



START ACTION NOTICE # 2021-01

DOCKET # 2021-R-WS-0003

1. TYPE OF ACTION:

Amend 7 **DE Admin. Code** 7402 Shellfish Sanitation Regulations

2. PURPOSE OF ACTION:

The current regulation does not list the membrane filter (MF) (membrane-Thermotolerant Escherichia coli [mTEC]) method as an approved bacteriological standard for the classification of shellfish growing areas. This method is an approved method under the National Shellfish Sanitation Program and is used by many states to classify the bacteriological water quality of shellfish harvesting areas because of its accuracy and significant cost savings for states due to the speed and simplicity of the test. This action will add the mTEC method as an approved method which can be used to classify shellfish growing areas, while maintaining the current approved methods found in the regulation. Side-by-side analysis has been conducted for over three (3) years and the results have shown that no changes in shellfish classifications would be required at this time if the method was adopted. This new method will allow the State of Delaware to save a significant amount of money annually, increase the speed that results are available and increase the ability for more areas to be monitored as needed to ensure shellfish safety as the industry grows.

This proposed method adoption has been presented to the commercial shellfish industry throughout the three (3) year assessment period and there are currently no impacts anticipated to the public due to no significant shellfish growing area classification changes being required. There are no costs associated with this regulatory change and there is minimal or no impact to commercial or recreational bi-valve shellfish harvesters. This action will save the State of Delaware thousands of dollars annually and continue to protect the State's shellfish resources and public health of shellfish consumers.

3. STATUTORY BASIS:

Delaware Code Title 7, Chapter 19

4. IS THIS PROPOSED REGULATORY ACTION REQUIRED AS A RESULT OF FEDERAL STATUTE OR REGULATION? IF SO, PROVIDE LINK TO FEDERAL MANDATE.

No

5. DATE OF MOST RECENT REVIEW/AMENDMENT:

(Please indicate if review was pursuant to EO-36 OR HB 147)

The date of the last amendment to Delaware Administrative Code 7402 Shellfish Sanitation Regulations was on April, 1, 2019. This was not pursuant to EO-36 or HB 147.

6. LIKELY AFFECTED PUBLIC:

There are no likely affected public impacted by this regulation change because side-by-side analysis has been conducted for over three (3) years and the results have shown that no changes in shellfish classifications would be required at this time if the method was adopted. The method will be added as an additional approved method to existing shellfish regulations, but it will not replace existing approved methods.

7. PROPOSED SCHEDULE OF ACTIVITIES:

Start Action Notice- April 2021

Publication- May 1st, 2021

Public Hearing- Summer 2021

Final Publication- Fall 2021

8. REVIEW COMMITTEE:

There will be no review committee because the addition of the new method will not have an impact to the public because side-by-side analysis has been conducted for over three (3) years and the results have shown that no changes in shellfish classifications would be required at this time if the method was adopted. The method will be added as an additional approved method to existing shellfish regulations, but it will not replace existing approved methods.

This change will save the State of Delaware financial and personnel resources, presentations of the side-by-side analysis has been presented to the Delaware Shellfish Advisory Council and the Delaware shellfish aquaculture industry to make them aware of the anticipated regulation change.

9. RESPONSIBLE STAFF MEMBER:

(name, physical address, phone and fax numbers, and e-mail address)

Primary:

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10. APPROVALS:

 3/23/21

Michael Bott Date
Responsible Staff Member

 04/01/2021

Terry Deputy Date
Director, Division of Watershed Stewardship

 5/12/21

Shawn M. Garvin Date
Secretary