

OYSTERS — Amendment 1 to the 2019 Maryland Chesapeake Bay Oyster Management Plan

What is being considered?

The Department would like to incorporate by reference Amendment 1 to the 2019 Maryland Chesapeake Bay Oyster Management Plan into the Code of Maryland Regulations. The amendment was adopted by the Department on December 18, 2023.

Incorporation by reference (IBR) is a legal device by which one document is made a part of another simply by referring to it. The text of the referenced document, once incorporated by reference, becomes fully and legally a part of the document into which it is incorporated. Incorporation by reference must take place within a regulation. A regulation proposing to incorporate a document by reference is no different than any other proposed regulation. All of the standard regulation-making procedures apply.

A Fishery Management Plan (FMP) provides a format for undertaking management measures throughout Maryland state waters. FMPs are amended as needed. The most recent FMP for oysters is the Maryland Chesapeake Bay Oyster Management Plan (May 2019). Shortly after adoption, the Department was directed by the Maryland General Assembly to convene the Oyster Advisory Commission (OAC) to develop a package of consensus recommendations for enhancing and implementing the FMP for oysters. The OAC provided the Department with a package of recommendations which were based on options that were rated with an agreement level of 75% or higher. Amendment 1 to the 2019 Maryland Chesapeake Bay Oyster Management Plan incorporates recommendations from the OAC to further define strategies for protecting, rebuilding, and managing the native oyster population.

Why is this change necessary?

Natural Resources Article, 4-215, Annotated Code of Maryland requires the Department to adopt management plans and proposed conservation and management measures by regulation. Therefore, after a management plan or amendment to a management plan is adopted, it must be incorporated into regulation to be fully effective and provide authority for the Department to regulate a species. This is the final step in adopting Amendment 1 to the 2019 Maryland Chesapeake Bay Oyster Management Plan.

Who will this affect?

This action does not impact anyone directly at this time because it is a framework for managing oysters in Maryland. Any management actions taken in the future will follow the regulatory promulgation process, which includes discussion with advisory bodies and stakeholders prior to taking action.

When would this be effective?

The Department projects that this change could be effective in the late spring/early summer of 2024. However, the exact date cannot be determined. The Department will follow our normal proposal procedures if this concept moves forward.

Has this change been discussed with stakeholders?

- A draft of the amendment was sent to the Oyster Advisory Commission (OAC), Tidal Fisheries Advisory Commission (TFAC), Sport Fisheries Advisory Commission (SFAC), and Aquaculture Coordinating Council (ACC) in June 2022 to solicit comments. Comments were addressed.
- The updated draft was shared with the OAC, ACC, SFAC, TFAC and the public in May 2023 to solicit comments. Comments were accepted for 30 days. Comments were addressed and the Department has adopted the amendment.