

NOTICE OF AGENCY EMERGENCY RULE-MAKING**AGENCY:** Department of Marine Resources**CHAPTER NUMBER AND TITLE:** Chapter 11.08, Targeted Closures: (9) Upper Narraguagus Bay**CONCISE SUMMARY:**

The Commissioner adopts this emergency rulemaking to establish a scallop conservation closure in upper Narraguagus Bay 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 upper Narraguagus Bay area.

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 5, 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 (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.

Basis Statement

The Department is taking emergency rulemaking action to amend targeted conservation closures in Chapter 11.08. Targeted Closures will be established in (9) Upper Narraguagus Bay.

Upper Narraguagus Bay

Local vessels began harvesting in the upper portion of Narraguagus Bay on opening day, December 2, 2019 of the 2019-2020 scallop season. A group of 4 boats have been consistently harvesting in this rotational area for the first three weeks of the season. Two additional boats have rigged over for scalloping during the 4th week of harvest, putting the total effort to 6 scallop drag harvesters.

Harvest rates within the rotation have been mixed; harvesters operating in the upper portion of Narraguagus Bay have not always been reaching their daily trip limit while those that are more southern (lower half) can reach their daily limit by late morning.

The 2019 spring scallop survey observed low levels of scallop biomass, with two stations highlighting hotspots of legal sized scallop resource intermixed with seed and sublegal scallops while four other nearby stations had zero scallops (Figure 1). However, fishermen have reported presence of 3 inch scallops mixed in with the legal product, suggesting that a good cohort will be recruiting into the fishery during the next open rotation cycle.

During the previous open rotation in 2016-2017, the full rotational area was closed after 16 open calendar days. For this current season, the area has been open for 20 days, with weather also being a limiting factor. While information from harvesters and Marine Patrol indicate that catch rates have significantly dropped in the upper portion of Narraguagus Bay, there is still harvest potential in the lower half of the bay. Establishing a conservation closure in the upper half of this rotational area coincides with the 2019 spring scallop survey for observed seed and sublegal produce in addition to fishermen observations regarding the general spread of sublegal product in the northern portion of the bay (Figure 2).

In summary, a reduction in harvest activity attributed to the decline in catch rates have been observed in each of these two areas: upper Narraguagus Bay and upper Cranberry Isles areas. 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 upper Narraguagus Bays and upper Cranberry Isles 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

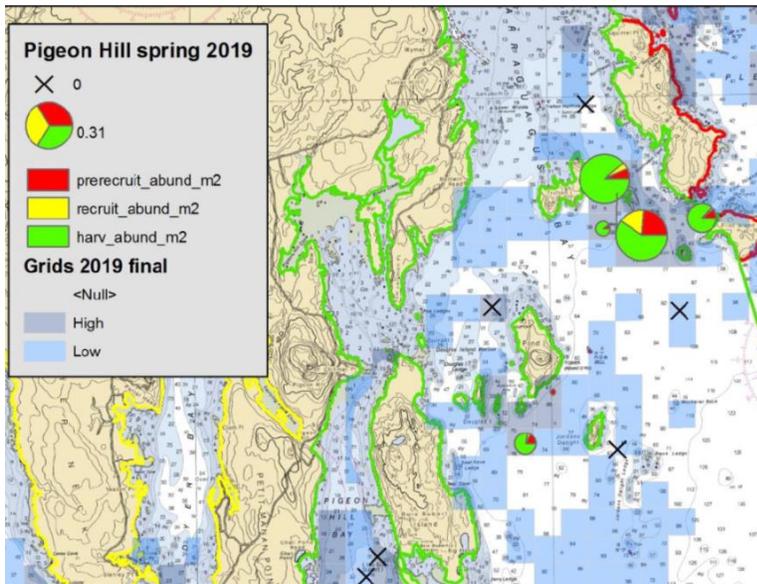


Figure 1: The 2019 Spring Scallop survey observed a moderate set of legal scallops (indicated in green) in addition to a moderate portion of sublegal and seed scallops (indicated in yellow and red, respectively) to the west of Flint Island.

