

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2015 to December 31, 2015**  
*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §§ 6071, 6171(3)  
**Chapter number/title:** Ch. 24, Importation of Live Marine Organisms: 24.10(4)(F), Restricted Area for American Oyster  
**Filing number:** 2015-008  
**Effective date:** 1/21/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

*(See Basis Statement)*

**Basis statement:**

This emergency rule-making expands the current Sheepscot River restricted area to include waters, shores, and flats between the southernmost point of Linekin Neck, Boothbay and the eastern shore of the Kennebec River. The movement of American oysters (*Crassostrea virginica*) from these waters will be prohibited, without a permit from the Maine Department of Resources (DMR), when the size of the oyster is greater than 3 mm.

The DMR finds that there is a need for this emergency rule based upon specific information obtained by the Department during routine health surveillance. Specifically, Polymerase Chain Reaction (PCR) results received on January 6, 2015 from Kennebec River Biosciences in Richmond, Maine confirmed the presence of MSX (*Haplosporidium nelsoni*) in the waters around Westport Island and south of the existing restricted area boundary. Each of the 12 5-oyster pools (n=60 oysters) sampled was found to be positive for MSX. Subsequent histology confirmed the presence of both early and late stage infection. MSX is an oyster disease caused by a microscopic parasite. It is a health and mortality problem for American oysters but does not affect human health or consumption. Oysters are routinely marketed from populations that carry MSX.

The Department finds that this emergency rule is necessary and appropriate to limit the spread of MSX infection outside of the currently affected areas. Due to the interconnectedness of the Sheepscot and Back Rivers and their many tributaries and embayments, the Department believes a wider expansion of the restricted area is warranted until additional testing can determine the extent of MSX infection.

Persons will be required to obtain a permit for the movement-but not harvest-of shellfish from restricted areas to ensure a reasonable degree of certainty that the movement will not endanger the indigenous marine life or its environment in accordance with Ch. 24.05. Permits require pathological examination, satisfactory to the Department, demonstrating the shellfish to be free of the disease(s) found in the restricted area.

The Department will pursue regular concurrent rule-making in order to make this emergency regulation permanent. This emergency rule-making is necessary to protect the American oyster resource (aquaculture and wild) from unusual damage and or imminent depletion that would be caused by continued uncontrolled movement of oysters infected by MSX throughout Maine's waters. As authorized by 12 M.R.S. §§ 6071 and 6171(3) the Commissioner of Marine Resources adopts this emergency regulation.

**Fiscal impact of rule:**

Enforcement of this rule will not require considerable additional administrative activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §6171(3)  
**Chapter number/title:** Ch. 11, Scallops: Targeted Closures - Cobscook Bay, Whiting & Dennys Bays, St. Croix River, Inner Little Kennebec / Englishman Rotational Area, Addison Rotational Area, Casco Passage, Bagaduce River, Sheepscot River, Casco Bay  
**Filing number:** 2015-020  
**Effective date:** 2/28/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The Commissioner adopts this emergency rulemaking for the implementation of conservation closures located in Cobscook Bay, Whiting & Dennys Bays, Inner Little Kennebec/Englishman Bay Rotational Area, Addison Rotational Area, Casco Passage, Bagaduce River, Sheepscot River and Casco Bay in order to protect Maine's scallop resource due to the risk of unusual damage and imminent depletion. In addition, harvesting in the St. Croix River will be limited to one day per week for draggers, and one day per week for divers. Scallop populations throughout the state are at extremely low levels. The Department is concerned that unrestricted harvesting during the remainder of the 2014-15 fishing season in these areas may deplete a severely diminished resource beyond its ability to recover.

Continued harvesting may damage sublegal scallops that could be caught during subsequent fishing seasons, as well as reducing the broodstock essential to a recovery. These immediate conservation closures are necessary to reduce the risk of unusual damage and imminent depletion. For these reasons, the Commissioner hereby adopts an emergency closure of Maine's scallop fishery in Cobscook Bay, Whiting & Dennys Bays, Inner Little Kennebec/Englishman Bay Rotational Area, Addison Rotational Area, Casco Passage, Bagaduce River, Sheepscot River and Casco Bay and restricts harvest in the St. Croix River, as authorized by 12 M.R.S. §6171(3).

**Basis statement:**

The Maine scallop fishery was formerly a valuable winter/spring fishery providing a substantial source of income to fishing businesses at a time of year without many other fishing opportunities. The fishery experienced an all-time low in 2005, landing 33,141 meat pounds of scallop meats from Maine waters valued at \$272,703. The Department has been working closely with the Scallop Advisory Council and members of the industry for several years to rebuild a sustainable resource and provide economic opportunity in a limited fishery. Beginning in 2009, the DMR adopted a spatial management approach that has included targeted area closures and Limited Access Areas (LAA), and implemented a Rotational Management Plan accompanied by a 30% harvest target that when met would trigger in-season emergency management actions to ensure areas are not overfished and rebuilding continues. The combination of conservation measures appears to be effective as demonstrated by 505,837 meat pounds being landed in 2013 valued at \$5.7 million, a fifteen-fold increase in landings and an almost twenty one-fold increase in value from 2005, while the fishery has experienced a significant increase in active participation in recent years.

This season was undertaken with the understanding that the length of the season likely far exceeds what the resource can sustain, and that the Department may need to use emergency rulemaking authority during the season to prevent overfishing. The industry, through the Scallop Advisory Council, requested that the Department provide the fishing opportunity up front, and make adjustments in-season as necessary. The Department was willing to take this approach in part because this fishery is prosecuted in the winter months, and proposing a very limited season

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could create an incentive to fish in unsafe conditions. The Department emphasized that it will take action to continue to rebuild the scallop resource, as well as provide stability and predictability for the industry into the future. Therefore, the DMR expanded the trigger mechanism to the entire fishery in order to move towards a more sustainable harvest of the resource statewide so that when data indicate that 30% of the harvestable biomass has been removed from an area, it will be closed early via emergency action in order to ensure that the resource has the ability to replace what has been removed and continue to rebuild. Such action will ensure continue progress towards the goal of a sustainable, rebuilt fishery.

