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DNR-FS-2024-7

SMALL BUSINESS COMPLIANCE GUIDE
Amendment to Subtitle 02 Fisheries Service
Regarding the Department's Regulations for Oysters and Clams
(Declaration Requirement for Seafood Dealers)

Released October 21, 2024

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

I. SUMMARY & FAQs

What is being considered?

The Department is considering creating a no-cost declaration of intent for DNR-licensed and MDH-certified shellfish dealers to purchase oysters or clams for human consumption to facilitate current reporting and tax payment requirements. This would be an annual requirement that dealers could complete either at license renewal or at any other point during the year prior to purchasing oysters or clams for human consumption. Dealers who did not declare their intent to purchase oysters or clams would be prohibited from buying oysters or clams commercially until their declaration was complete.

Why is this change necessary?

The current state of dealer reporting and shellfish tax payments made through the existing buy ticket system results in the receipt of less than 100% of reports and taxes owed by dealers. Currently, the Department does not know which dealers are actively buying oysters and clams in a season unless those dealers choose to submit buy tickets and taxes. Requiring dealers to declare their intent to purchase oysters or clams for human consumption will allow the Department to know which dealers are expected to report each season, allows for easier follow-up with late reporters, allows the calculation of reporting rates, and would aid in identifying dealers who may owe shellfish taxes. This also aligns with the existing requirement that oyster and clam harvesters must declare their intent to harvest each season. Currently, all dealers are required to report weekly or monthly. This requirement could be waived for those who notify the Department they are not buying oysters or clams for human consumption in a season and alleviate having to report “no activity” by those dealers. Lastly, by limiting this declaration requirement to those dealers who are buying oysters or clams for human consumption, the Department is exempting those dealers who only deal in razor clams, which are prohibited from being sold for human consumption.

Who will this affect?

This regulation change will affect DNR-licensed and MDH-certified shellfish dealers who commercially purchase oysters or clams for human consumption.

Has this change been discussed with advisory bodies?

This idea was scoped with the Sport Fisheries Advisory Commission and the Tidal Fisheries Advisory Commission at their meetings in October 2024.

What is the specific regulatory action?

This idea is being considered and is in the scoping process. The specific regulatory action will be determined if the Department moves forward with the idea.

II. RECORDKEEPING AND REPORTING REQUIREMENTS

This action would create the need to declare their intent to deal in oysters or clams for human consumption. This would be an annual requirement that dealers could complete either at license renewal or at any other point during the year prior to purchasing oysters or clams for human consumption. Dealers who did not declare their intent to purchase oysters or clams would be prohibited from buying oysters or clams commercially until their declaration was complete.

III. REGULATORY PROCESS

This idea is in the scoping process (October 21—November 5). 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.

If 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.
- 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.

IV. IMPLEMENTATION DATE

The Department projects that this change could be effective in the summer of 2025. However, the exact date cannot be determined. The Department will follow our normal proposal procedures if this concept moves forward.