

Guidance document regarding intertidal mussel harvesting for municipalities with a shellfish conservation program

Law and Regulations:

12 M.R.S. §6671 sub-§3A(5): Within any area of the municipality, a shellfish conservation ordinance may specify areas of the intertidal zone in which the dragging of mussels may be limited to the degree necessary to support a municipal shellfish conservation program.

12 M.R.S. §6671 sub-§12: With the advice of the municipality, the Commissioner may issue a permit that authorizes the permit holder to fish for and take mussels from an area designated by the municipality under the shellfish conservation program. The permit may specify limits on the amount of mussels taken, when the mussels may be taken and gear usage and any other conditions necessary for consistency with the shellfish conservation program.

DMR Procedural Rules, Chapter 7: Requirements for Municipalities Having Shellfish Conservation Programs; outlines the regulation of intertidal mussel harvest by drag or dredge in section 7.70. It states that a municipality with an approved shellfish conservation program may specify intertidal areas to be limited for mussel harvesting by drag.

Definitions:

Intertidal Zone: means the shores, flats or other land between high and low water mark.

Shellfish Conservation Program: requires a shellfish management plan which consists of a written statement of goals and objectives and a description of the various conservation measures the town intends to employ to reach those goals. For the purposes of this document it is important to note that conservation measures are not limited to seeding activities.

Shellfish: “shellfish” means shellstock clams, quahogs, other than mahogany quahogs and oyster shellstock.

Municipal Responsibilities:

1. Municipalities must actively and vigorously pursue their shellfish conservation program. The municipality must establish the number of licenses to be issued annually, review the status of the resource annually, enforce municipal ordinances and submit annual reports to DMR.

This means that if a municipality fails to meet these performance standards the Commissioner may rescind approval of that municipality's shellfish conservation program.

2. Municipalities shall review the status of the resource affected prior to closing or opening an area to shellfish harvesting.

For the purpose of this guidance document, this means that if an area is closed as a conservation measure and also an area specified by the municipality to be limited for mussel harvest by drag (in order to protect the shellfish resource), the status of the shellfish resource must be established prior to closing. The DMR Shellfish Management Program(Area Biologists) should be consulted for this process in order to ensure proper evaluation methods are being used.

3. Municipalities may request approval from the Commissioner for intertidal areas to be limited to mussel harvest by drag. When requesting an area to be limited to mussel harvest, the municipality must provide an explanation as to why they believe these areas require additional protections.

DMR expects municipalities to include in their request detailed mapping of the specified areas, the explanation regarding the importance of the area(s), and supporting resource assessment documentation. Electronic maps should be developed that include GPS coordinates for the requested area. Mapping assistance can be requested from the staff of the DMR Shellfish Management Program.

4. Municipalities shall provide written recommendations to the applicant for Intertidal Mussel Harvest Permits within 21 days of the receipt of the application.

An applicant that wishes to harvest mussels from an area that is specified in a municipal shellfish conservation program must obtain a permit from the DMR. When submitting their application, the applicant must include the written comments of the municipality. In determining whether or not to issue the requested permit, the DMR will consider, but is not bound by, the municipal recommendation. Other Department considerations include if the status of the managed resource (e.g. soft shelled clams) has changed, if the municipal performance has not met expectations, the abundance of the mussel resource and the likelihood of the requested activity impacting the resource. If competing permits are requested DMR will allocate appropriate access.

5. Municipalities may recommend mussel harvest controls for consideration by the Commissioner when a permit is requested, including but not limited to: gear used, time of harvest, area of harvest, and volume of harvest.

Recommendations regarding the amount of mussels taken should be defined by weight in pounds or bushels and an explanation should accompany why limiting volume supports the shellfish conservation program. Time of harvest needs to be defined in seasons (months) not days or hours and accompanied by an explanation on how this supports the shellfish conservation program. Gear usage recommendations are limited to dragging (not hand harvest etc) and needs to be clearly and precisely defined and be accompanied by an explanation on how this supports the shellfish conservation program. Any other conditions necessary must be consistent with other marine resources laws and

regulations and also provide an explanation on how they support the shellfish conservation program.

Permit Applications:

A standard permit application can be found on the DMR website:
or requested by mail: 60 Harborview Drive Sullivan, ME 04664
or requested by email: denis-marc.nault@maine.gov
or requested by phone: 207-422-2092

DMR evaluation of areas proposed for limitations on intertidal mussel harvesting:

The DMR evaluation of areas requested by municipalities for limitations on intertidal mussel harvesting will include a review of the successful implementation of the overall municipal shellfish conservation program. Does the requesting municipality have adequate enforcement, are they actively pursuing conservation and management of their intertidal resources, do they regulate licensing properly, etc.? The specified areas must be part of the town's conservation program. The areas should be clearly established and explained so applicants can make appropriate requests. If approved, the areas will be posted online at the Department's website.