

## NOTICE OF EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources  
STATUTORY AUTHORITY: 12 M.R.S. §§6172, 6192, 6193 & 6194  
**Struck text is being removed, and underlined text is being added**

### BASIS STATEMENT

The Commissioner of the Maine Department of Marine Resources amends the emergency DMR Chapter 95.04(M), Area No. 39-A, Benjamin River (Sedgwick-Brooklin), Center Harbor, and Herrick Bay (Brooklin), amended on January 5, 2011. This amendment changes the title of this notice, and moves the area previously described in Herrick Bay into Area 39-C. This is an administrative change; there are no classification changes in this notice. All existing pollution and red tide/PSP closures remain in effect. As authorized by 12 M.R.S. §§6172, 6192, 6193 & 6194 the Commissioner of Marine Resources adopts emergency amendments to Chapter 95.04(M).

**RULE TITLE AND SUBJECT:** DMR Chapter 95.04(M), Area No. 39-A, Benjamin River (Sedgwick-Brooklin), Center Harbor, and Herrick Bay (Brooklin), amended on January 5, 2011, is amended as follows:

**TITLE & TEXT OF RULE:** DMR Chapter 95.04(M), ~~Area No. 39-A, Benjamin River (Sedgwick-Brooklin), Center Harbor, and Herrick Bay (Brooklin)~~ Area No. 38-B, Benjamin River and Center Harbor (Sedgwick and Brooklin)

- A. Effective immediately, because of non-point source pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels taken from the shores, flats and waters of the Benjamin River (Sedgwick, Brooklin): north of a line beginning at the mouth of an un-named brook on the Brooklin shore, approximately 300 yards south of the Route 175 road causeway crossing the Benjamin River, then running in a northwesterly direction to a red painted post located on the Sedgwick shore, approximately 120 yards south of the Route 175/172 intersection. This area is classified as "Restricted," and harvesting requires a special MDMR permit.
- B. Effective immediately, because of intermittent seasonal pollution, the following area has been classified as "Conditionally Approved," and shall be closed to the harvesting of clams, quahogs, oysters and mussels from May 1 through October 31: the Benjamin River (Sedgwick, Brooklin), south of a line beginning at the mouth of an un-named brook on the Brooklin shore, approximately 300 yards south of the Route 175 road causeway crossing the Benjamin River, then running in a northwesterly direction to a red painted post located on the Sedgwick shore, approximately 120 yards south of the Route 175/172 intersection; AND north of a line beginning at the westernmost point of Cape Carter (Brooklin), then running northwest across the mouth of the river, to the nearest point of land on the Sedgwick shore.
- C. Effective immediately, because of intermittent seasonal pollution, the following area has been classified as "Conditionally Approved," and shall be closed to the harvesting of clams, quahogs, oysters and mussels from May 1 through October 31: Center Harbor (Brooklin), north of a line beginning at the shoreward end of the 1<sup>st</sup> wharf on the south shore of Kane Point, located approximately 130 yards southeast of the eastern tip of Kane Point, then running in a northwesterly direction to the most western point of Chatto Island, then continuing northwest to the U.S. Coast Guard navigation aid "N2", then running in a northerly direction to shoreward end of the 1<sup>st</sup> wharf located approximately 150 yards west of the end of the Steamboat Road in Haven Village.

- ~~A. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels taken from the shores, flats and waters of the following areas: 1. Benjamin River (Sedgwick-Brooklin): north of a line starting at the mouth of an un-named brook on the Brooklin shore (300 yards south of the Route 175 road causeway crossing the Benjamin River between the Towns of Sedgwick and Brooklin) that extends northwest to a red-painted marker on the Sedgwick shore 120 yards south of the Rt 175/172 intersection. This area is classified Restricted and harvesting requires a special MDMR permit. 2. Northwest Herrick Bay (Brooklin): inside and northwest of a line extending northeast from the northern end of Batchelder Point (so-called) 540 yards to the north end of Blakes Point (so-called). This area is classified Restricted and harvesting requires a special MDMR permit.~~
- ~~B. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels taken from the shores, flats and waters of the Benjamin River (Sedgwick-Brooklin): south of a line starting at the mouth of an un-named brook on the Brooklin shore (300 yards south of the Route 175 road causeway crossing the Benjamin River between the Towns of Sedgwick and Brooklin) that extends northwest to a red-painted marker on the Sedgwick shore 120 yards south of the Rt 175/172 intersection AND north of a line starting at the most western point on Cape Carter and then extending northwest to the nearest point of land on Carter Point on the western shore of the Benjamin River; this area has been classified as "Conditionally Approved," and shall be closed to the harvest of shellfish from May 1 through October 31.~~
- ~~C. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels taken from the shores, flats and waters of Center Harbor (Brooklin): north of a line starting at the shore end of the 1<sup>st</sup> wharf extending into Southern Bay from the south shore of Kane Point; then extending northwest to the most western point of Chatto Island; then continuing northwest to the U.S. Coast Guard navigation aid "N2"; and then northwest to the shore end of the 1<sup>st</sup> wharf located west of the end of the Steamboat Road in Haven Village, Brooklin; this area has been classified as "Conditionally Approved," and shall be closed to the harvest of shellfish from May 1 through October~~

EFFECTIVE DATE: May 23, 2011

EFFECTIVE TIME: 9:35 AM

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# Maine Department of Marine Resources

Pollution Area No. 38-B

Benjamin River and Center Harbor (Sedgwick and Brooklin)



5/23/11

