

**NOTICE OF AGENCY RULE-MAKING ADOPTION**

**AGENCY:** Department of Marine Resources

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

**CONCISE SUMMARY:**

This regulation incorporates 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.

**ADOPTED RULE NUMBER:**

(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

**EFFECTIVE DATE:**

(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

**AGENCY CONTACT PERSON:** Amanda Ellis (207) 624-6573  
**AGENCY NAME:** Department of Marine Resources  
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*Please approve bottom portion of this form and assign appropriate MFASIS number.*

APPROVED FOR PAYMENT \_\_\_\_\_ DATE: \_\_\_\_\_  
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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 1<sup>st</sup> through October 15<sup>th</sup>, 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 1<sup>st</sup> 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:

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

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

DATE AND PLACE OF PUBLIC HEARING(S): March 14, 2022, 4:00 p.m., held remotely via Microsoft Teams. Remote access information is posted to DMR's website under "Meetings."

COMMENT DEADLINE: March 27, 2022

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 \_\_\_  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.*

## **Basis Statement**

This regulation incorporates 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. This regulation is necessary to minimize threats to public health posed by *Vp* infections.

## **Summary of Comments**

On February 23, 2022, the rule was posted on the DMR website. Notice of the proposed rulemaking appeared on February 23, 2022 in the five major daily newspapers as published by the Secretary of State; and electronic messages were sent to individuals who subscribe to DMR notices. A remote public hearing was held on March 14, 2022. The comment period closed on March 27, 2022.

Other than DMR staff, no one attended the remote public hearing. DMR did not receive any comments on this proposal.