The Department seeks to take rulemaking action to close the following targeted areas: Cobscook Bay, Whiting & Dennys Bays, Inner Little Kennebec/Englishman Bay Rotational Area, Addison Rotational Area, Casco Passage, Bagaduce River, Sheepscot River and Casco Bay while restricting harvest in the St. Croix River, which will remain open Mondays for draggers and Fridays for divers during the months of March and April, 2015. Based on direct input from Marine Patrol and independent industry participants, the level of fishing effort in these discrete areas during the fishing season has likely exceeded the 30% removal target to ensure the fishery continues to rebuild and continued fishing threatens future recruitment of sublegal "seed" scallops in these areas and remaining broodstock scallops that are needed for successful spawning. For Cobscook Bay, this information along with data collected through the DMR port sampling program as well as the DMR fishery independent in-season survey further indicate that the area has exceeded the 30% removal target for legal biomass which correlates with estimated removals for the area of 222,30 pounds of scallop meats, which is 37% of the 595,200 pounds available. Also, a fishery independent survey in April 2014 identified areas within the Inner Little Kennebec/Englishman Bay Rotational Area, Addison Rotational Area, Casco Passage and Bagaduce River as having an increased density of harvestable scallops following two years of closure and moderate amounts of seed scallops and thereby suggesting a recovery has begun. Incidental mortality of scallops caused by dragging has been estimated to be at least 13-17% per tow. This level of scallop mortality would have a significant negative impact on the abundance of the sublegal scallops that will recruit into the fishery in future seasons. Immediate action is necessary to protect the remaining seed and legal scallops in all of these areas, allow for continued harvest in the remaining areas, and continue to support rebuilding efforts.

**Fiscal impact of rule:**

Enforcement of this amendment would not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §§ 6071, 6171(3)  
**Chapter number/title:** Ch. 24, Importation of Live Marine Organisms: 24.10(4)(F),  
Restricted Area for American Oyster  
**Filing number:** 2015-022  
**Effective date:** 3/9/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

This rule-making would make permanent the emergency rule enacted on January 15, 2015 that expanded the current Sheepscot River restricted area to include waters, shores, and flats between the southernmost point of Linekin Neck, Boothbay and the eastern shore of the Kennebec River. The movement of American oysters (*Crassostrea virginica*) from these waters will be prohibited, without a permit from the Maine Department of Resources (DMR), when the size of the oyster is greater than 3 mm.

The DMR found that there was a need for the emergency rule based upon specific information obtained by the Department during routine health surveillance. Specifically, Polymerase Chain Reaction (PCR) results received on January 6, 2015 from Kennebec River Biosciences in Richmond, Maine confirmed the presence of MSX (*Haplosporidium nelsoni*) in the waters around Westport Island and south of the existing restricted area boundary. Each of the 125-oyster pools (n=60 oysters) sampled was found to be positive for MSX. Subsequent histology confirmed the presence of both early and late stage infection. MSX is an oyster disease caused by a microscopic parasite. It is a health and mortality problem for American oysters but does not affect human health or consumption. Oysters are routinely marketed from populations that carry MSX.

The Department found that the emergency rule was necessary and appropriate to limit the spread of MSX infection outside of the currently affected areas. Due to the interconnectedness of the Sheepscot and Back Rivers and their many tributaries and embayments, the Department believes a wider expansion of the restricted area is warranted until additional testing can determine the extent of MSX infection.

Persons will be required to obtain a permit for the movement-but not harvest-of shellfish from restricted areas to ensure a reasonable degree of certainty that the movement will not endanger the indigenous marine life or its environment in accordance with Ch. 24.05. Permits require pathological examination, satisfactory to the Department, demonstrating the shellfish to be free of the disease(s) found in the restricted area.

**Fiscal impact of rule:**

Enforcement of this rule will not require considerable additional administrative activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §§ 6171, 6439-A, 6449  
**Chapter number/title:** Ch. 25, Lobster and Crab: 25.04, Lobster Trawl Limits; 25.07, Management Framework for Island Limited Entry Program  
**Filing number:** 2015-023  
**Effective date:** 3/9/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

This rule-making addresses two separate lobster trawl limits, one in the vicinity of Kittery and one off Hancock County, and also creates an island limited-entry program for the island of Frenchboro.

The trawl limit that was proposed in the vicinity of Kittery is unchanged from the existing trawl limit in law. The Department is seeking to adopt this trawl limit in regulation for consistency with all other trawl limits, so that it is easier to make changes requested by industry as necessary. The trawl limit in law would subsequently be repealed. The trawl limit in Hancock County is to be amended so that it does not conflict with changes to minimum trawl lengths that will be necessary for compliance with the National Marine Fisheries Service (NMFS) federal vertical line regulations (otherwise known as the “whale rules”) published June 27, 2014, and which go into effect in Maine on June 1, 2015. The position coordinates in the proposed rule have been adjusted for precision and enforcement purposes, so that the outer perimeter of the restricted area coincides with the Federally established six mile line making them congruent at its’ border. With the new whale rules, there will be a minimum number of lobster traps per trawl based on the different lobster zones and distance from shore to reduce the number of buoy lines in the water column. The measures necessary for compliance with the federal whale rules will be accomplished in a subsequent rule-making in Ch. 75.

This rule-making would also address a recent island limited entry referendum vote for Frenchboro. It would create the Frenchboro Island limited entry program, allowing up to 14 commercial island resident lobster licenses to be issued annually as authorized by 12 M.R.S. §6449.

**Fiscal impact of rule:**

Enforcement of these amendments would not require considerable additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §§ 6171-A, 6192(4); 5 MRS §8054  
**Chapter number/title:** Ch. 25, Lobster and Crab: 25.08, Lobster Trap Tag System  
**Filing number:** 2015-024  
**Effective date:** 3/9/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

The Department proposed this change in rule pending approval of a conservation equivalency from the Atlantic States Marine Fisheries Commission (ASMFC). The rule-making would remove the requirement that a trap tag be attached to the trap only by the means for which the tag was designed. Without that specification, fishermen could securely attach the tag by other means (for example, hog rings) which would enable them to change gear over and reuse tags already in their possession. Under the current system, they must cut the tag out and bring it to a DMR office to get replacement tags. By allowing fishermen to use the same valid tag, it will reduce a significant administrative burden on Marine Patrol and eliminate the need for fishermen to travel to a DMR office for this purpose, but will not compromise the effectiveness of the trap tag system for enforcement.

