

# NOTICE OF AGENCY RULE-MAKING ADOPTION

**AGENCY:** Department of Marine Resources

**CHAPTER NUMBER AND TITLE:** Chapter Number and Title of Rule:

Chapter 115 *Vibrio parahaemolyticus* Control Plan  
Chapter 9 Harvester: Shellstock Harvesting, Handling and Sanitation  
Chapter 15 General Shellfish Sanitation Requirements  
Chapter 16 Uniform Physical Plant Equipment and Operation Requirements  
Chapter 17 Shucker-Packer  
Chapter 18 Shellstock Shipper  
Chapter 19 Reshipper  
Chapter 20 Depuration  
Chapter 22 Retail Shellfish

**ADOPTED RULE NUMBER:**

**CONCISE SUMMARY:**

The enactment of Chapter 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 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, exempting Limited Purpose Aquaculture license holders who are harvesting from their license site. The regulations will go into effect on January 1, 2016. Chapters 9, 15,16,17,18,19,20,22 are amended to include reference to the newly enacted Chapter 115. Minor clarifications in Chapter 15 are also included.

As authorized by 12 M.R.S. § 6171-A, the Commissioner of Marine Resources adopts this regulation.

**EFFECTIVE DATE:** October 26, 2015

**AGENCY CONTACT PERSON:** Kohl Kanwit (207) 633-9535  
**AGENCY NAME:** Department of Marine Resources  
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DEPARTMENT OF MARINE RESOURCES

CHAPTER 115

*Vibrio parahaemolyticus* CONTROL PLAN

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## DEPARTMENT OF MARINE RESOURCES

### Chapter 115 - *Vibrio parahaemolyticus* Control Plan

#### 115.01 Compliance

The *Vibrio parahaemolyticus* Control Plan (the “Vibrio Control Plan” or the “Control Plan”) applies specifically to American and European Oysters (*Crassostrea virginica* and *Ostrea edulis*) and Hard Clams (*Mercenaria mercenaria*) harvested from the Damariscotta River. The Control Plan provides additional and more rigorous controls than those imposed by DMR Rules Chapters 9, 15, 16, 17, 18, 19, 20 and 22 to the handling of American and European Oysters and Hard Clams in the area described in Section 115.02. Insofar as the Control Plan time and temperature requirements exceed those imposed by existing rules or are in addition to those imposed by existing rules, the relevant provisions of the Control Plan shall supersede the provisions of Chapters 9, 15, 16, 17, 18, 19, 20 and 22.

The Control Plan shall be complied with during the harvesting and handling of the above-described species, as conducted by harvesters, certified shellstock dealers, certified shellfish establishments (sometimes referred to as shellfish facilities or plants), shucker-packers, shellstock shippers and receivers, reshippers, depuration processors, enhanced retail seafood license holders and all others involved in the processes described in Chapters 9, 15, 16, 17, 18, 19, 20 and 22.

#### 115.02 Control Months and Locations

The Vibrio Control Plan is in effect from May 1<sup>st</sup> through October 31<sup>st</sup>, inclusive, in all parts of the Damariscotta River north of a line beginning at Montgomery Point, Boothbay and running southeast to Jones Point, South Bristol. A mandatory harvest plan must be submitted annually by March 1 in accordance with section 115.04 (F).

#### 115.03 Definitions

“**Adequately iced**” means that the amount and application of ice is sufficient to ensure that immediate cooling begins and continues for all shellstock in a container. If ice slurry is used and the shellstock are submerged, the presence of ice in the slurry indicates adequate icing. Potable water must be used for the production of ice used for cooling of shellstock.

“**Control months**” means May 1<sup>st</sup> through October 31<sup>st</sup>, inclusive

“**Harvest**” means the act of removing shellstock from growing area waters and its placement on or in a manmade conveyance or other means of transport or transfer. This does not include the placement of shellstock in aquaculture gear designed to grow or enhance shellstock as part of husbandry practices.

“**Husbandry**” means the production, development, or improvement of a marine organism.

“**Mechanical Refrigeration**” means storage in a container or conveyance that is approved by the Maine Department of Marine Resources (DMR) and capable of cooling to, and maintaining, an ambient temperature of 45°F or less.

