

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 12 MRSA §6856, sub-§3, as amended by PL 2007, c. 15, §1, is further amended to read:

3. Depuration certificate. A person may not take shellfish from closed areas for depuration, processing and transportation without a depuration certificate. The commissioner may issue a depuration certificate to a wholesale seafood license holder that authorizes the holder to take shellfish from closed areas for depuration, processing and transportation. The certificate must establish limits on harvesting, depurating and processing methods and any other provisions required to ensure the public safety. ~~A depuration plant operator shall maintain a generalized management plan on file with the commissioner that sets forth a timeline for harvest, harvest limits and harvester selection.~~ The commissioner may permit depuration of shellfish not contaminated by paralytic shellfish poisoning if it is established that the water used during depuration will not contaminate the shellfish with paralytic shellfish poisoning.

Sec. 2. 12 MRSA §6856, sub-§3-A, as amended by PL 2009, c. 561, §32, is repealed.

Sec. 3. 12 MRSA §6856, sub-§3-B, as enacted by PL 2007, c. 15, §3, is repealed.

Sec. 4. 12 MRSA §6856, sub-§3-C, as enacted by PL 2007, c. 15, §4, is repealed.

Sec. 5. 12 MRSA §6856, sub-§3-D is enacted to read:

3-D. Soft-shelled clam depuration harvesting in municipalities with municipal shellfish conservation programs. Soft-shelled clam depuration activities conducted within a municipality that has a municipal shellfish conservation program pursuant to section 6671 are subject to the following provisions.

A. Using the following general guidelines to identify whether pollution abatement activities are likely to succeed in a shellfish growing area, the commissioner may close a shellfish growing area for municipal pollution abatement activities.

(1) Pollution abatement activities are likely to succeed in shellfish growing areas affected by identified failing residential septic systems and other identified localized sources of human or animal fecal contamination when funding for abatement is available.

(2) Pollution abatement activities are not likely to succeed in shellfish growing areas affected by wastewater treatment plant outfall or other point sources of treated or partially treated sewage unless complete removal of pollution sources has been achieved.

(3) Abatement activities are not likely to succeed in shellfish growing areas affected by chronic nonpoint source contamination from rivers or streams.

At the request of the municipality, the commissioner may allow soft-shelled clam depuration harvesting in a shellfish growing area closed under this paragraph.

B. In conducting depuration harvesting activities under this subsection, a person holding a depuration certificate shall engage commercial harvesters holding valid municipal and state commercial shellfish licenses. If there are insufficient municipally licensed commercial harvesters, the depuration certificate holder may supplement with other commercial shellfish harvesters licensed in the State.

C. A depuration certificate holder shall maintain a generalized depuration management plan on file with the commissioner that sets forth methods for identifying harvest limits, operational procedures for harvest management and responsibilities of authorized representatives.

D. A depuration certificate holder shall pay each municipality an amount equal to 50¢ for each bushel of soft-shelled clams taken in that municipality under the depuration certificate. When submitting payment to a municipality under this paragraph, the depuration certificate holder shall include a summary of reports submitted to the department pursuant to rules adopted under subsection 4.

Sec. 6. 12 MRSA §6856, sub-§7, as amended by PL 2007, c. 15, §5, is repealed.

Sec. 7. 12 MRSA §6856, sub-§8, as enacted by PL 1991, c. 831, §2, is repealed.

SUMMARY

This amendment does the following.

1. It eliminates the requirement that municipalities with municipal shellfish conservation committees contact the Commissioner of Marine Resources by specific deadlines in regards to pollution abatement plans in reclassified shellfish growing areas. Instead, responsibility for municipal pollution abatement activities is given to the commissioner, who may close a shellfish growing area for municipal pollution abatement activities based on whether or not the commissioner finds pollution abatement activities will succeed. General guidelines for identifying whether pollution abatement activities are likely to succeed in a shellfish growing area are included.

2. It allows a municipality to request the commissioner to allow soft-shelled clam depuration harvesting in a closed area.

3. It moves the requirement that a depuration certificate holder maintain a generalized management plan on file with the commissioner from the Maine Revised Statutes, Title 12, section 6856, subsection 3 to a new subsection 3#D that governs soft-shelled clam depuration harvesting in municipalities with municipal shellfish conservation programs.

4. It moves provisions governing payments to municipalities from Title 12, section 6856, subsection 8 to a new subsection 3#D and requires the deputation certificate holder to include a summary of reports submitted to the Department of Marine Resources when submitting payment to a municipality.

5. It eliminates the requirement in the bill that the person holding the deputation certificate not employ more than 3 nonresidents of the municipality in which deputation harvesting will take place, as long as 15 or more resident harvesters are available. It also eliminates language that the certificate holder employ one resident harvester for every nonresident harvester to the extent possible if fewer than 15 resident harvesters are available. It adds language that the certificate holder shall engage commercial harvesters holding valid municipal and state commercial shellfish licenses, and it allows the deputation certificate holder to supplement with other commercial shellfish harvesters licensed in the State if insufficient municipally licensed commercial harvesters are available.

FISCAL NOTE REQUIRED

(See attached)