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DNR-FS-2022-02

SMALL BUSINESS COMPLIANCE GUIDE
Amendment to Subtitle 02 Fisheries Service
Regarding the Department's Regulations for Oysters
COMAR 08.02.04.13 and COMAR 08.02.04.14
Released January 28, 2022
Updated: June 21, 2022

This Guide is prepared in accordance with the requirements of State Government Article, §10-110, Annotated Code of Maryland. It is intended to help small businesses comply with the revised rules adopted in the above-referenced sections of the Code of Maryland Regulations. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small businesses, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply.

The Department will clarify or update the text of the Guide as an idea moves through the regulatory process. Direct your comments and recommendations, or calls for further assistance, to Fishing and Boating Services Regulatory Division:

410-260-8300
410-260-8DNR; toll free in Maryland 877-620-8DNR; TTY Users Call via the Maryland Relay
Fax: 410-260-8310

I. SUMMARY & FAQs

What was proposed?

The department is proposing removing its oyster harvest reserve area regulations and the designation of two areas as harvest reserve areas. Harvest reserve areas (HRAs) are a management tool created in statute that the department no longer needs. The designation was created by the legislature in 2004. Due to subsequent changes in law, regulation, and the Oyster Management Plan, the department is able to manage any area open for oyster harvest through public notices. The department is able to do this without the added cost of publishing the notice in a newspaper, as statute requires for harvest reserve areas. Public notices for public fishery areas that are not harvest reserve areas are published on the department's website, emailed to the department's listserv, posted on the department's social media platforms, and texted to individuals who have signed up to receive text messages from the department.

Why is this change necessary?

Due to changes in law, regulation, and the Oyster Management Plan, the harvest reserve area designation is no longer a useful management tool. Managing oyster harvest areas through public notices without the harvest reserve area designation will result in lower management costs due to the requirement that harvest reserve openings be published in the newspaper.

Who will this affect?

The proposed regulation would affect recreational and commercial oyster harvesters.

Has this change been discussed with advisory commissions?

This idea was scoped with the Sport Fisheries Advisory Commission and Tidal Fisheries Advisory Commission at their January 2022 meetings. Commissioners recommended moving forward with scoping.

What is the specific regulatory action?

Repeal Regulations .13 and .14 under COMAR 08.02.04 Oysters.

II. RECORDKEEPING AND REPORTING REQUIREMENTS

This action would not create any new recordkeeping or reporting requirements.

III. IMPLEMENTATION DATE

The department expects this change to be effective prior to the 2022-2023 oyster season, however the exact date cannot be determined. The department will follow our normal scoping and proposal procedures.

During the scoping process, the department gathers suggestions and ideas from stakeholders and others about how to solve a fishery problem or address a need. The goal of scoping is to identify issues, potential impacts, and reasonable alternatives associated with the issues so that

management actions can be developed. After the public has had an opportunity to comment on possible management actions during the scoping process, the department considers these comments and develops an appropriate management strategy. The ideas for this proposal were scoped from January 28—February 13, 2022.

At the conclusion of the scoping process, the department determined that the action is necessary and appropriate. The rules will be promulgated following the Administrative Procedures Act described in Title 10, Subtitle 1 of the State Government Article Annotated Code of Maryland.

- The General Assembly’s Administrative, Executive, and Legislative Review Committee reviews the regulatory proposal for fiscal and legal analysis.
- The proposal is printed by the Division of State Documents in the Maryland Register.
- A 30 day public comment period begins on the day of publication. The proposed action was printed in the Maryland Register on June 17, 2022. The comment period will close at 11:59 p.m. July 18, 2022.
- After review of the comments, the department may adopt the changes.
- If the department adopts the changes, they become effective after a notice is published in the Maryland Register that announces approval and the effective date.