

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

**RULE TITLE:** Chapter 11.25 Commercial Scallop License Limited Entry System

**CONCISE SUMMARY:** This proposed rulemaking is designed to fulfill the legislative mandate of 12 M.R.S. §6706(3) by establishing lottery procedures for the commercial scallop license limited entry system. The system would allow for Maine residents who held any license issued under 12 M.S.R. chapters 619, 621 or 623 in the previous calendar year to become eligible for a commercial scallop license through a lottery.

**STATUTORY AUTHORITY:** 12 M.R.S. §6171 and §6706

**PUBLIC HEARINGS:**

December 6, 2010, 6:00pm, Yarmouth Town Hall, Community Room, 200 Main St., Yarmouth

December 7, 2010, 6:00pm, Ellsworth City Hall (Auditorium), One City Hall Plaza, Ellsworth

December 8, 2010, 6:00pm, UMM Science Building, 2<sup>nd</sup> Floor Rm 207, 9 O'Brien Ave, Machias

*Public hearings for proposed rulemakings in Chapters 11 Scallop and 34 for Atlantic Halibut will be held each night in chronological order with the hearing for halibut rules to begin immediately upon the conclusion of the scallop rulemaking hearing. See separate rulemaking notices.*

**DEADLINE FOR COMMENTS:** December 18, 2010

*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:** **Togue Brawn (207-624-6558)**

**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) **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.

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

Chapter 11 Scallops

11.01 Definitions

5. Commercial Scallop License. A handfishing scallop or handfishing with tender license issued under 12 M.R.S. §6701 or a scallop dragging license issued under 12 M.R.S. §6702.
6. Exit/Entry Ratio. One person will be awarded license eligibility for every five persons who held a commercial scallop license in the year prior to the previous calendar year but who did not renew that license in the previous calendar year. If the number of persons who did not renew is greater than but not evenly divisible by five, it shall be rounded down to the nearest number evenly divisible by five. If the number is rounded down, the non-renewed licenses in excess of the number evenly divisible by five shall be carried over to the next year for consideration in that year's calculation. If the number is between one and four, the number of licenses awarded shall be one. If the number is zero, the number of licenses awarded shall be zero.

11.25 Commercial Scallop License Limited Entry System

1. Limited Entry Procedures:

- A. Beginning in 2012, the Department shall hold an annual lottery for commercial scallop licenses for that year, provided that the number of licenses to be awarded as determined by the exit ratio is greater than zero.
- B. Eligible persons wishing to enter the lottery must submit a commercial scallop license lottery application that must be received by the Department by 5 p.m. February 1 of that year.
- C. The applicant's eligibility as defined below shall be evaluated and established by the Department.

(1) A person is eligible to enter a lottery for a commercial scallop license if that person:

- (a) is a Maine resident; and
- (b) held in the previous calendar year any license issued under 12 M.S.R. chapters 619, 621 or 623.

- D. The number of draws (chances) allotted to each eligible applicant shall be calculated by the Department.
- (1) Each eligible applicant shall be awarded a minimum of one draw.
  - (2) Applicants who meet certain eligibility criteria shall be granted additional draws.
    - (a) One additional draw shall be allotted for each year from 1999 to 2008, inclusive, in which the applicant held a commercial scallop license.
- E. Before the lotteries are held, the Department shall calculate the number of licenses to be awarded for that calendar year, if any.
- F. By March 31, 2012, and by March 31 of each year thereafter, the Department shall hold public drawings by random selection from all eligible applicants, with each applicant getting the number of chances calculated according to Chapter 11.25(1)(D), in one of the drawings.
- (1) The drawing will continue until all available licenses have been awarded, or all names entered have been drawn, whichever comes first.
  - (2) Once all available licenses have been awarded and a list of winners determined, drawing will continue to establish an ordered list of alternates. Drawing for alternates will continue until an ordered list of alternates the same length as the list of winners has been established, or until all names entered have been drawn, whichever comes first.

## 2. Issuing the Awarded Licenses

- A. Lottery winners will be informed in writing and mailed a license application form by the Department by registered mail. In addition, lottery winners and alternates will be announced on the Department website.
- B. Lottery winners must submit their license application, correctly completed with correct fees and documentation, to the Department by 5 p.m. July 31 of that year, or the winner will lose their license eligibility.
- (1) In the initial year, winners may apply for any commercial scallop license. License eligibility for persons who obtained a commercial scallop license through the lottery is subject to the provisions of [12 M.S.R. §6706\(2\)](#) for those years subsequent to their initial licensure. Winners who apply for a handfishing scallop or handfishing scallop with tender license must meet the safety eligibility criteria established under [12 M.R.S. §6532.](#)
- C. If a winner has not complied with Chapter 11.25(2)(B) above by July 31, the next alternate on the list of alternates will be sent a license application and have until December 31 to comply in the same manner.

## 3. Exit/Entry Ratio Review

At a minimum of every two years, the Department shall consult the Scallop Advisory Council (SAC) concerning potential adjustments to the exit/entry ratio. This discussion shall occur as a separate agenda item at a regularly scheduled SAC meeting.