

**NOTICE OF AGENCY RULE-MAKING ADOPTION**

**AGENCY:** 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

**ADOPTED RULE NUMBER:**  
(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

**CONCISE SUMMARY:**  
The adopted regulation expands certain existing limitations on the subtidal harvest of quahogs in the New Meadows River. Under the existing regulation, the line north of which the harvest restrictions apply is the Bath/State Road in Brunswick and West Bath. The adopted regulation draws a new line north of which the limitations 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 subtidal quahog resource, in order to better manage the quahog fishery in this area. The rule sunsets the expanded limitations on December 31, 2020. The Department will conduct surveys to determine whether the rule should be continued beyond that date.

**EFFECTIVE DATE:**  
(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

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

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DEPARTMENT OF MARINE RESOURCES - SHELLFISH HARVESTING

CHAPTER 10

CLAMS AND QUAHOGS

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

**Basis Statement:**

The adopted regulation expands certain existing limitations on the subtidal harvest of quahogs in the New Meadows River. Under the existing regulation, the line north of which the harvest restrictions apply is the Bath/State Road in Brunswick and West Bath. The adopted regulation draws a new line north of which the limitations 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 subtidal quahog resource, in order to better manage the quahog fishery in this area. The rule sunsets the expanded limitations on December 31, 2020. The Department will conduct surveys to determine whether the rule should be continued beyond that date.

In consideration of the comments, the Department made the following modifications:

- Clarified that the expanded area includes those waters west of Rt. 24
- Clarified that the limitations apply only to harvest in the subtidal
- Included a sunset, so that the Department can conduct a survey of the area to determine if the limitations should be continued beyond that date.

**Summary of Comments:**

Notice of this proposed rulemaking appeared on September 19, 2018 in the five major daily newspapers as published by the Secretary of State. On September 19, 2018, the rule was posted on the DMR website, and electronic messages were sent to individuals who subscribe to DMR notices. The public hearing was advertised in compliance with the procedures outlined in the Maine Administrative Procedures Act and was held as follows: October 10, 2018, 3:00 PM West Bath Fire Station, 192 State Road, West Bath. The comment period closed October 20, 2018.

Attendance at the Public Hearing:

<b>Members of the Public</b>	<b>Department Staff</b>
Karly Perry, Amy Wesson, Fred Wesson, Pat McTeague, Paul Plummer, Elaine Desjardins, Catherine Powers, Joseph Gilliam, Madelyn Hennessy, Warren Swanson, Representative Jay McCreight, Representative Jeffrey Pierce, Frank Bartholomay, Frances Soverel, Jim Koehling, Raymond Gilliam, Jimmy Catlin, Bradley Stovel, Raymond "Buck" Alexander, Hazel Herrick, Spencer Hallowell, Mary McClintock, Jason Cray, Tim Davis, Marty Odlin, Jess Reno, and Alex King.	Deirdre Gilbert, Kohl Kanwit, MPO Clint Thompson and Amanda Ellis

## **Support (14)**

### **Eleanor Smith, submitted via email, October 20, 2018**

I am a resident of Brunswick and live on the New Meadows River. I attended the public hearing on the Proposed Rule, October 10. I agree with the proposed regulation to expand limitations on Quahog harvesting (Chapter 10.05) pertinent to the New Meadows River. Since the population of Quahogs in the upper "lakes" of the New Meadows, North of Bath Road and Route One, has declined to an enormous degree and said decline is due to dragging there, I think that expanding the limitations on harvesting by dragging is essential to promoting the recovery of the New Meadows estuary.

### **Ivy Frignoca, Friends of Casco Bay, submitted via email, October 18, 2018**

Below are the comments of Friends of Casco Bay with respect to DMR's proposed regulation to expand Chapter 10.05 to increase the area where dredge fishing for quahogs is prohibited in the New Meadows Lakes. new zone would restrict dredge fishing north of 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, 43051'21"/069052'1. Friends of Casco Bay is a marine stewardship organization dedicated to improving and protecting the health of Casco Bay. In light of our mission and in contemplation of the evidence that dredge fishing for quahogs has had negative consequences on the quahog population in the New Meadows Lakes, we support increasing the prohibition on dredging for quahogs proposed by DMR. We further believe DMR should take a more proactive approach to its management of dredge fishing. Despite a diligent search, we could find no studies by DMR or others concerning the impacts of this harvesting method on quahog populations, other species, or on benthic habitat of Casco Bay. For that reason, we request a restriction on all dredge harvesting of quahogs in Casco Bay until such time as DMR can study the issue and identify regions where dredge fishing, if at all, could be used in a sustainable manner.