**Fiscal impact of rule:**

Enforcement of this amendment will not require measurable additional activity in this agency. Existing enforcement personnel will monitor compliance during their patrols.

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**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §§ 6171, 6173, 6505-A, 6575-B  
**Chapter number/title:** Ch. 32, Eels: Requirements for the 2015 Elver Harvesting Season  
**Filing number:** 2015-025  
**Effective date:** 3/9/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

This rule-making establishes the quota system for the 2015 elver season, which is necessary for compliance with Atlantic States Marine Fisheries Commission (ASMFC) management measures. At the October 2014 meeting of the ASMFC American Eel Board, the Board approved Addendum IV to the American Eel Fisheries Management Plan, which reduced Maine's elver quota to 9,688 lbs. As required by 12 MRS §6505-A, the rule establishes the overall annual quota for the state; the amount of quota that is allocated to persons licensed to fish for elvers by the Department of Marine Resources and the formula by which that quota will be allocated to individual license holders; the portion of the annual quota that is allocated to the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, and the Aroostook Band of Micmacs, in accordance with the percentages established by 12 MRS §6302-B, subsection 2.

The Board's actions respond to the findings of the 2012 benchmark stock assessment indicating the American eel population in U.S. waters is depleted. The stock has declined in recent decades and the prevalence of significant downward trends in multiple surveys across the coast is cause for concern. Causes of decline are likely due to a combination of factors including historical overfishing, habitat loss, food web alterations, predation, turbine mortality, environmental changes, toxins and contaminants, and disease. Addendum IV is the second phase of management action in response to the stock assessment.

In addition, this rule:

- Establishes the tributaries of the St. Croix River within which the use of fyke nets are prohibited, in accordance with 12 M.R.S. §6575-B, sub-§8;
- Defines the activities in which an unlicensed crew member may assist an individual who holds a license that authorizes crew, as authorized by 12 M.R.S §6505-A sub 1-B.
- Establishes a requirement that persons licensed as elver dealers record all purchase and sale transactions with other elver dealers using an elver dealer transaction card;
- Establishes a mandatory meeting for elver dealers licensed under 12 M.R.S. §6864, to ensure that elver dealers understand their responsibilities for proper administration of the individual fishing quota system.
- Requires that before purchasing elvers each fishing day (as defined within the regulation), licensed elver dealers synchronize their DMR-provided reporting software in order to align with current Department records.
- Clarifies that no person may possess elvers that were harvested outside the State of Maine, except if they are exclusively transporting legally harvested elvers through the State under the authority of the laws of the United States.

**Fiscal impact of rule:**

Enforcement of this rule will not require considerable additional administrative activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §6171  
**Chapter number/title:** Ch. 40, Smelt Regulations  
**Filing number:** 2015-026  
**Effective date:** 3/9/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

The principal reason for this rulemaking is to protect the state's reduced rainbow smelt population from further decline. Rainbow smelt populations have been contracting in range over the last century. Historically, populations were found from Chesapeake Bay to Labrador, but the current southern extent of the range is likely Buzzards Bay, Massachusetts. This range contraction has occurred rapidly, in less than 100 years with a pronounced population reduction in the past 20 years.

Since 2006, the Department of Marine Resources has performed multiple studies to document the current status of anadromous smelt in Maine and determine reasons for the population decline. Department surveys have shown that Maine smelt populations have become reduced in many portions of the state. Comparing the number and strength of spawning runs currently to that of the late 1970's, the DMR has found that many runs have declined while others are extirpated (no longer in existence). Data collected during spawning and creel surveys have also shown that length at age has declined compared to historical records in upper Casco Bay and the Kennebec River. This is biological evidence of a stressed population and may translate to reduced fecundity, lower spawning success, and less juvenile production.

Department surveys have found evidence of population decline in many portions of the state. In 2005-2009, DMR and Marine Patrol documented all current spawning sites in Maine. Comparing the current strength of runs to data collected by DMR in the early 1970's and in 1984 from DMR and USFWS, the DMR found that in the area from Kittery to Penobscot Bay, 11% of runs are currently declining. In the Downeast region, only 2% of runs are declining. Of the sites that have historically supported smelt runs, only 38% of the sites west of Penobscot Bay were documented to currently support spawning runs, while 61% of sites Downeast still support runs.

Other surveys in Maine have also documented declines in smelt abundance. Annual juvenile abundance surveys in the Kennebec River and Merrymeeting Bay have found that the Catch-per-Unit-Effort (CPUE) of rainbow smelt has been below the series average since 2005, and has been above the 25% quartile only one time since 2008. Also on the Kennebec River and Merrymeeting Bay, winter creel surveys targeting recreational smelt fishing have found that the number of smelt caught by recreational fishers during 2009-2014 is on average lower than during 1979-1982. In 2014, the lowest catches on record were reported.

Spring fyke net surveys targeting spawning smelt have found that runs west of Penobscot Bay have highly variable CPUEs from year to year, indicating unstable populations, while runs surveyed Downeast have consistent CPUEs. Other biological parameters, like age distributions and sex ratios, show that runs Downeast are more stable because they are composed of larger age distributions and low sex ratios, while runs in Penobscot Bay and west have truncated age distributions (few older smelt), and females are more limited.



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Additionally, Department studies have documented threats to successful smelt spawning including poor water quality associated with non-point source pollution, as well as head-of-tide dams, and undersized or hanging road crossing culverts that block upstream migrations. Because of these documented population declines and evidence of biologically stressed populations, the Department is utilizing management measures that will sustain and restore this species.

