcement shall be submitted to Commissioner for approval as part of their shellfish conservation program. Once these "specified" areas are approved, these defined areas will be posted online at <http://www.maine.gov/dmr/crd/smd/index.htm> or may be obtained by writing the Department of Marine Resources (DMR), attn: Area Biologist Supervisor, SHS 21, Hallowell, Maine 04333-0021.

Upon receipt of an application presented in accordance with Chapter 7.70(2), the municipality shall provide its recommendations to the applicant within 45 days of the date of the applications' receipt by the municipality.

2. Intertidal mussel harvesting permits

Prior to issuance of an Intertidal Mussel Harvest permit in an approved, municipally defined area(s), the applicant shall submit their permit application to, and consult with the municipality, and shall obtain the municipal recommendation in writing. The permit application and municipal recommendation must be provided to the Department for permit consideration, in accordance with 12 M.R.S.A. §6671(3)(A)(5).

The application shall include the harvester's name, address, business phone, email address, fax number, vessel name, mussel harvesting license number, locations selected, start and end dates of harvest activity, targeted quantity of seed mussels and or market size product, date of application, and a copy of the municipality's recommendations. Persons may apply in writing to the Department, the contact information is: Department of Marine Resources (DMR), Area Biologist Supervisor, SHS 21, Hallowell, Maine 04333-0021; telephone: (207) 624-6550; fax: (207) 624-6024; or may obtain it online at: <http://www.maine.gov/dmr/crd/smd/index.htm>.

3. Compliance

Any failure to comply with permit conditions shall be grounds for refusal of future permit applications.