

NOTICE OF AGENCY EMERGENCY RULE-MAKING**AGENCY:** Department of Marine Resources**CHAPTER NUMBER AND TITLE:** Chapter 11.08, Targeted Closures: (10) Chandler & Eastern Bays**CONCISE SUMMARY:**

The Commissioner adopts this emergency rulemaking to expand the scallop conservation closure to include Chandler and Eastern Bay areas in Zone 2. The Department is concerned that continued harvesting for the remainder of the 2019-2020 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallop abundance that was observed in the 2019 Spring Scallop survey that is essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in the Chandler and Eastern Bay areas.

For these reasons, the Commissioner hereby adopts an emergency closure of Maine's scallop fishery in these areas as authorized by 12 M.R.S. §6171(3)(A).

EFFECTIVE DATE: January 19, 2020

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Chapter 11 Scallops

11.08 Targeted Scallop Conservation Closures

Targeted closures are imposed as conservation measures to assist in rebuilding specific areas of the state. Targeted closures may be implemented based on depletion, seed, the presence of spat-producing scallops, and other conservation factors as determined by the Commissioner. Targeted closures are not seasonal closures and are implemented in order to improve and enhance the conservation and rebuilding of the resource in these specific areas.

It shall be unlawful to fish for, take, or possess scallops taken by any method within any of the following closed areas.

Transiting exception:

Any vessel possessing scallops onboard, may transit these targeted closures only if the vessel has all fishing gear (dredges, drags, regulators, buoyancy compensators, fins, tanks, weight belts) securely stowed. Securely stowed shall mean the main wire shall not be shackled or connected to the dredges or drags, and the towing swivel will be at block or on the winch for draggers, while regulators, buoyancy compensators and tanks should be disconnected with fins and weight belts removed for divers.

1. Lower Muscle Ridge

Northern boundary: East and South of a line beginning at the most eastern tip of Whitehead Island, St. George, to the southern tip of Seal Island (Hay Ledges) continuing to the most southwestern point of Graffam Island, then continuing to the southwestern point of Pleasant Island and continuing in a southeasterly direction to the northeastern tip of Two Bush Island.

Southern boundary: North of a line starting at the most southern point of Whitehead Island, St. George, to the southern end of Two Bush Island.

2. Eastern Casco Bay

Eastern boundary: West and North of a line drawn from the most southern tip of Gun Point, Harpswell, to G "3", South of Round Rock; continuing in a southwesterly direction to R N "2" at Eastern Drunkers Ledge.

Western boundary: East and North of a line draw from R N "2" at Eastern Drunkers Ledge to the most southern tip of Jaquish Island; then east of a line from the most northwestern tip of Jaquish Island at Latitude 43° 42.950N Longitude 70° 00.137W to the most southeastern tip of land along Jaquish Gut at Latitude 43° 43.043N Longitude 70° 00.128W.

3. Upper Sheepscot River

Western boundary: East of a line drawn from the most southern tip of Hockomock Point, Woolwich to the most northern tip of Mill Point, Arrowsic Island, and following the shoreline to the Arrowsic Island-Georgetown Island bridge, and then continuing along the northern coastline to the northeast tip of Dry Point, Georgetown Island.

Southern boundary: North of a line drawn from the most southern point of Kehail Point running northeasterly to the most southern point of Barters Island and continuing southeasterly to the most northwestern tip of Sawyer Island.

Eastern boundary: West of a line drawn at the most northern tip of Soldier Point running north to the most southern tip of Westport Island.

4. New Meadows River

Southeast boundary: North of a line drawn from the southernmost tip of Birch Point, Phippsburg, to the southernmost tip of Long Island, Harpswell, then continuing along the western coastline to the northern tip of Long Island, Harpswell, then a line drawn due west to the nearest point of land on Sebascodegan Island, Harpswell.

Southwestern boundary: North of the Route 24 Gurnet Bridge (Harpswell).

5. Card Cove

West of a line drawn from the southeastern most tip of Pinkham Point, Harpswell, in a southwesterly direction to the nearest point of land and to include all of Card Cove, Harpswell.

6. Beals-Jonesport Bridge

Eastern boundary: West of a line drawn from the most eastern tip of Perio Point, Beals to OW Look's wharf, Jonesport.

Western boundary: East of the Jonesport-Beals Bridge.

7. Damariscotta River

North of a line drawn from Emerson Point at the southern most tip of Ocean Point in the town of Boothbay, easterly to Thrumcap Island, then northerly to the southern tip of Rutherford Island, South Bristol.

8. Moosabec Reach within Chandler Bay/Head Harbor Island Rotational Area

Inside and west of a line starting at the eastern tip of Kelley Point, Jonesport and running southwesterly to the eastern tip of Pig Island; and, continuing southwesterly to the northeastern tip of Great Wass Island.