“**Potable water**” means a water supply which meets the requirements of the Safe Drinking Water Act, as administered by the EPA and which meets the requirements of DMR Chapters 15-20.

“**Resubmerge**” means, and is strictly limited to, reintroduction of shell stock into approved waters following the removal of shellstock from approved waters. This is separate and distinct from “wet

storage” which is a certified dealer activity. Resubmergence shall be conducted only by an aquaculture lease holder or a certified dealer.

“Shading” means to shelter by intercepting the direct rays of the sun to protect the shellstock from heat. Shading may be accomplished by any means that effectively protects the harvested shellstock from direct sunlight and prevents excessive heat build-up in the shaded area.

“Temperature control” means the use of ice or mechanical refrigeration, which is capable of lowering the temperature of the shellstock and maintaining it at an internal temperature of 50°F or less.

“Time of harvest” for the purpose of temperature control begins once the first shellstock is no longer submerged. For example, the time intertidal shellstock are first exposed to the air as the tide recedes or the time when a drag is brought onboard a vessel with shellstock from a subtidal resource.

“Vp” and “Vibrio” refer to *Vibrio parahaemolyticus*

#### 115.04 General Requirements

- A. Deterioration and Decomposition. Harvesters shall not allow shellstock to deteriorate or decompose from exposure to high ambient air temperatures and shall deliver shellstock to a certified shellfish dealer before such deterioration or decomposition occurs.

Certified shellfish dealers shall not allow shellstock to deteriorate or decompose from exposure to high ambient air temperatures and shall deliver shellstock to a certified shellfish dealer or retail customer before such deterioration or decomposition occurs.

- B. Sales from Home Prohibited. Notwithstanding the provisions of 12 MRS §6601 (2), during the control months it is unlawful for harvesters to sell from their homes oysters and hard clams that have been taken from the Damariscotta River.
- C. Recreational Harvest Prohibited. It is unlawful to engage in the recreational harvest of oysters and hard clams harvested from the Damariscotta River during the control months. Provided, however, that the prohibition against recreational harvest shall not apply to those holding a Limited Purpose Aquaculture license for shellfish taken from their license site.
- D. Mandatory Training. All harvesters and certified shellfish dealers who take oysters and/or hard clams or purchase oysters and/or hard clams from the Damariscotta River shall participate in an annual, mandatory training provided by the DMR. Any harvester or dealer whose product is implicated in an epidemiologically linked case of Vibrio shall take a refresher training provided by DMR.
- E. Mandatory Ambient Air Temperature Records. All harvesters who take oysters and/or hard clams from the Damariscotta River shall use one of two methods to record ambient air temperature: a continuous ambient air temperature data recorder with a record on the harvester’s temperature collection data sheet of the air temperature at the time of harvest and at the end of harvest activities; or data collected from a DMR-designated weather station with a record of the air temperature at the time of harvest and at the end of harvest activities. Any harvester or dealer whose product is implicated in an epidemiologically linked case of Vp shall provide their continuous ambient air temperature data recorder to DMR for review.
- F. Mandatory Vp Harvest Plan By March 1. All harvesters and certified shellfish dealers who take oysters and/or hard clams or wet store oysters and/or hard clams from the Damariscotta River shall submit to DMR a Vp harvest plan. This plan must be submitted on or before March 1<sup>st</sup> annually in order to be able to operate during the control months. The harvest plan must be reviewed, amended if necessary, signed and dated by the harvester or shellfish dealer before submission to DMR. The DMR will approve or deny the plan within 30 days and notify the applicant in writing of their decision. If the plan is denied, the applicant will have an opportunity to

correct the deficiencies. Harvesters and shellfish dealers may not harvest or wet store oysters or hard clams during the control months without a DMR approved harvest plan. The harvest plan must include:

1. Harvest process from time of harvest to delivery to a certified shellfish dealer for wet storage or achievement of an internal temperature of 50°F.
2. Temperature collection including recording the daily air temperature at the start of harvest activities and at the end of harvest activities. An example data sheet should be included with the harvest plan.
3. Cooling processes such as resubmergence procedures, shading, wetting, icing and wet storage.
4. Product handling and data recording including documentation of temperature history and resubmergence times. Details on how lots are identified and kept separate depending on their exposure history must be included. An example data sheet should be included with the harvest plan.
5. Conveyance methods including how shellstock are held and transported from time of harvest to point of sale, resubmergence or wet storage.

