

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.04 Oysters

Authority: Natural Resources Article, §4-1015.1, Annotated Code of Maryland

Notice of Proposed Action

[18-285-P]

The Secretary of Natural Resources proposes to amend Regulation **.05** under **COMAR 08.02.04 Oysters**.

Statement of Purpose

The purpose of this action is to update regulations for commercial oyster divers and required attendants based on legislation. H.B. 1137, which addressed commercial oyster divers, was passed during the 2018 legislative session. The bill modifies Natural Resources Article, 4-1015.1, Annotated Code of Maryland, and became effective October 1, 2018. This bill modifies the tidal fish license and oyster authorization requirements for persons aboard a boat who are using diving apparatus to catch oysters for commercial purposes from the waters of the State. Further, the bill alters the catch limits for certain commercial oyster divers. The bill prohibits more than two commercial oyster divers from working on a boat at a time. Additionally, the bill limits the oyster catch to no more than twice the daily limit as written in regulation, and requires each commercial oyster diver to have an attendant on the boat. The proposed action changes the licensing requirements so that the diver or the attendant is required to be authorized to catch oysters commercially, both people involved in the diving operation no longer need to be authorized. Authorized means at least one of the individuals must have a tidal fish license with the oyster authorization, and they must have paid the oyster surcharge. The proposed action makes it clear that each diver needs their own attendant. Changes were not

necessary for the other provisions in the bill since they are stated in the statute or already in regulation.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Oyster Diver Regulations, Regulatory Staff, Maryland Department of Natural Resources, 580 Taylor Avenue, B-2, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through November 26, 2018. A public hearing has not been scheduled.

.05 Use of Diving Apparatus to Catch Oysters Commercially.

[Oysters may be taken for commercial purposes utilizing diving apparatus under the following conditions:]

A. General Requirements.

(1) [Each person engaged in the diving operation, including the diver and the attendant, shall possess a license to catch oysters for commercial purposes.] *When using diving apparatus to catch oysters for commercial purposes, the diver or the diver's attendant shall be authorized to catch oysters for commercial purposes in accordance with Natural Resources Article, §4-701, Annotated Code of Maryland.*

(2)—(3) (text unchanged)

(4) *If there is more than one diver on the boat, a different attendant shall be present for each diver.*

[(4)] (5) (text unchanged)

B.—C. (text unchanged)

MARK J. BELTON
Secretary of Natural Resources