

**Department of Marine Resources
NOTICE OF AGENCY RULE-MAKING**

CHAPTER # & TITLE: Chapter 24.10(D)(6), Maine – Restricted area for American oyster; and Appendix A

CONCISE SUMMARY: The proposed regulations would adopt, through the regular rule-making process, changes that became effective with the adoption of the emergency rules that added the territorial waters between Ocean Point, Linekin Neck, Boothbay to Pemaquid Point, Bristol to the list of restricted areas for the movement of the American oyster (*Crassostrea virginica*) due to presence of MSX. No size exemption is proposed because all sizes of American oyster are susceptible to infection, and any movement from within any restricted area requires a permit prior to movement/introduction in accordance with Chapter 24.05.

STATUTORY AUTHORITY: 12 M.R.S. §6071 and §6171

PUBLIC HEARING: December 1, 2010, 6pm, DMR Large Conference Room, W. Boothbay Hbr

DEADLINE FOR COMMENTS: December 11, 2010

To ensure consideration, comments must include your name and the organization you represent, if any. Please be aware that any risk of non-delivery associated with submissions by fax or e-mail is on the sender.

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Hearing facilities: If you require accommodations due to disability, please contact Amanda Beckwith, at (207) 287-7578.

Additional information:

This rulemaking is necessary to protect the American oyster resources (aquaculture and wild) from unusual damage and or imminent depletion that would be caused by continued uncontrolled movement of infected oysters throughout Maine's waters. The confirmed presence of MSX in the primary location of Maine's shellfish aquaculture industry is a very serious concern for the future of the industry in Maine.

Proposed rulemaking – see underlined or ~~deleted~~ text below:

DEPARTMENT OF MARINE RESOURCES

Chapter 24 - Importation of Live Marine Organisms

24.10 Permit Issuance Criteria For Shellfish

D. The following geographical areas shall be considered restricted areas for the particular species listed:

6. Maine. All coastal waters within the State of Maine shall be a restricted area for the European Oyster, (*Ostrea edulis*). All territorial waters between Ocean Point, Linekin Neck, Boothbay to Pemaquid Point, Bristol shall be a restricted area for the American oyster, (*Crassostrea virginica*).

Note: The genus of MSX cited in Appendix A is proposed to be updated as it has been changed in the scientific literature:

APPENDIX A
(Molluscan bivalves)

AMERICAN OYSTERS (*C. virginica*)

MinchiniaHaplosporidium nelsoni (MSX)