#### 115.05 Harvest Restrictions During Control Months

All oysters and hard clams shall be transferred to a certified shellfish dealer within five (5) hours of the time of harvest and put into temperature control.

All oysters and hard clams shall be subject to shading immediately after harvest.

All oysters and hard clams that are harvested and exposed to ambient temperatures for more than five (5) hours but less than twelve (12) hours must be resubmerged or wet stored by a certified shellfish dealer for no less than 24 hours.

All oysters that are harvested and exposed to ambient temperatures for twelve (12) hours or more must be resubmerged or wet stored for no less than seven (7) days or 168 hours.

#### 115.06 Additional Harvest Restrictions During Control Months For 80° F and above Air Temperatures

The temperature shall be determined at the time of harvest using a continuous ambient air temperature data recorder or data from a DMR-designated weather station and recorded on the temperature collection data sheet.

All oysters and hard clams shall be transferred to a certified shellfish dealer within two (2) hours of the time of harvest and put into temperature control.

All oysters and hard clams shall be subject to shading immediately after harvest.

All oysters and hard clams that are harvested and exposed to ambient temperatures for more than two (2) hours but less than twelve (12) hours must be resubmerged or wet stored by a certified shellfish dealer for no less than twenty-four (24) hours.

All oysters that are harvested and exposed to ambient temperatures for twelve (12) hours or more must be resubmerged or wet stored for no less than seven (7) days or 168 hours.

#### 115.07 Noncompliance

Shellstock received by a certified dealer without time of harvest recorded on the harvest tag shall be resubmerged in an approved wet storage system for seven (7) days or 168 hours or destroyed.

#### 115.08 Reporting of Violations

Harvesters and certified shellfish dealers are required to report observed violations of the Damariscotta River Vibrio Control Plan immediately to Marine Patrol.

115.09 Effective Date

The effective date of Chapter 115 shall be January 1, 2016.

EFFECTIVE DATE: January 1, 2016

## DEPARTMENT OF MARINE RESOURCES

### Chapter 9 – Harvester Shellstock Harvesting, Handling and Sanitation

#### 9.01 Compliance

- G. The *Vibrio parahaemolyticus* Control Plan (the “Vibrio Control Plan” or the “Control Plan”) applies specifically to American and European Oysters (*Crassostrea virginica* and *Ostrea edulis*) and Hard Clams (*Mercenaria mercenaria*) harvested from the areas described in Chapter 115.02. The Control Plan provides additional and more rigorous controls than those imposed by DMR Rules Chapters 9, 15, 16, 17, 18, 19, 20 and 22 to the handling of American and European Oysters and Hard Clams in the affected areas. Insofar as the Control Plan time and temperature requirements exceed those imposed by existing rules or are in addition to those imposed by existing rules, the relevant provisions of the Control Plan shall supersede the provisions of Chapters 9, 15, 16, 17, 18, 19, 20 and 22.

The Control Plan shall be complied with during the harvesting and handling of the above-described species, as conducted by harvesters, certified shellstock dealers, certified shellfish establishments (sometimes referred to as shellfish facilities or plants), shucker-packers, shellstock shippers and receivers, reshippers, depuration processors, enhanced retail seafood license holders and all others involved in the processes described in Chapters 9, 15, 16, 17, 18, 19, 20 and 22.