### **Andy Powell, submitted via email, October 16, 2018**

I am a resident of Brunswick and attended the public hearing on subject matter on October 10th. I strongly agree with the proposed regulation to expand the existing limitations on the harvesting of quahogs from the New Meadows Lakes, (Chapter 10.05). Given the documented decline of the quahog population in the upper New Meadows, and the threat posed to submerged aquatic life by dragging in the area of the New Meadows in question, I believe that expanding the existing limitations is the only option consistent with the ultimate goal of ensuring the viability of the quahog fishery and promoting the recovery of the New Meadows estuary.

### **David Favreau, submitted via email, October 15, 2018**

I am writing to inform DMR that I am in agreement with the closure as proposed to **STOP** the dragging for Quahogs in the New Meadows River. This form of harvesting Quahogs is devastating to the Quahog beds and leads to serious decline in the Quahog population. Please register my support for the closure.

### **Amy Wesson, submitted via email, October 13, 2018**

I am a riparian owner and full time year round resident on the New Meadows River in West Bath. I attended the 10 October hearing about dragging for quahogs in this area that I live in. This upper section of the New Meadows River, in fact not a river but an embayment, is in size, depth, and for much of its

use, reflective of a lake rather than a swath of wide open ocean. To see a quahog dragging boat or a parking lot size block of oyster cages strikes me as lacking in common sense with respect for this resource for all to share in commercially or recreationally. Shellfish dragging by definition seems like a terribly destructive force with great potential to devastate the balance of this ecosystem. I am in favor of the Agency Rule-making Proposal 13-188, Chapter 10.05 by the DMR.

**Jim Williams, submitted via email, October 11, 2018**

After attending the public hearing yesterday, October 10, 2018, and listening to all the testimony a number of issues were not fully addressed. Also history has demonstrated fisherman (draggers) will harvest as much and as often as the State will allow. They have payments to make and are quite aggressive to harvest the resource. This aggressiveness was certainly demonstrated this summer when dragging along the middle ground occurred above the low water mark. A clear violation of the law. This was even after red buoys were placed out to mark the low water line. Stocks of fish are at historic lows. However, the resource is for everyone. The Upper New Meadows is where life begins for so many marine animals. It needs to be protected and nurtured. Much has been done to improve the New Meadows Estuary and it needs to be safeguarded. The river and its resources are not just for those who might drag the bottom. There are so many other users; lobstermen, recreational fisherman, recreational sail and power boaters, clambers, oysterman, quahog diggers, and let's not forget the shorefront owners who pay most of the taxes in town. As your biologists are well aware dragging the bottom is very detrimental to all bottom dwellers, eel grasses and other bottom habitat. Dragging the bottom especially with a small mesh screen to catch a 2 inch quahog catches almost all invertebrates and vertebrates in its path most of which are dead after being hauled aboard all the while stirring up the water and increasing the turbidity to non-tolerable levels. One person stated she felt the rule was not clear and did not want any restrictions on her family's oyster operation. However as DMR has written the rule, it is very clear that it does not apply to lease holders or licensed aquaculture operations. This rule is a reasonable action to protect the fishery with limited interference with the environment to allow the estuary to recover and protect the resource for all users.

**Frederic Wesson, submitted via email, October 11, 2018**

I, too, was at the hearing and would like second Jim's letter. As a relative newcomer to the New Meadows (Rock Haven Dr), I am still learning about the issues that we all must be concerned with. I would only add that while it would be great in the best of all possible worlds to have more research to base the decision on (a point raised by thoughtful commentators), the prudent thing to do would be to institute the rule, as the potential for extensive long term damage to the ecosystem exists. It would be a shame to let this happen even when common sense tells us there is likely a threat to the habitat in the New Meadows. As it was stated, the rule can be changed once more research has been conducted—if the research supports more intrusive quahog harvesting techniques.