9. Upper Narraguagus Bay within Narraguagus/Pigeon Hill Bay Rotational Area

North of a line starting at the southern tip of Flint Island and running westerly to the southern tip of Shipstern Island, continuing southwesterly to the southern tip of Jordans Delight, continuing to the southern tip of Bois Bubert Island; and, continuing north along the eastern shore of Bois Bubert Island to the northern tip and running north to Tom Leighton Point, Milbridge.

10. Chandler and Eastern Bay within Chandler Bay/Head Harbor Island Rotational Area

Eastern boundary: West of a line starting at the southern tip of Bonney Point, Roque Island and running southerly to the eastern tip of Mark Island; continuing southerly to the eastern tip of Sequin Island; and, continuing southerly to the shore of Head Harbor Island.

Southern boundary: North of a line starting at the eastern tip of Mud Hole Point, Great Wass Island running easterly to the western tip of Brim Cove, Steele Harbor Island; continuing along the northern shore to the northern side of Upper Herring Cove, Steele Harbor and running easterly to the southern tip of Man Island; continuing along the eastern shore of Man Island to the northern tip of Man Island and continuing to the southern tip of Head Harbor Island.

Basis Statement

The Department is taking emergency rulemaking action to amend targeted conservation closures in Chapter 11.08. Targeted Closures will be established in (10) Chandler and Eastern Bays.

Chandler and Eastern Bays

On opening day, December 2, 2019, approximately 17 boats were observed harvesting scallops in the upper Chandler Bay area north of Ballast Island. DMR science staff observed vessels in the area directly and boarded vessels along with Marine Patrol staff to assess harvest rates, catch composition, meat size and also discards. During the first few weeks of December, the number of vessels operating in the area stayed constant, around 15 boats or less on poor weather days. On good days, boats would venture to more exposed areas to prospect. Meat quality and size was consistent, around 15 to 20 count per pound.

Routine observations by Marine Patrol indicate that 5 boats or less remain in each of the Chandler and Eastern Bay areas currently, with catch rates slowing. Daily trip limits are reached by late afternoon. Most boats have left the area to seek more efficient harvest grounds.

During the previous open rotation in 2016-2017 scallop season, this area experienced a similar amount of harvest effort over 16 open calendar days. For this current season, the area has been open for 28 days. Comparatively, there was less documented legal biomass observed in the 2019 spring scallop survey (Figure 1) than in previous years. The scallop resource is mixed, with both seed and sublegal scallop amongst legal product.

The decrease in observed effort, along with a decrease in catch rate suggests the peak of harvesting within this area has been reached. The remaining scallop resource requires a conservation closure to allow for recruitment and recovery for the next open rotation (Figure 2).

In summary, a reduction in harvest activity attributed to the decline in catch rates has been observed in the Chandler and Eastern Bays area. The Department is concerned that continued harvesting for the remainder of the 2019-2020 fishing season will reduce scallop broodstock further, as well as jeopardize sublegal scallop abundance that was observed during the 2019 Spring Scallop survey that is essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in the Chandler and Eastern Bays areas.

For these reasons, the Commissioner hereby adopts an emergency closure of Maine's scallop fishery in these areas as authorized by 12 M.R.S. §6171(3)(A).

In accordance with 5 M.R.S. §8052, sub-§5-A, a statement of the impact on small business has been prepared. Information is available upon request from the DMR Commissioner's Office, State House Station #21, Augusta, Maine 04333-0021, telephone (207) 624-6553.