**Fiscal impact of rule:**

Enforcement of this rule will not require additional in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §6171(3)  
**Chapter number/title:** Ch. 45, Shrimp  
**Filing number:** 2015-047  
**Effective date:** 3/20/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

In November 2014, the Atlantic States Marine Fisheries Commission's (ASMFC) Northern Shrimp Section approved a moratorium for the 2015 fishery. This action was taken in response to the findings of the 2014 Stock Status Report, indicating current fishable biomass is the lowest on record. A suite of indicators were used in the 2014 Stock Status Report. These include abundance and biomass indices from fishery independent surveys for 2012-2014, which were at all-time lows, and recruitment indices for the 2010-2012 year classes, which were well below average. The Northern Shrimp Technical Committee considers the stock to have collapsed with little prospect of recovery in the immediate future. For these reasons, the Department did not adopt a season for the 2015 fishery and the last season in regulation was for 2013. This emergency rule-making is adopted for the purpose of clarifying that there is no opportunity for harvest in 2015, whether for commercial or personal use purposes.

As authorized by 12 M.R.S §6171(3), the Commissioner of Marine Resources adopts this emergency regulation due to the risk of unusual damage and imminent depletion of the shrimp resource that would occur if any fishing were to occur during a necessary closed season.

**Fiscal impact of rule:**

Enforcement of the proposed regulation would not require measurable additional activity in this Agency. Existing enforcement personnel would monitor compliance during their routine patrols.

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**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §6171(3)  
**Chapter number/title:** Ch. 32, Eels: 32.07, Elver Harvesting Limitations; Gear  
**Filing number:** 2015-084  
**Effective date:** 5/8/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The principal reason is to protect the American eel by ensuring that the established quota (9,688 lbs) for elvers is not exceeded by the unlimited use of fyke nets in the fishery.

**Basis statement:**

At the October 2014 meeting of the Atlantic States Marine Fisheries Commission's (ASMFC) American Eel Board, the Board approved Addendum IV to the American Eel Fisheries Management Plan, with the goal of reducing mortality and increasing conservation of American eel stocks across all life stages. Addendum IV reduced Maine's elver quota to 9,688 lbs. The Board's actions were in response to the findings of the 2012 benchmark stock assessment which indicated that the American eel population in U.S. waters is depleted. The stock has declined in recent decades, and the prevalence of significant downward trends in multiple surveys across the coast is cause for concern. Causes of decline are likely due to a combination of factors including historical overfishing, habitat loss, food web alterations, predation, turbine mortality, environmental changes, toxins and contaminants, and disease. Addendum IV is the second phase of management action in response to the stock assessment.

For compliance with this Addendum, Maine is required to maintain daily trip level reporting to monitor quota at the individual and statewide level, and ensure a pound-for-pound payback in the event of quota overages in its glass eel fishery. Through the implementation of the swipe card system which is required for all commercial harvesters, the daily trip level reporting requirement is met.

In 2014, no sustenance licenses were issued by any of the four Federally recognized Tribes. Prior to the start of the 2015 season, the Department became aware of communications from the Passamaquoddy Tribe to its members, in which they notified their members of the availability of sustenance licenses in the 2015 season. The Department sent the Tribe a letter requesting information regarding the number of sustenance licenses they intended to issue, in order to determine whether it was necessary to withhold a portion of the Passamaquoddy Tribe's elver quota for sustenance purposes. The Tribe indicated that they would likely issue sustenance licenses, but did not indicate in what amount. In the absence of any further information, the Department withheld the maximum percentage allowable by law (10%) of the total Passamaquoddy quota of 1,356 lbs (or 136 lbs) in an attempt to ensure that the sustenance fishing did not cause the state to exceed the total quota established for the conservation of the American eel.

On May 4, 2015, the Department received notification from the Passamaquoddy Tribe that they had issued 39 sustenance licenses, 31 of which were for a combination of fyke net and dip net, and 8 of which were dip net only. Up until this communication, it was the Department's understanding that the existing Tribal Fisheries Management Plan prohibited the use of fyke nets by its members. Fyke nets are significantly more capable of catching large amounts of elvers than dip nets (in 2014, the average catch per trip for dip net was 0.68 lbs, while the average catch per fyke net was 1.35 lbs; fyke nets are also far more likely to have large catches than dip nets). All other fyke nets authorized by law under §6575-B sub-§2-B, or pursuant to

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§6302-A sub-§3 E, E-1, F, or G have specific amounts of quota associated with them which is tracked daily by the use of the swipe card system. The Passamaquoddy Tribe does not have a mechanism to accurately track and report the landings of sustenance license holders to the Department. Because of the capability of the gear type and the quantity of licenses issued, the Department is concerned that these licenses will cause the overall state quota to be exceeded, and negatively impact the elver resource. By harvesting elvers in excess of the established quota, there is potential for unusual damage to the American eel resource.

**Fiscal impact of rule:**

None anticipated.

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**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §§ 6171(3), 6192  
**Chapter number/title:** Ch. 34, Groundfish Regulations: 34.10, Maine Groundfish Management Plan  
**Filing number:** 2015-085  
**Effective date:** 5/9/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

*(See Basis Statement.)*

**Basis statement:**

In accordance with the New England Fisheries Management Council and for consistency with the National Marine Fisheries Service (NMFS) federal regulations effective May 1, 2015, the Department enacts this emergency rulemaking for all persons aboard charter, party and recreational fishing vessels operating in state waters regarding cod and haddock. For the recreational fishery, the cod fishery is closed and it is unlawful to take or possess cod in state waters. For recreational haddock fishing, the minimum size is reduced to 17 inches to reduce mortality.

Updated assessments for Gulf of Maine cod indicate the stock is in severe decline and haddock exceeded the catch limit in place for FY 2014. Because the FY 2014 recreational overage was substantial, significant changes in management measures were deemed necessary by NMFS to ensure the recreational fishery does not exceed its catch limit again in FY 2015. The necessary reduction to ensure recreational harvest will not exceed the 2015 catch limits represents a 78% reduction for Atlantic cod, and an 84% reduction for haddock from the actual estimated 2014 recreational catch. This rule must be adopted on an emergency basis to implement the management measures in time to ensure that recreational harvest limits are not exceeded in 2015, in order to protect cod and haddock from unusual damage or imminent harm caused by overfishing.

