

Department of Marine Resources
NOTICE OF AGENCY RULE-MAKING PROPOSAL

RULE TITLE OR SUBJECT: Technical corrections and update in Chapters 11 Scallops, 12 Mussels, and 25 Lobster and Crab

CONCISE SUMMARY: The citation to the Swans Island Conservation Area would be corrected in Chapters 11 and 25. The buoy color referenced in Chapter 11.15(2) would be corrected from black to white. The regulations would be updated in accordance with 12 MRSA §6746-A for compliance and consistency for the nighttime prohibition on mussel dragging.

STATUTORY AUTHORITY: 12 M.R.S.A. §6171

PUBLIC HEARING: *Tuesday, May 26, 2009, 6:00pm, DMR Large Conference Room, 194 McKown Point Road, West Boothbay Harbor

**The public hearings for two proposed rules will be held in numerical order starting with the rules proposed in Chapters 11, 12 & 25, followed by Chapters 15 & 17. The second hearing will be held immediately upon the conclusion of the previous hearing. See separate rulemaking notice for rules not listed in this notice.*

DEADLINE FOR COMMENTS: June 5, 2009

To ensure consideration, comments must include your name and the organization you represent, if any. Please be aware that any risk of non-delivery associated with submissions by fax or e-mail is on the sender.

AGENCY CONTACT PERSON: Laurice U. Churchill (207-633-9584)

Mail Written Comments to:

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Hearing facilities: If you require accommodations due to disability, please contact Amanda Beckwith, at (207) 287-7578.

Additional information:

The proposed corrections and update would improve clarity in these regulations for enforcement officials and persons in the scallop, mussel and Swans Island Conservation Area fishing industry.

If you are unable to attend the hearing persons are encouraged to submit written comments from the receipt or posting of this notice through close of business on the deadline listed.

Proposed rulemaking – see underlined or ~~deleted~~ text below:

Chapter 11 Scallops

11.10 Atlantic Sea Scallops Limitations

1. Size, Harvesting and Conservation Zone Regulations

A. Swans Island Lobster Conservation Area Scallop Drag Size Restrictions

It shall be unlawful to possess on any vessel fishing for scallops or fish for or take scallops within the Swans Island Lobster Conservation Area (DMR Regulation, Ch. 25.90, (A~~B~~) (1)) with any scallop drag or combination of scallop drags (chain sweep or rock drags) having an aggregate width in excess of eight feet, six inches.

Chapter 25 - Lobster and Crab Fishing

25.94 Lobster Management Zones

2. The boundaries of the lobster management zones are as follows:

b. Zone B

Eastern Line - Schoodic Point due South Magnetic to the Exclusive Economic Zone

Western Line - Starting at the southernmost end of Newbury Neck following a straight line to a point ¼ mile due east of Pond Island at the intersection of Latitude 44° 13.7' N, Longitude 68° 27.8' W; then to the easternmost point of Black Island; then to the navigation buoy R "8" at the western entrance of York Narrows; then south to Swans Island Head; then continuing along the southwestern shore of Swans Island to West Point; then following the western boundary of the Swans Island Lobster Conservation Area ([Chapter 25.90\(AB\)\(1\)](#)) southerly to the point where Loran lines 9960-W-12524.5 and 9960-X- 25765.5 (Latitude 44° 01.9' N, Longitude 68° 28.6' W) intersect the 3-mile limit, as identified on National Oceanographic and Atmospheric Administration nautical charts; then 180° magnetic south to the EEZ.

c. Zone C

Eastern Line – Starting at the southernmost end of Newbury Neck following a straight line to a point ¼ mile due east of Pond Island at the intersection of Latitude 44° 13.7' N, Longitude 68° 27.8' W; then to the easternmost point of Black Island; then to the navigation buoy R "8" at the western entrance of York Narrows; then south to Swans Island Head; then continuing along the southwestern shore of Swans Island to West Point; then following the western boundary of the Swans Island Lobster Conservation Area ([Chapter 25.90\(AB\)\(1\)](#)) southerly to the point where Loran lines 9960-W-12524.5 and 9960-X- 25765.5 (Latitude 44° 01.9' N, Longitude 68° 28.6' W) intersect the 3-mile limit, as identified on National Oceanographic and Atmospheric Administration nautical charts; then 180° magnetic south to the EEZ.

Western Line – **Note: No change proposed in the Western Line description.**

11.15 Scallop Research Conservation Areas, Beals - Jonesport

2. Area 2, Perio Point

The following area off Perio Point and the bridge to Beals, shall be closed to all diver and mobile gear harvest within the described area:

Starting at the US Coast Guard ([whiteblack](#) can) Buoy "C" located at Latitude N 44° 31.573', Longitude W 67° 37.018';

Note: No further changes proposed in this paragraph.

Chapter 12 - Mussels

12.01 Nighttime Harvesting Prohibition

~~It shall be unlawful to fish for or take mussels (*Mytilus edulis*) by dragging during the period ½ hour after sunset (as defined in 12 M.R.S.A. §6001, 46) until 1/2 hour before sunrise (as defined in 12 M.R.S.A. §6001, 45) from April 1st to October 31st, both days inclusive, within Maine's territorial waters.~~

In accordance with 12 M.R.S.A. §6746-A it shall be unlawful to fish for or take mussels (*Mytilus edulis*) by dragging between sunset (12 M.R.S.A. §6001(46)) and sunrise (12 M.R.S.A. §6001(45)) within Maine's territorial waters except the Commissioner may authorize the harvest of seed mussels during those times. All requests for this exception must be made to the Department in writing and permits which are granted will be in writing. Any fishing activity not expressly authorized in the permit granted by the Commissioner shall be a violation of this subsection and subject to prosecution and or seizure.