

Notice of Agency Rule-making Proposal

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 115 *Vibrio parahaemolyticus* Control Plan

TYPE OF RULE (*check one*): Routine Technical Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY: This proposed regulation would add specified areas of the Weskeag River to existing vibrio control areas. The addition of the Weskeag River is intended to reduce the likelihood that American and European oysters (*Crassostrea virginica* and *Ostrea edulis*) and hard clams (*Mercenaria mercenaria*) harvested from the Weskeag River will cause *Vp* infections in consumers. The Maine Department of Marine Resources recognizes that this area has the environmental characteristics (primarily water and air temperature and salinity) that potentially pose a threat to public health with regard to *Vp* infections. Research indicates that the most reliable way to minimize potential *Vp* illnesses is to utilize time and temperature controls.

Date, time and location of PUBLIC HEARING (*if any*): March 14, 2022, 4:00 p.m., held remotely via Microsoft Teams. Remote access information is posted to DMR's website under "Meetings." If the March 14th hearing is postponed it will be held on March 17th at the same time and format. Notice of a cancellation would be posted to DMR's website.

COMMENT DEADLINE: March 27, 2022

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

NAME: Amanda Ellis

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

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*): Same

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): None

STATUTORY AUTHORITY FOR THIS RULE: 12 M.R.S. §6171-A

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different*): Same

AGENCY WEBSITE: <http://www.maine.gov/dmr/rulemaking/>

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: dmr.rulemaking@maine.gov

DEPARTMENT OF MARINE RESOURCES

Chapter 115 - *Vibrio parahaemolyticus* Control Plan

115.02 Control Months and Designated Control Areas

The *Vibrio* Control Plan is in effect from June 1st through October 15th, inclusive, in the designated control areas:

- A. all parts of the Damariscotta River north of a line beginning at Montgomery Point, Boothbay and running southeast to Jones Point, South Bristol
- B. all parts of the Sheepscot River north of Route 1
- C. all parts of the New Meadows River north of Bath/State Rd in Brunswick and West Bath
- D. all parts of the Scarborough and Nonesuch Rivers north of a line beginning at the eastern tip of Pine Point Beach, Scarborough and running east to the opposite shore on Prouts Neck, Scarborough
- E. all parts of Spinney Creek north of Route 103
- F. all parts of the Weskeag River north of a line beginning at the shore at the end of Ballyhac Rd. in Owls Head, running west to the north tip of Spaulding Island, then west to the opposite shore at Pleasant Beach in South Thomaston

A mandatory harvest/purchase plan must be submitted annually by April 1st in accordance with section 115.04 (E).

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 115 *Vibrio parahaemolyticus* Control Plan

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

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

This proposed rule incorporates designated portions of the Weskeag River into the existing *Vibrio parahaemolyticus* (*Vp*) control plan in order to reduce the likelihood that American and European oysters (*Crassostrea virginica* and *Ostrea edulis*) and hard clams (*Mercenaria mercenaria*) harvested from these areas will cause *Vp* infections in consumers.

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

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

The proposed regulations would apply to persons engaged in the harvesting and handling of American and European oysters and hard clams grown in the designated control area.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE

The designated areas of the Weskeag River have the environmental characteristics (primarily water and air temperature and salinity) that potentially pose a threat to public health with regard to *Vp* infections. Research indicates that the most reliable way to minimize potential *Vp* illnesses is to utilize time and temperature controls.

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.

Note: If necessary, additional pages may be used.