

## NOTICE OF EMERGENCY RULE-MAKING

AGENCY: Department of Marine Resources  
STATUTORY AUTHORITY: 12 M.R.S. §§6172, 6192, 6193 & 6194  
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### BASIS STATEMENT

The Commissioner of the Maine Department of Marine Resources amends the emergency DMR Chapter 95.04(P), Area No. 40, Northern Morgan Bay (Surry), Union River Bay, Patten Bay and Heath Brook (Surry, Ellsworth, Trenton) and Goose Cove (Trenton) amended on May 9, 2012. This amendment closes the Union River Bay, Patten Bay and Heath Brook Conditionally Approved areas due to a malfunction/CSO event of the Ellsworth Wastewater Treatment plant. All existing bacterial and red tide/PSP closures in this area remain in effect. As authorized by 12 M.R.S.A. §§6172, 6192, 6193 & 6194 the Commissioner of Marine Resources adopts emergency amendments to Chapter 95.04(P).

**RULE TITLE AND SUBJECT:** DMR Chapter 95.04(P), Area No. 40, Northern Morgan Bay (Surry), Union River Bay, Patten Bay and Heath Brook (Surry, Ellsworth, Trenton) and Goose Cove (Trenton), amended on May 9, 2012, is amended as follows:

**TITLE & TEXT OF RULE:** Chapter 95.04(P), Area No. 40, Northern Morgan Bay (Surry), Union River Bay, Patten Bay and Heath Brook (Surry, Ellsworth, Trenton) and Goose Cove (Trenton),

- A. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels taken from the shores, flats and waters of the following areas:
1. Patten Bay, Union River (Surry, Ellsworth, Trenton): inside and north of a line beginning at a red painted post located 500 yards south of Bluff Point, Trenton, extending northwest to a red painted post on the most southern prominence of the east side of Contention Cove, Surry, then running west approximately 980 yards across Patten Bay to the tip of Poignant Point, Surry closing the upper end of Patten Bay and all of Flood Stream.
  2. Heath Brook Cove, (Trenton): inside and east of a line beginning at a red painted post located on the south shore of the cove (approximately 320 yards west of where State Route 230 crosses Heath Brook), then extending north to a red painted post on the north shore of the mouth of the cove (approximately 430 yards northwest of where State Route 230 crosses Heath Brook).
  3. Northern Morgan Bay (Surry): inside (north) of a line that starts at the first set of wooden steps on the west shore of Morgan Bay, Surry approximately 310 yards from the "Cross Road" at approximate position 44.453 North and 68.482 West and extends northeast 240 yards to the first set of stone steps on the eastern shore of Morgan Bay, Surry approximate position 44.454 North and 68.479 West.
- B. Effective immediately, because of non-point source pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels taken from the shores, flats and waters of Goose Cove, (Trenton), north of a line beginning at a red painted post located on the northeast shore of Goose Cove approximately 550 yards out from the head of Goose Cove, then running west to a red painted post located on the western shore of the cove, approximately 500 yards out from the head of Goose Cove. This area is classified as restricted and harvest requires a special MDMR permit.

C. Effective immediately, because of proximity to a WWTP the shores, flats and waters of Union River Bay and Patten Bay (Surry, Ellsworth, Trenton), (north) of a line beginning at the southeast tip of Burnt Point on Newbury Neck, Surry and running northeast to a red painted post at the south prominence of Oak Point, Trenton; AND west of a line beginning at a red painted post located on the south shore of Heath Cove (approximately 350 yards west of where State Route 230 crosses Heath Brook), then extending north to a red painted post on the north shore of the mouth of Heath cove (approximately 450 yards northwest of where State Route 230 crosses Heath Brook); AND south of a line beginning at a red painted post located 500 yards south of Bluff Point, Trenton, extending northwest to a red painted post on the most southern prominence of the east side of Contention Cove, Surry, then running west approximately 980 yards across Patten Bay to the tip of Poignant Point, Surry have been classified as "Conditionally Approved," and it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels following a malfunction/CSO event of the Ellsworth Wastewater Treatment Plant. This area is currently **CLOSED** ~~OPEN~~.

EFFECTIVE DATE: May 10, 2012

EFFECTIVE TIME: 11:47 AM

AGENCY CONTACT PERSON: Kohl Kanwit, Department of Marine Resources,  
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# Maine Department of Marine Resources

## Pollution Area No. 40



Northern Morgan Bay, Union River Bay, Patten Bay, Heath Brook, Goose Cove  
(Towns of Surry, Ellsworth, Trenton)

05/10/12

