

**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: This proposed regulation would maintain the winter closed period for the harvest of quahogs from the New Meadows Lakes, which ended on April 1, 2019. The sunset provision has been removed from proposed regulation, so that the winter closed period remains in effect. Maintaining the winter closed period is intended to reduce fishing pressure on the quahog resource and to minimize mortality associated with winter fishing.

Date, time and location of PUBLIC HEARING *(if any)*: October 1, 2019, 5PM, West Bath Fire Station, 192 State Road, West Bath, 04530.

COMMENT DEADLINE: October 11, 2019

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

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Hearing facilities: If you require accommodations due to disability, please contact Meredith Mendelson at 207-624-6553.

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.

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 the New Meadows, Brunswick and West Bath

The limitations specified in 10.05 (B)(C) and (D) apply to the area described in (A) until December 31<sup>st</sup>, 2020. After December 31<sup>st</sup>, 2020, the limitations specified in 10.05 (B) (C) and (D) apply to the subtidal area of the New Meadows Lakes north of Bath/State Rd in Brunswick and West Bath.

A. New Meadows: The subtidal area of the New Meadows Lakes and River west of Rt. 24 and north 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:

- (1) Winter. During the period ½ hour after sunset, as defined in [12 M.R.S. §6001\(46\)](#), on December 31<sup>st</sup> until ½ hour before sunrise, as defined in [12 M.R.S. §6001\(45\)](#), on April 1<sup>st</sup>.
- (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:

Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6573; web address: <http://www.maine.gov/dmr/rulemaking/>

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 1, 2019, 5PM, West Bath Fire Station, 192 State Road, West Bath, 04530.

COMMENT DEADLINE: October 11, 2019

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

This rule would maintain closed periods for the taking of quahogs in the New Meadows Lakes to protect the resource from depletion.

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

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

The proposed regulations would apply to persons engaged in the harvesting of quahogs from the New Meadows Lakes.

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]:

This proposed rule would maintain a seasonal closed period for the taking of quahogs in the New Meadows Lakes. Harvesters would be prohibited from fishing or taking quahogs in the New Meadows Lakes during the winter months from sunset on December 31 through sunrise on April 1. This particular effort control measure is intended to reduce fishing pressure on the quahog resource, and to minimize the mortality associated with winter fishing.

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.