## DEPARTMENT OF MARINE RESOURCES

### Chapter 15 – General Shellfish Sanitation Requirements

#### 15.01 Compliance

- A. Each dealer shall comply with the requirements specified in Chapters 15 through 20 as appropriate to the plant and the shellfish being processed.
- B. The Vibrio parahaemolyticus Control Plan (the “Vibrio Control Plan” or the “Control Plan”) applies specifically to American and European Oysters (Crassostrea virginica and Ostrea edulis) and Hard Clams (Mercenaria mercenaria) harvested from the areas described in Chapter 115.02. The Control Plan provides additional and more rigorous controls than those imposed by DMR Rules Chapters 9, 15, 16, 17, 18, 19, 20 and 22 to the handling of American and European Oysters and Hard Clams in the affected areas. Insofar as the Control Plan time and temperature requirements exceed those imposed by existing rules or are in addition to those imposed by existing rules, the relevant provisions of the Control Plan shall supersede the provisions of Chapters 9, 15, 16, 17, 18, 19, 20 and 22.

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#### 15.03 Regulated Activity

- A. Any person who receives, buys, purchases, possesses, processes, sells, ships, shucks, or transports shellfish in any form for other than personal use within or across State of Maine boundaries must hold a certificate from the Department, as required by 12 M.R.S. §6856 or 12 M.R.S. §6852.
1. Exception – Common Carrier. A common carrier licensed by the Federal Highway Administration, as defined in §6001(8) may possess, ship or transport shellfish without a Department shellfish sanitation certificate.
  2. Exception – Commercial Shellfish Harvester. A commercial shellfish harvester licensed pursuant to §6601 may possess or transport shellstock within the state limits or sell shellstock he or she has taken from open areas to a wholesale seafood license holder certified under 12 M.R.S. §6856 or an Enhanced Retail Certificate holder under 12 M.R.S. §6852. ~~A licensed harvester~~ The holder of a commercial shellfish license may also sell shellstock the holder has harvested in the retail trade from his or her home or aquaculture site ~~which the license holder has taken from his home~~ in accordance with 12 M.R.S. §6601.
  3. Exception – Land Based Aquaculture. In accordance with MO Chapter VI.01 Shellfish Aquaculture, a land based aquaculture facility operator/owner is exempt from being a dealer when nursery shellstock are 6 months or more growing time from market size.

#### 15.18 Shellfish Tagging and Labeling Requirements

- D. It shall be unlawful for any person or persons other than the certified dealer or the certified dealer’s agent or employee to be in possession of new or unused certified dealer tags. Certified dealers may not provide dealer tags to anyone other than that certified dealer’s agent or employee.



## DEPARTMENT OF MARINE RESOURCES

### Chapter 16 – Uniform Physical Plant Equipment and Operation Requirements

#### 16.01 Compliance

- A. Each dealer shall comply with all laws and regulations relating to shellfish handling and sanitation, including, but not limited to, the requirements specified in Chapter 15, Chapter 17, Chapter 18, Chapter 19 and Chapter 20 that are appropriate to the plant and the food being processed.
- B. The *Vibrio parahaemolyticus* Control Plan (the “Vibrio Control Plan” or the “Control Plan”) in Chapter 115 applies specifically to American and European Oysters (*Crassostrea virginica* and *Ostrea edulis*) and Hard Clams (*Mercenaria mercenaria*) harvested from the areas described in Chapter 115.02. The Control Plan provides additional and more rigorous controls than those imposed by DMR Rules Chapters 9, 15, 16, 17, 18, 19, 20 and 22 to the handling of American and European Oysters and Hard Clams in the affected areas. Insofar as the Control Plan time and temperature requirements exceed those imposed by existing rules or are in addition to those imposed by existing rules, the relevant provisions of the Control Plan shall supersede the provisions of Chapters 9, 15, 16, 17, 18, 19, 20 and 22.

The Control Plan shall be complied with during the harvesting and handling of the above-described species, as conducted by harvesters, certified shellstock dealers, certified shellfish establishments (sometimes referred to as shellfish facilities or plants), shucker-packers, shellstock shippers and receivers, reshippers, depuration processors, enhanced retail seafood license holders and all others involved in the processes described in Chapters 9, 15, 16, 17, 18, 19, 20 and 22.