**Helyn Bartholomay, submitted via email, October 11, 2018**

I am in agreement with the DMR in restricting the dragging operations in the New Meadows river. The quahog population and other SAV is a major concern for me as I live on the river.

**Frank Bartholomay, Public Hearing, October 10, 2018**

I understand the concerns of the fishing community trying to make sure the resources are there. My concern is that dredging in general takes a lot more volume of quahogs than the manual clamming. I am in favor of the rule, at this point, until further looking at the resources can be done.

**Pat McTeague, Public Hearing, October 10, 2018**

We are in favor of the rule, because we are people who live on Foster's Point. We're in favor of the rule, because we think it is good public policy. We think it is a reasonable accommodation of people who make their living on the New Meadows and people who live on New Meadows. The unrestricted convenience of some folks, the fact that they make money on it is no reason. Many of us could make money in many ways, but the question is what impact we have on other people and on the marine resource. On that basis, we favor the rule.

**Leann Fisher, Public Hearing, October 10, 2018**

I have spent a good part of my life on the New Meadows. My family lives on the New Meadow River. I don't live there, but I keep a boat on the river. When I am listening to what you're saying about being able to hand dig, or use the dredgers, the dredgers can pull at any time. When hightide is during the day, maybe they are not out there as much, when lowtide is during the day they have this really long timeframe where they can dredge and pull more from the river. I really do think that to protect that resource we are going to have to limit how the take is taken. I understand helping people getting more and making more money off of it. I understand there are other people in line wanting to get licenses to do this kind of dredging work in this area. Without putting this restriction in place, I don't know if next summer we'll wake up and there will be four boats, out on the river, doing the same work and the take would be impacted that much more. I am really for having these restrictions.

**Bob Vale, Public Hearing, October 10, 2018**

I have a house on Foster's Point and I am concerned about the level of activity out there. I would hope that anything that is done is backed up by hard science. It is my understanding that if you dredge something you turnover the bottom and you create turbidity, you prevent things from growing there. Anything that the Department of Marine Resources is looking at should be looked at from a science based background. What is the ability of this resource to rejuvenate? What is the disruption in the seabed? What are the grow-back periods of vegetation? How long does it take it to grow back? Finally, if you live beside a gravel pit, you would expect to have some kind of limitations on hours of operation. When you have marine resources in a residential neighborhood, which most of the coast of Maine is a residential neighborhood. When you introduce commercial activities into residential neighborhoods there is a profound effect. We are not talking about offshore fishing, we are talking about something that is literally, within a stone's throw, of someone's home. As you look at the development of this new rule, bear in mind this is an activity taking place in a residential neighborhood. Any of you that lived in a neighborhood that had a commercial activity going on would look at those also.

**Rachel Warren, submitted via email, October 9, 2018**

Please see the below. I am a resident in West Bath, ME and would like to voice my strong support for eliminating the dragging of the New Meadows River. I am unable to attend this week's meeting, but please consider my opinion when making the final decision.

**Opposed (10)**

**Spencer Hallowell, submitted via email, October 20, 2018**

I am submitting a neutral comment on Chapter 10.05 Taking of Quahogs in the Sub-Tidal Waters of New Meadows Lakes, Brunswick and West Bath. I am not in support of the proposed rule change as written,

but am in favor of the spirit of the rule change if the motivations are correctly specified. See below for my full comment.

#### Comments on proposed rule change for West Bath quahog fishing:

My first comment is about the transparency and goals of the new proposal. It is not clear what the intent of the proposed rule changes are. From the wording of the proposal it seems that the ban on dredging for quahog fishing is to protect the quahog resource from being depleted. There is no proposed evidence that this would be the case. Rather, as laid out in the below referenced research in the literature, dredging can be a net positive for the quahog population. The proposal does not address any of the community's concerns about other ecological impacts, particularly to the native eelgrass population, which has been identified by NOAA department of fisheries as an important part of the coastal biological ecosystem that needs to be protected. The concerns of residents of New Meadows River also include noise pollution issues, which seem to be addressed by the moratorium of fishing as identified by 10.05 C, although the motivation for clause C does not seem to be specified. Further issues with the proposed rules include the vague wording and lack of visual aid to the proposed southern boundary line which the current provisions for the New Meadows Lakes will be applied. It is suggested that the terminology for each of the landmarks noted in the proposed line be accompanied by precise latitude and longitude coordinates, since landmarks such as "the northwestern tip of Indian Point" is vague with respect to tidal watermarks. A proposed visual of the boundary zone as written is included below. A link to an online map is also included for review and may be freely distributed as needed.