**Fiscal impact of rule:**

Enforcement of the proposed regulation would not require measurable additional activity in this agency. Existing enforcement personnel would monitor compliance during their routine patrols.

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**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §6171  
**Chapter number/title:** Ch. 42, Striped Bass: Striped Bass Minimum Size, **Option B**  
**Filing number:** 2015-086  
**Effective date:** 5/13/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

At their October 2014 meeting, the Atlantic Striped Bass Management Board of the Atlantic States Marine Fisheries Commission (ASMFC) approved Addendum IV to Amendment 6 to the Interstate Fishery Management Plan for Atlantic Striped Bass. The Addendum establishes new fishing mortality (F) reference points, as recommended by the 2013 benchmark stock assessment. In order to reduce F to a level at or below the new target, coastal states are required to implement a 25% harvest reduction from 2013 levels. Maine advanced two options for public comment to achieve that reduction. This rulemaking (Option B) would establish a new minimum size for Maine's striped bass fishery. Specifically, this rule would allow a person would be able to take one striped bass each day 28 inches or more in total length.

A second option (Option A) with a 24"-26" slot limit was also proposed in a separate concurrent rulemaking, however based on consideration of comments received, that proposed rule was not advanced. Comments received in support of the 24"-26" slot were considered comments in opposition to the 28" minimum, and are addressed within this rule-making.

This management action is deemed necessary to respond to the results of the 2013 Atlantic striped bass benchmark assessment indicating F (Fishing Mortality) in 2012 was above the new F target, and female spawning stock biomass (SSB) has been steadily declining below the target level since 2006. This means even though the stock is not overfished and overfishing is not occurring, SSB is approaching its overfished threshold and stock projections show SSB will likely fall below the threshold in the coming years. In addition, a similar decline has been observed in total harvest.

**Fiscal impact of rule:**

Enforcement of the proposed regulation would not require measurable additional activity in this agency. Existing enforcement personnel would monitor compliance during their routine patrols.

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2015 to December 31, 2015**  
*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §6171  
**Chapter number/title:** Ch. 75, Protected Resources  
**Filing number:** 2015-087  
**Effective date:** 5/13/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

*(See Basis Statement)*

**Basis statement:**

The Department proposed this change in rule to address the federal vertical line regulations (otherwise known as the “whale rules”), which were published by National Marine Fisheries Service (NMFS) on June 27, 2014, and which go into effect in Maine on June 1, 2015. This rule-making is necessary for consistency and compliance with the federal requirements of the Atlantic Large Whale Take Reduction Plan (ALWTRP) Final Rule in accordance with the *Marine Mammal Protection Act* and the *Endangered Species Act*. With the new whale rules, there will be a minimum number of lobster traps per trawl based on the different lobster zones and distance from shore to reduce the number of buoy lines in the water column. The various changes apply to areas of Maine’s Pocket Waters, inside the Maine Sliver Area and Federal Waters. The Department is adopting additional gear marking, a new 6-mile line, minimum trawl lengths and some island buffers in regulation for compliance and consistency with the federal whale rules.

The various changes apply to trap/pot fisheries in areas of Maine’s Pocket Waters, inside the Maine Sliver Area and Federal Waters. Existing enforcement personnel will continue to monitor compliance during their routine patrols.

**Fiscal impact of rule:**

Existing enforcement personnel will monitor compliance during their patrols.

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**Rules Adopted January 1, 2015 to December 31, 2015**  
*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §§ 6171, 6173, 6749  
**Chapter number/title:** **Ch. 26**, Sea Urchin Regulations and 2015-2016 Harvesting Season  
*(filed with amendments to Ch. 8; see 2015-142 below)*  
**Filing number:** **2015-141**  
**Effective date:** 8/8/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

This regulation establishes season limits for the taking of sea urchins by divers, rakers, trappers, and draggers in Zones 1 and 2 during the 2015-2016 season. It also establishes the requirements for urchin harvesters and dealers to use an electronic reporting system (“swipe card system”) to record all transactions in which urchins are bought or sold.

For Zone 1, a 15-day season is established for divers, trappers, rakers and draggers in 2015-2016, which is the same number of days as in the 2014-2015 season. The Sea Urchin Zone Council recommended the selection of these particular days. Divers, rakers and trappers may fish 15 days in September (“early season”), or 15 days in December (“late season”); and draggers in December and January (“early season”), or February and March (“late season”).

For Zone 2, a 38-day season is established for divers, trappers, rakers and draggers in 2015-2016, which is the same number of days as in the 2014-2015 season. The Sea Urchin Zone Council recommended the selection of these particular days. Divers, rakers and trappers may fish 38 days in October through December (“early season”), or 38 days in December through March (“late season”); and draggers would have 38 days in October through March (“early season”) or December through March (“late season”).

For the Whiting & Dennys Bays Limited Access Area in Zone 2, a 9-day season is established for Zone 2 divers, trappers, rakers and draggers in 2015-2016, which is the same number of days as the season in 2014-2015. Zone 2 divers, rakers and trappers may fish 9 days in November and December (“early season”), or 9 days in December and March (“late season”); both early and late season Zone 2 draggers would have 9 days in December and March. The Sea Urchin Zone Council recommended the selection of these particular days with exception of December 15 for the early dive season and December 8, 23 and 29 for the late drag season which were chosen for consistency with the 38 day calendars.

**Fiscal impact of rule:**

Enforcement of these amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.