## DEPARTMENT OF MARINE RESOURCES

### Chapter 17 Shucker-Packer

#### 17.01 Compliance

- A. Each dealer shall comply with all shellfish laws and regulations relating to shellfish handling and sanitation, including, but not limited to, the requirements specified in Chapter 15, Chapter 16, and Chapter 18 that are appropriate to the plant and the food being processed.
- B. The Vibrio parahaemolyticus Control Plan (the “Vibrio Control Plan” or the “Control Plan”) in Chapter 115 applies specifically to American and European Oysters (Crassostrea virginica and Ostrea edulis) and Hard Clams (Mercenaria mercenaria) harvested from the areas described in Chapter 115.02. The Control Plan provides additional and more rigorous controls than those imposed by DMR Rules Chapters 9, 15, 16, 17, 18, 19, 20 and 22 to the handling of American and European Oysters and Hard Clams in the affected areas. Insofar as the Control Plan time and temperature requirements exceed those imposed by existing rules or are in addition to those imposed by existing rules, the relevant provisions of the Control Plan shall supersede the provisions of Chapters 9, 15, 16, 17, 18, 19, 20 and 22.

The Control Plan shall be complied with during the harvesting and handling of the above-described species, as conducted by harvesters, certified shellstock dealers, certified shellfish establishments (sometimes referred to as shellfish facilities or plants), shucker-packers, shellstock shippers and receivers, reshippers, depuration processors, enhanced retail seafood license holders and all others involved in the processes described in Chapters 9, 15, 16, 17, 18, 19, 20 and 22.

## DEPARTMENT OF MARINE RESOURCES

### Chapter 18 Shellstock Shipping

#### 18.01 Compliance

- A. Each dealer shall comply with all shellfish laws and regulations relating to shellfish handling and sanitation, including, but not limited to, the requirements specified in Chapter 15, Chapter 16 and Chapter 17 that are appropriate to the plant and the food being processed.
- B. The Vibrio parahaemolyticus Control Plan (the “Vibrio Control Plan” or the “Control Plan”) in Chapter 115 applies specifically to American and European Oysters (Crassostrea virginica and Ostrea edulis) and Hard Clams (Mercenaria mercenaria) harvested from the areas described in Chapter 115.02. The Control Plan provides additional and more rigorous controls than those imposed by DMR Rules Chapters 9, 15, 16, 17, 18, 19, 20 and 22 to the handling of American and European Oysters and Hard Clams in the affected areas. Insofar as the Control Plan time and temperature requirements exceed those imposed by existing rules or are in addition to those imposed by existing rules, the relevant provisions of the Control Plan shall supersede the provisions of Chapters 9, 15, 16, 17, 18, 19, 20 and 22.

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## DEPARTMENT OF MARINE RESOURCES

### Chapter 19 Reshipping

#### 19.01 Compliance

- A. Each dealer shall comply with all shellfish laws and regulations relating to shellfish handling and sanitation, including, but not limited to, the requirements specified in Chapter 15 and Chapter 16 that are appropriate to the plant and the food being processed.
- B. The Vibrio parahaemolyticus Control Plan (the “Vibrio Control Plan” or the “Control Plan”) in Chapter 115 applies specifically to American and European Oysters (Crassostrea virginica and Ostrea edulis) and Hard Clams (Mercenaria mercenaria) harvested from the areas described in Chapter 115.02. The Control Plan provides additional and more rigorous controls than those imposed by DMR Rules Chapters 9, 15, 16, 17, 18, 19, 20 and 22 to the handling of American and European Oysters and Hard Clams in the affected areas. Insofar as the Control Plan time and temperature requirements exceed those imposed by existing rules or are in addition to those imposed by existing rules, the relevant provisions of the Control Plan shall supersede the provisions of Chapters 9, 15, 16, 17, 18, 19, 20 and 22.

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## DEPARTMENT OF MARINE RESOURCES

### Chapter 20 Depuration

#### 20.01 Compliance

- A. Each depuration processor must comply with the requirements specified in Chapter 15, Chapter 16, and Chapter 18 that are appropriate to the plant and the shellfish being processed.
- B. The *Vibrio parahaemolyticus* Control Plan (the “Vibrio Control Plan” or the “Control Plan”) in Chapter 115 applies specifically to American and European Oysters (*Crassostrea virginica* and *Ostrea edulis*) and Hard Clams (*Mercenaria mercenaria*) harvested from the areas described in Chapter 115.02. The Control Plan provides additional and more rigorous controls than those imposed by DMR Rules Chapters 9, 15, 16, 17, 18, 19, 20 and 22 to the handling of American and European Oysters and Hard Clams in the affected areas. Insofar as the Control Plan time and temperature requirements exceed those imposed by existing rules or are in addition to those imposed by existing rules, the relevant provisions of the Control Plan shall supersede the provisions of Chapters 9, 15, 16, 17, 18, 19, 20 and 22.