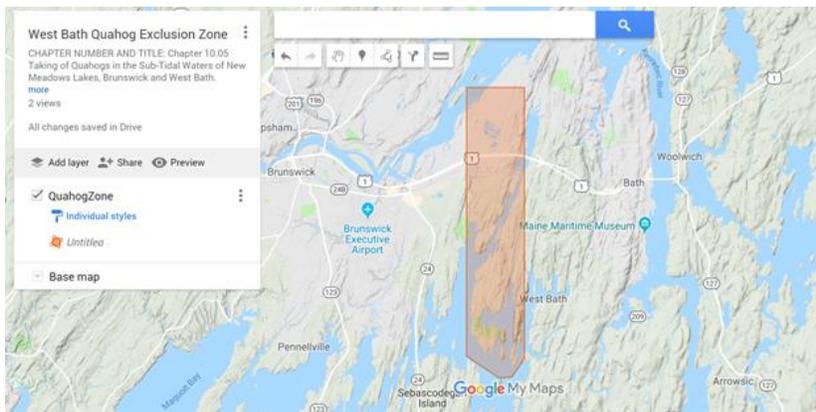


Figure 1: Proposed extension of regulated quahog fishery in West Bath, Maine.

[https://drive.google.com/open?id=1J8GMqb\\_TcDMKDM6wlqrKYjvFBcy3-xlN&usp=sharing](https://drive.google.com/open?id=1J8GMqb_TcDMKDM6wlqrKYjvFBcy3-xlN&usp=sharing)

Without proper motivation for the proposed rule change, backed by scientific evidence for policy action, it is my recommendation that the language of the proposal be reworded, with motivation clearly indicated through referenced literature. I have conducted a brief overview of the literature with respect to some of the concerns that have been brought up in public comment. The summary is given below, with a brief list of references.

#### Impact of dredging on quahog fishery:

Mercaldo-Allen et al, 2016 shows dredging has an overall positive impact on the quahog fishery from the standpoint of total benthic population and organic matter in plots recently dredged in a Long Island Sound study. Overall, the study found that recently dredged sites had significantly higher benthic populations, higher total organic matter concentrations, newly settled bivalve populations, lower

species richness, diversity and evenness (Mercaldo-Allen et al 2016). According to Sparsis et al, 1992, studies by Glude and Landers in 1953 concluded that there were “no significant differences in the physical or biological compositions of raked or dredged bottoms, but both had fewer living forms than the unfished control area. These authors concluded that there was no biological basis for prohibiting either bullraking or dredging.” Sparsis et al. conclude that there is no significant disturbance in infaunal communities after hydraulic dredging, and that the overall impact on the quahog resources from dredging was much less than the seasonal and spatial variability naturally present (Sparsis et al 1992).

Impact of dredging on eelgrass population:

Neckles et al 2005 found that dragging activities in Mahoit bay used for mussel harvesting had a significant negative impact on the local eelgrass population. In one year of dragging eelgrass shoot density was 2 to 3% of the reference site, shoot height was between 46 and 61% of the reference site, and total biomass was <1% of the reference site, with impacts persisting up to 7 years after dragging (Neckles et al 2005). The study showed that eelgrass recovery depended heavily on the dragging intensity and that eelgrass recovery could take on average between 9 and 11 years (Neckles et al 2005). Neckles et al conclude that mussel dragging poses a threat to eelgrass habitat, and that management practices could help mitigate negative impacts.