Figures & Tables

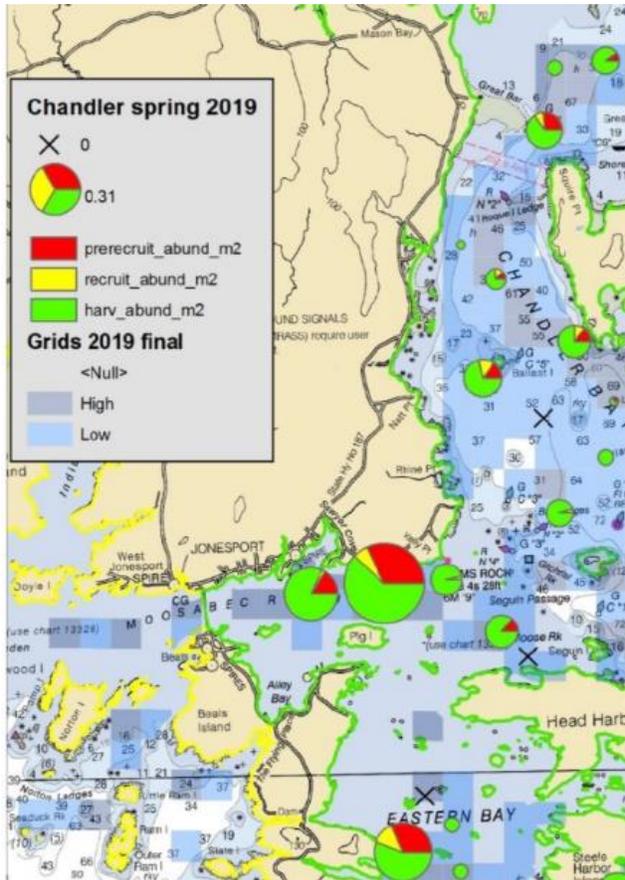


Figure 1: The 2019 Spring Scallop survey observed a moderate quantity of legal scallops (indicated in green) in addition to smaller portions of sublegal and seed scallops (indicated in yellow and red, respectively) in Chandler and Eastern Bay stations that is sited for closure.

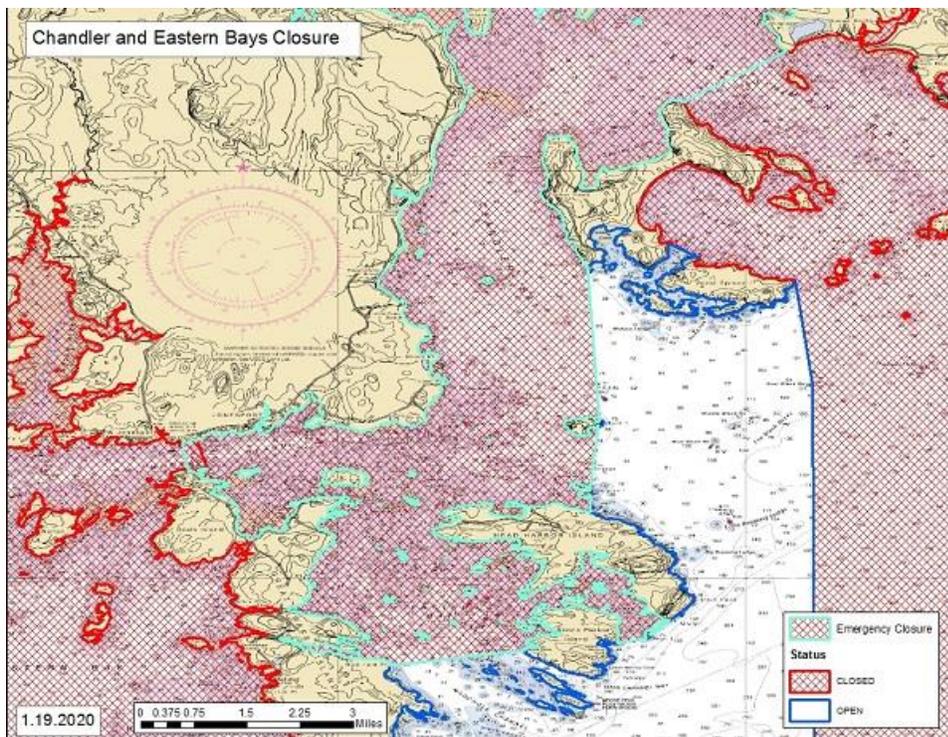


Figure 2: Chart depicts the expanded conservation closures for the scallop resource within the Chandler Bay/Head Harbor Island Rotational Area. Moosabec Reach was effective on Sunday, December 8, 2019 and Chandler & Eastern Bay closure is effective on Sunday, January 19, 2020.

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 11.08, Targeted Closures: (10) Chandler & Eastern Bays**

STATUTORY AUTHORITY: **12 M.R.S. §6171(3)**

DATE AND PLACE OF PUBLIC HEARING: NA; Emergency Rulemaking

COMMENT DEADLINE: NA; Emergency Rulemaking

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

The Commissioner adopts this emergency rulemaking to expand the scallop conservation closure to include Chandler and Eastern Bay areas in Zone 2. The Department is concerned that continued harvesting for the remainder of the 2019-2020 fishing season in these areas will reduce scallop broodstock further, as well as jeopardize sublegal scallop abundance that was observed in the 2019 Spring Scallop survey that is essential to the ongoing recruitment, regrowth and recovery of the scallop resource. An immediate conservation closure is necessary to reduce the risk of unusual damage and imminent depletion of the scallop resource in the Chandler and Eastern Bay areas.

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 adopted rule(s) seek to maintain the recovery of the scallop resource within the State of Maine. The rule is intended to have a long-term positive impact on the scallop fishery.

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]

Input from DMR science staff, Maine Marine Patrol, and scallop industry members.

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

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

FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

[*see* §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: [*see* §8057-A(2)(B)]

BENEFITS OF THE RULE: [*see* §8057-A(2)(C)]

Note: If necessary, additional pages may be used.