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**Rules Adopted January 1, 2015 to December 31, 2015**  
*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §§ 6171, 6173, 6749  
**Chapter number/title:** **Ch. 8**, Landings Program (*filed with amendments to Ch. 26; see 2015-141 above*)  
**Filing number:** **2015-142**  
**Effective date:** 8/8/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See filing 2015-141 above)*

**Basis statement:**  
*(See filing 2015-141 above)*

**Fiscal impact of rule:**  
*(See filing 2015-141 above)*

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2015 to December 31, 2015**  
*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §6171  
**Chapter number/title:** Ch. 34, Groundfish Regulations: 34.10(B), Maine Groundfish Management Plan: Size, Possession and Gear Restrictions  
**Filing number:** 2015-143  
**Effective date:** 8/8/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

In accordance with the New England Fisheries Management Council and for consistency with the National Marine Fisheries Service (NMFS) federal regulations effective May 1, 2015, the Department enacted emergency rule-making for charter, party and recreational fishing vessels operating in state waters regarding cod and haddock. For the recreational fishery, the cod fishery has been closed and it is now unlawful to take or possess cod in state waters. For recreational haddock fishing, the minimum size is now reduced to 17 inches to reduce mortality. This rule-making would make that emergency rule-making permanent.

Updated assessments for Gulf of Maine cod indicate the stock is in severe decline and haddock exceeded the catch limit in place for FY 2014. Because the FY 2014 recreational overage was substantial, significant changes in management measures were deemed necessary by NMFS to ensure the recreational fishery does not exceed its catch limit again in FY 2015. The necessary reduction represents a 78% reduction for Atlantic cod, and an 84% reduction for haddock from the actual estimated 2014 recreational catch. This rule was adopted on an emergency basis to implement the management measures in time to ensure that recreational harvest limits are not exceeded in 2015, in order to protect cod and haddock from unusual damage or imminent harm caused by overfishing.

**Basis statement:**

In accordance with the New England Fisheries Management Council and for consistency with the National Marine Fisheries Service (NMFS) federal regulations effective May 1, 2015, the Department enacted emergency rule-making for charter, party and recreational fishing vessels operating in state waters regarding cod and haddock. For the recreational fishery, the cod fishery has been closed and it is now unlawful to take or possess cod in state waters. For recreational haddock fishing, the minimum size is now reduced to 17 inches to reduce mortality. This rule-making would make that emergency rulemaking permanent.

**Fiscal impact of rule:**

Enforcement of these proposed amendments would not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2015 to December 31, 2015**  
*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §6171-A  
**Chapter numbers/titles:** **Ch. 115**, *Vibrio parahaemolyticus* Control Plan  
**Ch. 9**, Harvester: Shellstock Harvesting, Handling and Sanitation  
**Ch. 15**, General Shellfish Sanitation Requirements  
**Ch. 16**, Uniform Physical Plant Equipment and Operation Requirements  
**Ch. 17**, Shucker-Packer  
**Ch. 18**, Shellstock Shipping  
**Ch. 19**, Reshipper  
**Ch. 20**, Depuration  
**Ch. 22**, Retail Shellfish  
**Filing number:** 2015-189 thru 197  
**Effective date:** 1/1/2016  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement:**

The enactment of Ch. 115, “*Vibrio parahaemolyticus* Control Plan”, establishes handling requirements for oysters and hard clams harvested from the Damariscotta River north of a line beginning at Montgomery Point, Boothbay, and running southeast to Jones Point, South Bristol. The rule was amended following public comment to correctly specify Jones Point, South Bristol instead of Bristol.

The additional handling requirements are designed to avoid an illness outbreak scenario that would trigger mandatory development of a *Vibrio* control plan. In addition to attending mandatory annual training, harvesters and certified shellfish dealers are required to submit a harvest plan to the Department of Marine Resources by March 1 of each year demonstrating the method to be used to achieve internal temperatures of 50 degrees Fahrenheit in harvested oysters and clams. In addition, the Rule imposes maximum time periods for exposure to ambient air prior to cooling, and resubmergence criteria if the time periods are exceeded. The standards are more stringent if ambient temperature reaches 80 degrees Fahrenheit or above. The rule prohibits harvesters from selling from their homes and prohibits recreational harvest during the control period. The rule was amended to clarify that the prohibition on recreational harvest does not apply to individuals who hold Limited Purpose Aquaculture licenses when they are taking shellfish from their license site. The regulations will go into effect on January 1, 2016.

Ch. 9, 15, 16, 17, 18, 19, 20, 22 are amended to include reference to the newly enacted Ch. 115. Minor changes in Ch. 15 are included to correct an error in an exception that applies to commercial shellfish harvesters and to clarify shellfish tagging and labeling requirements for dealers.

**Fiscal impact of rule:**

Enforcement of these proposed amendments would not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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**Rules Adopted January 1, 2015 to December 31, 2015**  
*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §6171  
**Chapter number/title:** Ch. 26, Sea Urchins: Sea Urchin Regulations and Targeted Closures  
**Filing number:** 2015-198  
**Effective date:** 10/26/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

For purposes of conservation, pursuant to 12 MRS §6171 and §6749, this amended rule seeks to conserve the sea urchin resource for utilization in the future, and therefore should have a positive impact on Maine's fishing industry in the long term. This rule would establish a targeted closure in the Cat Ledges Area in order to facilitate an industry-led Pilot Sea Urchin Restoration Project in the area. The closure is proposed for three years and will expire on May 1, 2018 when the project is anticipated to be complete. The goal of the project is to evaluate success of transplanting wild sea urchins and the out planting of hatchery raised juvenile sea urchins as a means to reestablish a colony of commercially viable urchins in an area that once supported wild harvest, where they are now commercially extinct. This effort has been developed through the Sea Urchin Zone Council (SUZC) and is an industry-led project with harvesters conducting the majority of the work with the support of the SUZC's scientists. In addition, this regulation would remove the restriction that Zone 2 divers may not possess, fish or take urchins with a bag having a mesh opening of less than 2 ¼ inches between knots, as Zone 2 divers are now required to cull undersized urchins on bottom.

**Basis statement:**

This rule would establish a targeted closure in the Cat Ledges Area in order to facilitate an industry-led Pilot Sea Urchin Restoration Project in the area. The closure is proposed for three years and will expire on May 1, 2018 when the project is anticipated to be complete. The goal of the project is to evaluate success of transplanting wild sea urchins and the out planting of hatchery raised juvenile sea urchins as a means to reestablish a colony of commercially viable urchins in an area that once supported wild harvest, where they are now commercially extinct. This effort has been developed through the Sea Urchin Zone Council (SUZC) and is an industry-led project with harvesters conducting the majority of the work with the support of the SUZC's scientists. In addition, this regulation would remove the restriction that Zone 2 divers may not possess, fish or take urchins with a bag having a mesh opening of less than 2 ¼ inches between knots, as Zone 2 divers are now required to cull undersized urchins on bottom.