Impact of dredging on overall ecosystem:

Studies by Meseck et al 2014 show that hydraulic dredging shows caused no statistically significant changes in particulate grain size, nitrogenification, carbonation, sulfurification, and total organic carbon when compared to non-dredged sites. Meseck et al conclude that one-time hydraulic shellfish harvesting had minor effects on sediment chemistry.

General considerations:

Maine has a dedicated quahog quota of 100,000 bushels (NOAA 2017). As of 2015, only 41,600 bushels of the quota had been fulfilled, indicating low likelihood that dredging activities will cause the quota to be exceeded (NOAA 2017). During surveying activities dry dredges were found to be less efficient than hydraulic dredges by up to 10% (2017). Valid licenses, active licenses, and total number of hours fished have all been in decline from 2008 to 2016 (2017).

## References:

- Mercaldo-Allen, R., Goldberg, R., Clark, P., Kuropat, C., Meseck, S. L., Rose, J. M. *Benthic Ecology of Northern Quahog beds with Different Hydraulic Dredging Histories in Long Island Sound*. Journal of Coastal Research. 2016. 33-2, 408-415.
- Meseck, S. L., Mercaldo-Allen, R., Rose, J. M., Clark, P., Kuropat, C., Pereira, J. J., Goldenberg, R. *Effects of hydraulic dredging for Mercenaria mercenaria, Northern Quahog, on sediment biogeochemistry*. Journal of the World Aquaculture Society. 2014. 45-3.
- National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA). *63<sup>rd</sup> Northeast Regional Stock Assessment Workshop (63<sup>rd</sup> SAW) Assessment Report*. 2017.
- Neckles, H. A., Short, F. T., Barker, S., Kopp, B. S. *Disturbance of eelgrass Zostera marina by commercial mussel Mytilus edulus harvesting in Maine: dragging impacts ad habitat recovery*. Marine Ecology Progress Series. 2005. 285, 57-73.
- Sparsis, Maria, Dealteris, Joseph T., Rice, Michael A. *Effects of Bottom Cultivation on Quahogs and Other Bottom Invertebrates in Narragansett Bay*. Proceedings of the Second Rhode Island Shellfish Industry Conference (1992).

**Raymond Alexander, Dredge Owner/Operator, Public Hearing, October 10, 2018**

I oppose this closure not just for myself, but for anyone else who wants to make a living for those four months out of the year. That's the whole reason for me building this dredge, so I don't have to break my back in the pond, or in the ocean. I could actually do it in a better manner.

**Jim Koehling, Public Hearing, October 10, 2018**

Seems like you guys are picking on one person. It's only one guy, he's invested a lot of money in this. If I was him, I'd get a lawyer.

**Alex King, Public Hearing, October 10, 2018**

I am a stern man on Buckey's boat and I also hold a state commercial clamming license. I do bull rake and everything and when Bucky went through and dredged it, it made it fishable. That's my thought. It takes a lot of pressure off the ponds as well, because it creates a fishery outside the pond. You can actually go and made a day's pay.

**Marty Odlin, Public Hearing, October 10, 2018**

I've known Buckey for a really long time and I've watched him develop this dredge over a few years. I know he is very responsive to environmental concerns, and reducing juvenile take. I think banning this method of harvest outright, from what I've heard, it could be helping the carrying capacity of the ecosystem, maybe there is a different way it could happen. I am very sympathetic to keeping the resource productive, but this might be improving productivity. It would be nice to see some more research, or if there is a way to limit the growth of dredging, but still allow him to continue to refine his methods. He's put a lot of work in and I think he is willing to go further to develop his techniques.

**Hazel Herrick, Public Hearing, October 10, 2018**

This is a fishing community. It's a working waterfront. If you guys start taking in complaints on noises, is that going to shut the lobstermen down too? Basically, what I've heard from a few of them is it's a noise complaint, not fishing. If that's the case, you shouldn't own a house on the water. I don't like being woke up in the morning, but I live on the water and that's part of it. That's how they make their livelihood.

**Jess Reno, Public Hearing, October 10, 2018**

I am the fiancé of the dredger. We would like to keep it alive for their future and maybe assist in some sort of research. Somehow help you guys and keep it alive for the kids.

