



*Wes Moore, Governor*  
*Aruna Miller, Lt. Governor*  
*Josh Kurtz, Secretary*  
*David Goshorn, Deputy Secretary*

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DNR-FS-2022-10

SMALL BUSINESS COMPLIANCE GUIDE

Amendment to Subtitle 02 Fisheries Service

Regarding the Department's Regulations for Fees for Purchasing, Hauling, and Planting Fresh Oyster Shell

COMAR 08.02.04.11

Released October 14, 2022

Updated April 24, 2023

Updated June 16, 2023

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 propose 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

## **I. SUMMARY & FAQs**

### **What was proposed?**

The Department proposed altering the procedure for establishing the fair market value the Department pays for fresh oyster shells and transportation and placement of fresh oyster shells. The current value is set by regulation; the Department has now changed the regulation to set the value by public notice.

### **Why is this change necessary?**

Current regulation sets the rate to be paid by the Department to any person for the hauling and planting of fresh oyster shell at 25 cents per bushel and the rate to be paid to purchase fresh oyster shell at \$2 per bushel, for a total of \$2.25 per bushel. The actual 2022 cost to purchase out-of-state shell, transport, and plant shells was \$7.25 per bushel. As a result, Maryland shucking houses are not selling to the Department because of these current values established in regulation. Changing the process of establishing the rate paid by public notice each year, rather than setting the rate in regulation, will allow the Department to pay a competitive fee based on current market conditions. If the rate set by the Department is actually reflective of market conditions, more Maryland shucking houses may be willing to sell to the Department, thereby allowing the Department more access to shells.

### **Who will this affect?**

The proposed regulation may affect Maryland oyster shucking businesses.

### **Has this change been discussed with advisory commissions?**

Many discussions within OAC, TFAC, Statewide Oyster Industry Committee, and the County Oyster Committees have occurred, all of which express interest in obtaining more shell. The need for the Department to be able to pay actual market rates has been recognized in these conversations.

### **What is the specific regulatory action?**

Amend Regulation .11 under COMAR 08.02.04

## **II. RECORDKEEPING AND REPORTING REQUIREMENTS**

This action alone will not create any new recordkeeping or reporting requirements.

## **III. IMPLEMENTATION DATE**

The regulation change is effective June 26, 2023.