**Fiscal impact of rule:**

Enforcement of these amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §§ 6171, 6722  
**Chapter number/title:** Ch. 11, Scallops (Atlantic Sea Scallop Regulations and 2015-2016 Harvesting Season)  
**Filing number:** 2015-199  
**Effective date:** 10/26/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rule-making is necessary to establish the 2015-2016 scallop season. The Department advanced the SAC recommendation which includes a 15 gallon daily limit and a 60-day season in Zone 1. This is a 10-day reduction from 2014-2015. Several targeted closures were also proposed for Zone 1, reflecting the need for further conservation measures to assist in rebuilding in this area of the state based on the recent spring survey information. Fifteen days were proposed in the Zone 1 Limited Access Areas for divers and draggers. For Zone 2, the SAC recommended a 15 gallon daily limit and a 70-day season. In Zone 3, a 50-day season was proposed and 17 potential days in the Whiting & Dennys Bays Limited Access Area.

While the resource may not be able to accommodate the full 70-day season, the SAC and the majority of the industry prefer to have the opportunity of fishing as many of the 70 days as possible given the many foul weather days in January and February that prevent industry members from safely accessing the resource. DMR will use emergency rulemaking authority to close areas in order to protect the scallop resource if unusual damage and/or imminent depletion become evident.

In addition, the DMR is proposing to implement a number of targeted closures based on depletion, seed, and the presence of spat-producing scallops which include Eastern Casco Bay, Damariscotta River, Ocean Point, Muscle Ridge (open two days per week), Lower Muscle Ridge, South Portland Harbor, Lower Broad Sound (Casco Bay), Sheepscot River and Muscongus Bay.

Finally, the proposed rule reorganizes the chapter to clarify the distinction between the statutory limits of the scallop season, open days, and the in-season closures of specific areas which are implemented in order to prevent unusual damage or imminent depletion of the resource.

Based upon comments received during the proposed rule-making process, the Department has changed the following items in the adoption documents:

- The Inner Harbor/Deep Hole area has been added as a Targeted Closure.
- A minor change to the boundaries of the Lower Jericho Bay, Lower Blue Hill Bay/Jericho Bay and East Isle Au Haut Rotational Areas.
- Removal of the reference to survey language for the implementation of Targeted Closures.
- Two Saturday Limited Access Area days were moved to from January to March in the Zone 1 dive calendar.

**Basis statement:**

This rulemaking is necessary to establish the 2015-2016 scallop season. The Department is adopting a 15 gallon daily limit and a 60-day season in Zone 1. This is a 10-day reduction from 2014-2015. Several targeted closures are also proposed for Zone 1, reflecting the need for further conservation measures to assist in rebuilding in this area of the state based on the recent spring survey information. Fifteen days are proposed in the Zone 1

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*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

Limited Access Areas for divers and draggers. For Zone 2, the Department is adopting 15 gallon daily limit and a 70-day season. In Zone 3, a 50-day season is established and 17 potential days in the Whiting & Dennys Bays Limited Access Area.

While the resource may not be able to accommodate the full 70-day season, the SAC and the majority of the industry prefer to have the opportunity of fishing as many of the 70 days as possible given the many foul weather days in January and February that prevent industry members from safely accessing the resource. DMR will use emergency rulemaking authority to close areas in order to protect the scallop resource if unusual damage and/or imminent depletion become evident.

In addition, the DMR is implementing a number of targeted closures based on depletion, seed, and the presence of spat-producing scallops which include Eastern Casco Bay, Damariscotta River, Ocean Point, Muscle Ridge (open two days per week), Lower Muscle Ridge, South Portland Harbor, Lower Broad Sound (Casco Bay), Sheepscot River and Muscongus Bay.

Finally, the rule reorganizes the chapter to clarify the distinction between the statutory limits of the scallop season, open days, and the in-season closures of specific areas which are implemented in order to prevent unusual damage or imminent depletion of the resource.

**Fiscal impact of rule:**

Enforcement of these proposed amendments would not require additional activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.

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*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §6171(3)  
**Chapter number/title:** Ch. 11, Scallops: 11.22, Targeted Closures (1), (12), (13), (14) - Muscle Ridge, Gouldsboro and Dyer Bays, Wohoa Bay and Jonesport Reach and Inner Machias Rotational Area  
**Filing number:** 2015-246  
**Effective date:** 12/13/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

The Commissioner adopts this emergency rule-making for the implementation of conservation closures located in Gouldsboro & Dyer Bays, Wohoa Bay & Jonesport Reach and Inner Machias Rotational Area in order to protect Maine's scallop resource due to the risk of unusual damage and imminent depletion. Scallop populations throughout the state are at extremely low levels. The Department is concerned that unrestricted harvesting during the remainder of the 2015-16 fishing season in these areas may deplete a severely diminished resource beyond its ability to recover. Continued harvesting may damage sublegal scallops that could be caught during subsequent fishing seasons, as well as reducing the brood stock essential to a recovery. These immediate conservation closures are necessary to reduce the risk of unusual damage and imminent depletion. For these reasons, the Commissioner hereby adopts an emergency closure of Maine's scallop fishery in Gouldsboro & Dyer Bays, Wohoa Bay & Jonesport Reach and Inner Machias Rotational Area as authorized by 12 MRS §6171(3). In addition, a clarification to the access in the Muscle Ridge Limited Targeted Closure is needed to ensure that access to this area does not overlap with that for the West Penobscot Bay Limited Access Area for both draggers and divers.

