

Notice of Agency Rule-making Proposal

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 10.05 Taking of Quahogs in the Sub-Tidal Waters of New Meadows Lakes, Brunswick and West Bath

PROPOSED RULE NUMBER *(leave blank; to be assigned by Secretary of State)*:

BRIEF SUMMARY: The proposed regulation expands certain existing limitations on the harvest of quahogs from the New Meadows Lakes. Under the existing regulation, the line north of which the harvest restrictions apply is the Bath/State Road in Brunswick and West Bath. The proposal is to draw a new line north of which the limitations would apply, from the northwestern tip of Indian Point, southeasterly to northern tip of Bragdon Island, continuing east to Bragdon Rock, and then continuing in a northeasterly direction to the point of land at the end of Close Reach Rd, West Bath, 43°51'21" / 069°52'1". By specifying this new line, the existing restriction on the method of harvest to hand digging only, the prohibition on harvesting during the winter months (January-March), and the prohibition on harvesting on Sundays, would extend over the known quahog resource, in order to better manage the quahog fishery in this area.

Date, time and location of PUBLIC HEARING *(if any)*: October 10, 2018, 3PM, West Bath Fire Station, 192 State Road, West Bath, 04530.

COMMENT DEADLINE: October 20, 2018

CONTACT PERSON FOR THIS FILING *(include name, mailing address, telephone, fax, TTY, e-mail)*:

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CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT *(if different)*: Same

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: None

STATUTORY AUTHORITY FOR THIS RULE: 12 M.R.S. §6171

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: Same

AGENCY WEBSITE: <http://www.maine.gov/dmr/rulemaking/>

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** Check one of the following two boxes.*

X The summary provided above is for publication in both the newspaper and website notices.

The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rule-making notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT _____ DATE: _____

(authorized signature)

FUND	AGENCY	ORG	APP	OBJ	PROGRAM	FUNDING Profile JVC	FUND Pri JVC	FUND Line JVC
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DEPARTMENT OF MARINE RESOURCES

Chapter 10 Clams and Quahogs

10.05 Taking of quahogs in the sub-tidal waters of New Meadows Lakes, Brunswick and West Bath

A. ~~New Meadows Lakes: The area of the New Meadows River north of Bath/State Rd in Brunswick and West Bath~~ of a line drawn from the northwestern tip of Indian Point, southeasterly to northern tip of Bragdon Island, continuing east to Bragdon Rock, and then continuing in a northeasterly direction to the point of land at the end of Close Reach Rd, West Bath, 43°51'21"/069°52'1" .

B. Methods of harvest prohibited

It shall be unlawful to fish for or take quahogs by towing any dredge, drag or other implement by watercraft; by diver/diving (SCUBA or snorkel*); or by pump, suction or any type of mechanical suction device. Hand digging with a so-called clam hoe or bull rake, hand-raking, hand tonging, or picking quahogs out of the mud by hand are allowed. Harvest by cutting through or breaking the ice is prohibited; harvest may take place only through open water.

*Any artificial breathing device that allows a person to breathe underwater.

This subsection does not apply to the holder of a lease issued under 12 M.R.S. §§6072, 6072-A or 6072-B when fishing for or taking quahogs cultivated on the leased area within the waters of the New Meadows Lakes, nor does it apply to the holder of a Municipal shellfish aquaculture permit issued under §6673.

C. Night prohibition It shall be unlawful to fish for or take quahogs during the period ½ hour after sunset, as defined in 12 M.R.S. §6001(46), until ½ hour before sunrise, as defined in 12 M.R.S. §6001(45).

D. Closed periods It is unlawful to fish for or take quahogs from the New Meadows Lakes:

(1) Winter. During the period ½ hour after sunset, as defined in 12 M.R.S. §6001(46), on December 31st until ½ hour before sunrise, as defined in 12 M.R.S. §6001(45), on April 1st.

(2) Sundays: During the period ½ hour after sunset, as defined in 12 M.R.S. §6001(46), on Saturday until ½ hour before sunrise, as defined in 12 M.R.S. §6001(45), on Monday.

10.05 D(1), the winter closed period, sunsets April 1, 2019.

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE: Chapter 10.05: Taking of quahogs in the sub-tidal waters of New Meadows Lakes, Brunswick and West Bath.

STATUTORY AUTHORITY: 12 M.R.S. § 6171

DATE AND PLACE OF PUBLIC HEARING(S): October 10, 2018, 3PM, West Bath Fire Station, 192 State Road, West Bath, 04530.

COMMENT DEADLINE: October 20, 2018

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [*see* §8057-A(1)(A)&(C)]

During the spring of 2017, the Department was made aware that harvesting of quahogs by drag was occurring in an area below the New Meadows Lakes. The Department has been monitoring the status of the quahog resource in the upper New Meadows since 2012 and has documented a decline in the population. The purpose of the proposed rule is to extend the management measures that had previously been put in place over the known extent of the quahog resource, to better manage the quahog resource to ensure the future economic viability of the fishery.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? ___ YES ___ NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [*see* §8057-A(1)(B)&(D)]

The proposed regulation expands certain existing imitations on the harvest of quahogs from the New Meadows Lakes. The existing restriction on the method of harvest to hand digging only, the prohibition on harvesting during the winter months (January-March), and the prohibition on harvesting on Sundays, would extend over the known quahog resource, in order to better manage the quahog fishery in this area.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [see §§8057-A(1)(E) & 8063-B]: The Department considered information on the harvesting activity occurring during the spring and summer of 2018, information on the status of the quahog resource, and input from Marine Patrol.

ESTIMATED FISCAL IMPACT OF THE RULE: [*see* §8057-A(1)(C)]

Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.