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## DEPARTMENT OF MARINE RESOURCES

### Chapter 22 RETAIL SHELLFISH

#### 22.01 Enhanced Retail Seafood license holders - compliance

- H. The Vibrio parahaemolyticus Control Plan (the “Vibrio Control Plan” or the “Control Plan”) in Chapter 115 applies specifically to American and European Oysters (Crassostrea virginica and Ostrea edulis) and Hard Clams (Mercenaria mercenaria) harvested from the areas described in Chapter 115.02. The Control Plan provides additional and more rigorous controls than those imposed by DMR Rules Chapters 9, 15, 16, 17, 18, 19, 20 and 22 to the handling of American and European Oysters and Hard Clams in the affected areas. Insofar as the Control Plan time and temperature requirements exceed those imposed by existing rules or are in addition to those imposed by existing rules, the relevant provisions of the Control Plan shall supersede the provisions of Chapters 9, 15, 16, 17, 18, 19, 20 and 22.

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# Basis Statement

Chapter 115 *Vibrio parahaemolyticus* Control Plan  
Chapter 9 Section 9.01 Harvester: Shellstock Harvesting, Handling and Sanitation  
Chapter 15 Section 15-01 General Shellfish Sanitation Requirements  
Chapter 16 Section 16.01 Uniform Physical Plant Equipment and Operation Requirements  
Chapter 17 Section 17.01 Shucker-Packer  
Chapter 18 Section 18.01 Shellstock Shipper  
Chapter 19 Section 19.01 Reshipper  
Chapter 20 Section 20.01 Depuration  
Chapter 22 Section 22.01 Retail Shellfish

The enactment of Chapter 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.

Chapters 9, 15,16,17,18,19,20,22 are amended to include reference to the newly enacted Chapter 115. Minor changes in Chapter 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.

# Summary of Comments

Chapter 115 *Vibrio parahaemolyticus* Control Plan  
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## **Comments received:**

A public hearing was held on July 22, 2015, 5:00 pm at the Department of Marine Resources Boothbay Harbor Facility, 194 McKown Point Road, West Boothbay Harbor. No comments were received at the public hearing.

## Written comments received:

David Cheney (by email): Jones cove and point are locations in South Bristol's Damarsicotta River, not in Bristol. I said this in the meeting at DMR in Boothbay summer of 2015. This area is mentioned on closure areas and it's confusing. It may help people if updated.

*DMR Response:* This is a helpful clarification and the regulation has been amended accordingly to change "Bristol" to "South Bristol".

Minor clarifications in Chapter 115 and Chapter 15 as identified in the Basis Statement are based on feedback from DMR staff and Maine Marine Patrol.



# Rule-Making Fact Sheet

(5 M.R.S.A., §8057-A)

AGENCY: Department of Marine Resources

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

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

DATE AND PLACE OF PUBLIC HEARINGS: July 22, 2015, 5:00 pm at the Department of Marine Resources Boothbay Harbor Facility, 194 McKown Point Road, West Boothbay Harbor

DEADLINE FOR COMMENTS: August 3, 2015

**PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:**

The enactment of Chapter 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 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, exempting Limited Purpose Aquaculture license holders who are harvesting from their license site. The regulations will go into effect on January 1, 2016. Chapters 9, 15, 16, 17, 18, 19, 20, 22 are amended to include reference to the newly enacted Chapter 115. Minor clarifications in Chapter 15 are also included.

**ANALYSIS AND EXPECTED OPERATION OF THE RULE:** The proposed regulations would apply to persons growing oysters or hard clams within the area of the Damariscotta River described above.

**FISCAL IMPACT OF THE RULE:**

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