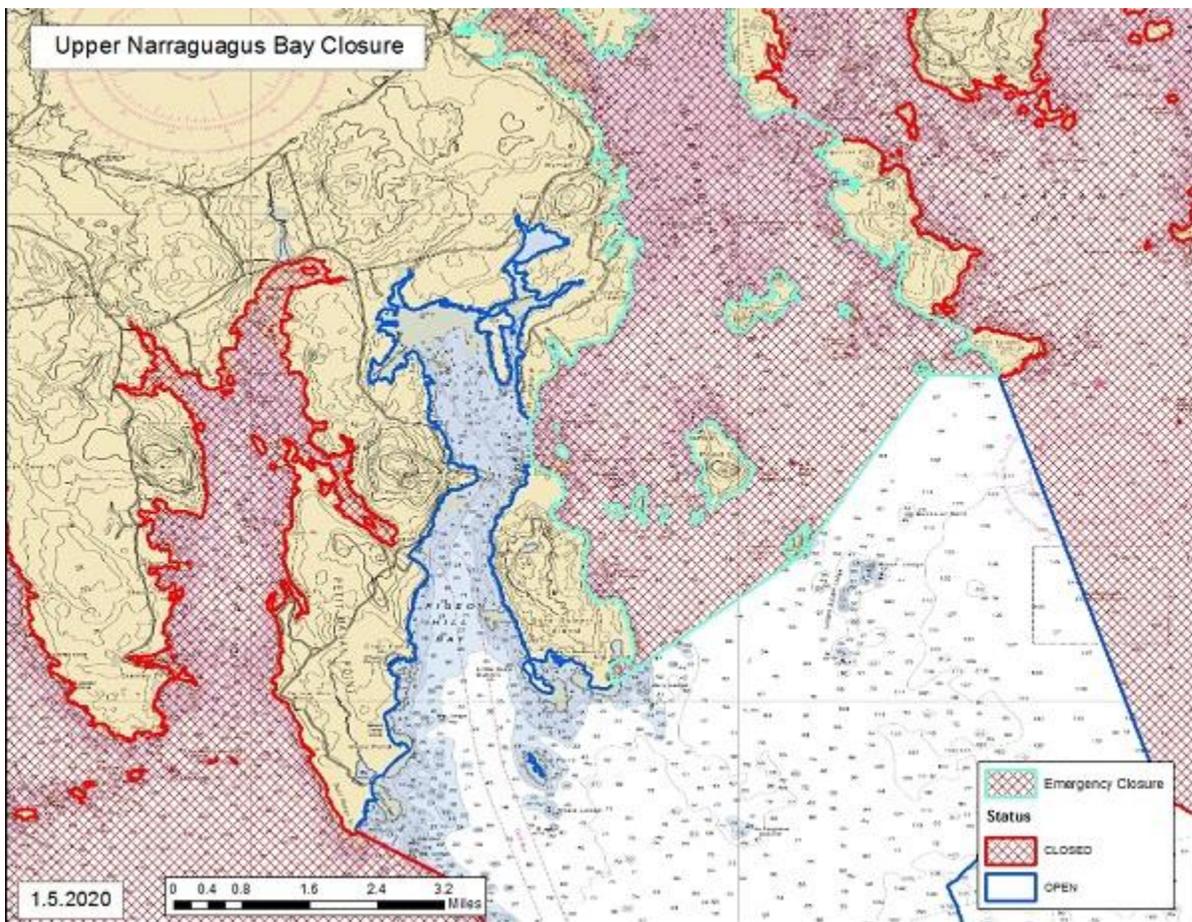


Figure 2: Chart depicts the upper Narraguagus Bay targeted conservation closure for the scallop resource within the Narraguagus Bay/Pigeon Hill Rotational Area to be effective on Sunday, January 5, 2020.

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: (9) Upper Narraguagus Bay**

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 establish a scallop conservation closure in upper Narraguagus Bay 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 upper Narraguagus Bay area.

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.