

NORTHEAST REGION
STATE PROGRAMS BRANCH**MEMORANDUM**

DATE : March 25, 1998
FROM: Ira J. Somerset, Regional Shellfish Specialist, NER
SUBJECT: Maine Growing Area Evaluation
TO: Maine files - FY 98

Following the requirements of the F-98 Compliance Program, an evaluation of the survey and classification of the most productive areas in Maine was conducted. The 1998 Compliance Program specified that five growing areas (minimum) of highest productivity per state would be evaluated. The Compliance Program provided references to the specific statements in the Manual of Operations (1995) that were applicable. The questions supplied in the 1996 Compliance Program were used to determine if the management plans and the annual evaluations met the requirements of the NSSP. Additional questions were developed for the requirements that were not addressed by the earlier CP.

One question that was raised but remains unanswered relates to the effective date/time of openings. It appears that openings are effective upon signature of the legal notice, but no time is entered. That could be interpreted as legalizing harvest for the whole day, even if the opening notice was signed late in the afternoon. Making the openings effective the morning after they are signed by the Commissioner would promote a more equitable opportunity for all interested parties (harvesters and Marine Patrol Officers) to be notified of the change in status of the area(s).

Area ED - Isle Au Haut

This is a remote approved area. An island with no closures, a large seasonal population with inground sewage disposal systems. All overboard discharges have been eliminated. Shellfish resources consist of mussels, softshell clams and surf clams. The last sanitary survey was conducted in August, 1997. Although no annual update was required, one was completed for this area. All requirements of the NSSP were met in the sanitary survey.

The following observations were made regarding the annual update:

- * There was no identification of the person responsible for the evaluation. All evaluative documents should contain the evaluator's name.
- * It was stated in the summary portion that there were classification changes, but there had been a reclassification from Prohibited to Approved. The summary was corrected immediately.

Area EI - Frenchman's Bay

This is a very large area which includes restricted and seasonally conditional portions.

Bar Island Bar is a highly productive soft shell clam harvest area which is seasonally restricted (March through May). There are five WWTP's and a cluster overboard sand filter system. The last sanitary survey was conducted in September, 1995, and updated in 1997. All requirements of the NSSP were met in the sanitary survey. The limited seasonal opening was predicated on a mooring field adjacent to the bar which is used during the summer, and no discharge of the combined sewer overflow for more than 48 hours prior to allowing harvesting.

The classification upgrade was based on a review of the data and shoreline survey information. However, there was no written justification in the form of a sanitary survey. There was an addendum to the survey for the seasonally restricted area reclassification.

There was some misunderstanding of the criteria for classifying the harvest areas in that for some reason the geometric means were not considered, only the P_{90} was calculated. However, the geometric means met the NSSP criteria.

Section III of the Conditional Area Management Plan should be rewritten to require immediate closure following any CSO discharge. Although it was the intent of the management plan, the required action is not clearly specified.

Area ER - Machias River

This is a large, complex area which includes approved, conditionally approved and prohibited harvest areas. The sanitary survey is conducted in three parts due to the size of the area. The information is assembled in draft form until the work is completed and the report written. The draft report is dated January, 1997. The Conditional Area Management Plan was being updated at the time of this review. The comments on the annual update made last year are being addressed in the current evaluation. All requirements of the NSSP were met in the sanitary survey.

The following observations were made:

- * The upgrade of the Machias River from prohibited to conditionally approved was based on information not presented in the draft sanitary survey or the addendum.
- * There was some misunderstanding of the criteria for classifying the harvest areas in that for some reason the geometric means were not considered, only the P_{90} was calculated. However, the geometric means met the NSSP criteria.
- * There was information relating to the use of Guthion and Valpar to the blueberry areas, but no information relating to the possible accumulation of these pesticides in the shellfish.
- * The addendum is a discussion of the changed status of the area, not a sanitary survey or data analysis and information evaluation to justify the upgrade in classification.
- * The conditions that trigger a closure must be clearly defined in the Conditional Area Management Plan (e.g., weekends if there is any interruption in treatment; workdays the situation will be assessed by the DMR Specialist).
- * The criteria to reopen (see below) are not consistent with the NSSP requirements for an approved area (Part I, Section C.3.c), which addresses variability at each station in the area. The reopening criteria are concerned with variability across the area. If there are shellfish in the portion of the area that exceeds the 14 FC, they may not meet the criterion to provide time for the shellfish to cleanse themselves after the area has been flushed of the contamination (Appendix K, Section V.4). Perhaps those portions of the area that meet the approved area criteria should be reopened.

a) There are fewer than 5 stations in the area: all must be <14 FC MPN /

- 100 mls.
- b) There are more than 5 stations in the area: 20% may be >14 FC MPN / 100 mls, but none may exceed 49 FC MPN / 100 mls.
 - c) When results suggest that an area needs to remain closed, all stations will be resampled.

Conclusions and Recommendations

All evaluative documents should contain the evaluator's name.

The upgrade of the Machias River was based on information not presented in the draft sanitary survey or the addendum. The sanitary survey report must be completed prior to upgrading the classification of any area.

The recognition of the application of Guthion and Valpar in Area ER is very important, but must be followed by evaluation of the potential effect on shellfish consumers. Do these chemicals accumulate in shellfish? Are the levels within the "safe" range?

Data collected under the Systematic Random Sampling Protocol must meet the 14 FC geometric mean and the 49 FC P₉₀, not just the 49 FC P₉₀.

The addendums to the sanitary surveys are discussions of the changed status, not a sanitary survey or analysis of data and evaluation of information to justify an upgrade in classification.

Although the format for the Conditional Area Management Plan is not consistent with the operation of conditional areas in Maine, the information required in Part III should describe the response required in two situations:

nights and weekends - immediate closure if there is any interruption in treatment; and
workdays - the situation will be assessed by the DMR Specialist.

The criteria to reopen are not consistent with the NSSP requirements for an approved area (Part I, Section C.3.c), which addresses variability at each station in the area. The reopening criteria are concerned with variability across the area. If there are shellfish in the portion of the area that exceeds the 14 FC, they may not meet the criterion to provide time for the shellfish to cleanse themselves after the area has been flushed of the contamination (Appendix K, Section V.4).

In Area EI, Section III of the Conditional Area Management Plan should be rewritten to require immediate closure following any CSO discharge. Although it was the intent of the management plan, the required action is not clearly specified.

PROGRAM ELEMENT EVALUATION REPORT

Maine Water Quality Program

State: Maine

Date of Evaluation: February, 1998

Program Element Evaluated: Water Quality

A. Previous deficiencies

No continuing deficiencies.

B. Total number of growing areas - 34

C. Number of areas evaluated

The 1998 Compliance Program specified that a minimum of five growing areas of highest productivity per state would be evaluated. The Compliance Program provided references to the specific statements in the Manual of Operations (1995) that were applicable. The questions supplied in the 1996 Compliance Program were used to determine if the management plans and the annual evaluations met the requirements of the NSSP. Additional questions were developed for the requirements that were not addressed by the earlier CP.

D. Areas evaluated

Area ED - Isle Au Haut
Area EI - Frenchman's Bay
Area ER - Machias River

E. Deficiencies

See attached memo for deficiencies and recommendations.

F. State actions

The DMR is making efforts to standardize the growing area evaluation and reporting procedures, ~~and~~ requirements for WWTP auditing and reporting.

G. Time frames and commitments

These are ongoing efforts, aimed at perfecting the process and procedures.

H. State accomplishments

To be presented with the response.

I. Special projects, training programs, etc. provided to state

Consultation as needed.