**Jimmy Catlin, Public Hearing, October 10, 2018**

I oppose the measure on the basis of the lack of research showing dredging has effected the resource. I think everyone in this room and everyone who works in the area would agree that mainting the fishery and protecting the fishery as a resource is vital. I think a lot of work will go in to passing this law and I think a lot more work would have to be done to undue it, if furture surveys said it was not in jeopardy. Without allowing dredging to take place, while you are surveying it, it is kind of hard to say whether the active dredging would have an effect on depletion. I guess I am opposed to the measure on the basis of lack of research.

**Joseph Gilliam, Public Hearing, October 10, 2018**

I don't think you would have spent all the money to build the boat, to do all this, if he thought it was going to wipe out all the quahogs.

**Madelyn Hennessey, Chair, Board of Selectmen, Town of West Bath, submitted via email, September 28, 2018**

At the West Bath Marine Resources Committee meeting on October 26, we discussed the proposed rules that will be the topic of discussion on October 10 at the West Bath Fire Hall. We are somewhat relieved that dragging near the Middle Ground is to be curtailed, but deeply concerned that as we read the proposed rules, you seem to be closing all of West Bath flats to winter harvesting of Quahogs, applying the conservation measures that were applied to the New Meadows Lake to the entire upper New Meadows Estuary.

We are concerned on two levels. The first is "home rule." It is our understanding that the Town of West Bath has jurisdiction over the intertidal zones that are in the proposed area north of Sabino, unlike the area of the Lake, over which the Department of Marine Resources asserts control. The Town has enacted ordinances in accord with State regulations to protect and conserve the resources in those zones. We maintain active conservation measures to promote a healthy shellfish industry, measures that are not required of shellfish harvesters who work on the New Meadows Lake. We note that within our intertidal zones the Quahog population is increasing, both due to self seeding of wild stocks, and by deliberate reseeding of stock by the harvesters licensed in the Town of West Bath. Therefore, we do not agree that a winter closing of the flats to Quahog harvesting is necessary, and we believe that it will be harmful to those who depend on winter harvest for their family income.

**Neutral Comments (3)**

**Peter Francisco, submitted via email, October 19, 2018**

I have several concerns regarding the dragging of quahogs in the New Meadows River. I hope DMR scientists will consider and evaluate these concerns.

First, is the impact on lobsters. There may be damage to lobsters in general, but especially with those that have overwintered in the river. We used to do very well with an early catch that was well ahead of down river. The thinking was that these were lobsters that spent the winter in the mud. It seems possible that quahog dragging could negatively affect these lobsters.

Second, the impact on spawning flounder. Years ago there was a good run of flounder in April and May. The river was open to commercial fishing at the time and the resource was decimated. After that, dragging for them was outlawed. They have been making a slow, but relentless, comeback. Is it possible that dragging for quahogs could affect the eggs or young flounder?

Third, increased turbidity. I am concerned that the cloudiness in the water, caused by dragging for quahogs, could adversely affect the amount of phytoplankton in the water here. There are seven of us growing oysters within the vicinity of the dragging activity. I think less plankton could adversely affect the oysters.

The damage to eel grass has been well articulated by others. From years of lobstering, fishing and duck hunting in the area, I can attest to the fact that this area has often been thick with grass. Several people have been bull raking quahogs in this area. I would think the dragging could adversely affect their income as well. I also have to say I feel badly for the people who live in the immediate area who have to listen to the noise for days and hours on end. At least one or more do work from home. (I am grateful that I am fairly deaf as I am on the water nearby and can only hear it when they are dragging near me).

**Madelyn Hennessey, Chair, Board of Selectmen, Town of West Bath, Public Hearing, October 10, 2018**

When I met with our Marine Resources Committee, our first reading of this proposed regulation, we were concerned that the language is not clear. All of our flats within the Town of West Bath are behind that line. We have people that do winter hand harvesting and we do want to make sure the language of the regulation is very clear that that is permitted as per our ordinances and our home rule rights as the Town of West Bath.