**Basis statement:**

The Maine scallop fishery was formerly a valuable winter/spring fishery providing a substantial source of income to fishing businesses at a time of year without many other fishing opportunities. The fishery experienced an all-time low in 2005, landing 33,141 meat pounds of scallop meats from Maine waters valued at \$272,703. The Department has been working closely with the Scallop Advisory Council and members of the industry for several years to rebuild a sustainable resource and provide economic opportunity in a limited fishery. Beginning in 2009, the DMR adopted a spatial management approach that has included targeted area closures and Limited Access Areas (LAA), and implemented a Rotational Management Plan accompanied by a 30% harvest target that when met would trigger in-season emergency management actions to ensure areas are not overfished and rebuilding continues. The combination of conservation measures appears to be effective as demonstrated by 605,224 meat pounds being landed in 2014 valued at \$7.7 million, a fifteen-fold increase in landings and an almost twenty one-fold increase in value from 2005, while the fishery has experienced a significant increase in active participation in recent years.

This season was undertaken with the understanding that the length of the season likely far exceeds what the resource can sustain, and that the Department may need to use emergency rule-making authority during the season to prevent overfishing. The industry, through the Scallop Advisory Council, requested that the Department provide the fishing opportunity up front, and make adjustments in-season as necessary. The Department was willing to take this approach in part because this fishery is prosecuted in the winter months, and proposing a very limited season could create an incentive to fish in unsafe conditions. The

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*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

Department emphasized that it will take action to continue to rebuild the scallop resource, as well as provide stability and predictability for the industry into the future. Therefore, the DMR expanded the trigger mechanism to the entire fishery in order to move towards a more sustainable harvest of the resource statewide so that when data indicate that 30% of the harvestable biomass has been removed from an area, it will be closed early via emergency action in order to ensure that the resource has the ability to replace what has been removed and continue to rebuild. Such action will ensure continued progress towards the goal of a sustainable, rebuilt fishery.

The Department seeks to take rule-making action to close the following targeted areas: Gouldsboro and Dyer Bays, Wohoa Bay and Jonesport Reach and Inner Machias Rotational Area. Based on direct input from Marine Patrol and independent industry participants, the level of fishing effort in these discrete areas during the fishing season has likely exceeded the 30% removal target that ensures the fishery continues to rebuild. Continued fishing threatens future recruitment of sublegal "seed" scallops in these areas and remaining broodstock scallops that are needed for successful spawning.

**Fiscal impact of rule:**

Enforcement of this amendment would not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.



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**Rules Adopted January 1, 2015 to December 31, 2015**  
*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Marine Resources  
**Umbrella-Unit:** 13-188  
**Statutory authority:** 12 MRS §6171(3)  
**Chapter number/title:** Ch. 45, Shrimp: 45.05, Shrimp Season Closure (moratorium)  
**Filing number:** 2015-247  
**Effective date:** 12/11/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

In November 2014, the Atlantic States Marine Fisheries Commission (ASMFC)'s Northern Shrimp Section approved a moratorium for the 2015 commercial fishery in response to the 2014 Stock Status Report, indicating record low fishable biomass.

On December 7, 2015, the Section met to review the 2015 stock status update, receive Advisory Panel input, and set fishery specifications for the 2016 fishing season. In developing the 2015 stock status update, the Northern Shrimp Technical Committee (NSTC) evaluated a suite of indicators including fishery performance, survey indices of abundance and biomass, and environmental conditions. Abundance and biomass indices for 2012-2015 were the lowest on record of the thirty-two year time series. Recruitment indices for the 2010-2014 year classes were also well below average, and included the three smallest year classes on record. As a result, the indices of fishable biomass from 2013-2015 are the lowest on record. The recruitment index increased slightly in the 2014 survey (2013 year class), however, in 2015 the index dropped to the lowest in the time series. Recruits of the 2013 and 2014 year classes are not expected to reach exploitable size until 2017 and 2018, respectively. Despite the marginal increase in the recruitment index in 2014, the population continues to meet the criteria defining a collapsed stock.

At the December 7th meeting, a motion was passed to approve a moratorium for the 2016 shrimp fishery. This emergency rulemaking is necessary for the timely implementation of a closure in order to conserve the shrimp fishery from unusual damage that would be caused by any fishing effort. As authorized by 12 M.R.S §6171 (3), the Commissioner of Marine Resources adopts this emergency regulation due to the risk of unusual damage and imminent depletion of the shrimp resource that would occur if any fishing were to occur during a necessary closed season.

**Basis statement:**

In November 2014, the Atlantic States Marine Fisheries Commission (ASMFC)'s Northern Shrimp Section approved a moratorium for the 2015 commercial fishery in response to the 2014 Stock Status Report, indicating record low fishable biomass.

On December 7, 2015, the Section met to review the 2015 stock status update, receive Advisory Panel input, and set fishery specifications for the 2016 fishing season. In developing the 2015 stock status update, the Northern Shrimp Technical Committee (NSTC) evaluated a suite of indicators including fishery performance, survey indices of abundance and biomass, and environmental conditions. Abundance and biomass indices for 2012-2015 were the lowest on record of the thirty-two year time series. Recruitment indices for the 2010-2014 year classes were also well below average, and included the three smallest year classes on record. As a result, the indices of fishable biomass from 2013-2015 are the lowest on record. The recruitment index increased slightly in the 2014 survey (2013 year class), however, in 2015 the index dropped to the lowest in the time series. Recruits of the 2013 and 2014 year classes are not expected to reach exploitable size until 2017 and 2018, respectively. Despite the

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*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

marginal increase in the recruitment index in 2014, the population continues to meet the criteria defining a collapsed stock.

At the December 7th meeting, a motion was passed to approve a moratorium for the 2016 shrimp fishery. This emergency rule-making is necessary for the timely implementation of a closure in order to conserve the shrimp fishery from unusual damage that would be caused by any fishing effort. As authorized by 12 MRS §6171(3), the Commissioner of Marine Resources adopts this emergency regulation due to the risk of unusual damage and imminent depletion of the shrimp resource that would occur if any fishing were to occur during a necessary closed season.

**Fiscal impact of rule:**

Enforcement of the regulation would not require measurable additional activity in this Agency. Existing enforcement personnel would monitor compliance during their routine patrols.