**Jeffrey Pierce, Representative House District 53, Public Hearing, October 10, 2018**

I am neither for nor against, because I don't believe you have displayed enough evidence one way or the other today to sway me on how I would look at this. I have no historical record on what is going down. I admonish you for not bringing maps so people could actually see the area. I think you were ill prepared when you came here. I would think that you would hold another public meeting and come back here prepared with maps and maybe some historical context to what the dragging does. It's two different subjects here. One subject is dragging and is that good for the ecosystem, or noise pollution versus hand implements. The other is the resource. Shutting it off for the winter because they are susceptible to die off in winter. The third issue is limiting the resource to be harvested on Sunday to keep a healthy population. That is why I am neither for nor against. I would like to see you redo these hearings or take it to the Marine Resources Committee, so it can be shaken out.

**Department Response to Comments:**

**Basis for the rule-making**

Several commenters spoke to concerns regarding the impact of dredging/dragging in the New Meadows River on resources other than quahogs (e.g. eelgrass, lobsters, flounder, etc.), and/or their perception that dredging/dragging is incompatible with the residential nature of this area. For clarification, the Department's basis for advancing this rule-making is in extending limitations on the harvest of quahogs to better manage the quahog resource. A rule that proposed to limit the take of a marine organism for the purpose of benefiting another marine organism would be a major substantive rule, requiring legislative approval. Further, the basis for the rule is not due to Department concerns regarding the impacts of dredging/dragging on the bottom, but to restrict the method of take of quahogs to less efficient means of harvest.

The Department has been monitoring the quahog resource in the New Meadows Lakes since 2012 and has documented a decline in the population. This has occurred in an area where harvest is limited to hand harvest only. The documented decline prompted the Department to adopt further limitations on the subtidal resource, including a winter closure and prohibition on Sunday harvest to reduce effort. While the Department has not surveyed the area included in this rule-making, the Department believes that given the greater efficiency of harvest by dredging/dragging, allowing this method of harvest to continue is likely to negatively impact the quahog resource in this area.

**Area covered**

Several of the commenters spoke to their support of the proposed rule as a means to prevent dredging/dragging for quahogs in the Middle Ground. One commented spoke to the need for latitude

and longitude coordinates. The proposed landmarks were provided by Maine Marine Patrol and are consistent with standard practice to specify the definition of enforceable lines for shellfish closures. However, the Department does agree that amending the rule to clarify that the expanded area includes all the waters of the New Meadows River west of Rt 24 as well as north of the line specified would be beneficial. For that purpose, the proposed rule has been amended accordingly.

### **Further study**

As explained above, the Department does not have survey data for the area proposed for further limitations on the quahog resource. The individual engaged in dredging/dragging for quahogs in this area in the spring of 2018 commented on the proposed rule that he would be interested in participating in research. The Department intends to pursue such research to better understand the quahog resource in this area. The Department is in agreement with the comments that there is no historical information that is specific to this area on which to base this rulemaking. The proposed rule does not prevent the harvest of quahogs from this area, but puts limitations on their harvest. To avoid damage to the quahog resource, the Department is proceeding with the proposed rule, but has amended it to sunset in 2 years. During this time, the Department will collect information to determine if the harvest limitations should be continued as implemented in this rule, modified with consideration to the results of the research, or allowed to expire.

### **West Bath shellfish ordinance.**

Representatives from the town of West Bath supported the proposed prohibition on the taking of quahogs by dredging/dragging, but expressed concern regarding the extension of the winter closure over this area. Quahogs are included in the town's shellfish ordinance, and as such, are managed in the intertidal by the town. The Department understands the town's concern, given the conservation efforts already in place through the town's ordinance. The proposed rule has been amended to make it clear that the harvest limitations apply to the subtidal resource only.

### **Quahog quota**

One commenter included references intended to demonstrate that there is a quahog quota which is typically not actually harvested, and that the number of active licenses and hours fished has been declining. These references refer to the federally managed species, the ocean quahog, also known as mahogany quahogs (*Arctica islandica*) and federal permit holders. The resource that is being managed through this rule is the hard clam or northern quahog (*Mercenaria mercenaria*), therefore those references are not germane. While there has been one individual harvesting in this area by dredge/drag, there is no limitation on what may be removed (i.e. there is no quota) and there is no limitation on the number of licenses that could be issued for this activity.