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DNR-FS-2024-8

SMALL BUSINESS COMPLIANCE GUIDE
Amendment to Subtitle 02 Fisheries Service
Regarding the Department's Regulations for Shellfish Aquaculture (Harvest Hours)

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 needs to establish harvest hours for shellfish aquaculture and is considering the following times:

1. October through May - Sunrise to sunset. This is not a change to the times that were previously allowed.
2. June and September - Sunrise to the end time specified in the *Vibrio parahaemolyticus* Control Plan (“*V.p.* Control Plan”), which is codified in Maryland Department of Health regulations at COMAR 10.15.07.06. The plan requires that harvest must end no later than 11:30 a.m. in June and 12:30 p.m. in September. This is not a change to the times that were previously allowed.
3. July and August - 30 minutes before sunrise to the end time specified in the *V.p.* Control Plan. Previously, the time period allowed in July and August was sunrise to 10:30 a.m. This will allow an additional 30 minutes of harvest time compared to the times that were previously allowed.

Why is this change necessary?

House Bill 857 of the 2024 Session of the Maryland General Assembly requires the Department to establish the hours for harvesting shellfish within leased areas. During months when the *V.p.* Control Plan is in effect, harvest hours for shellfish aquaculture harvesters are restricted to comply with public health measures designed to keep harvested oysters protected from elevated air and water temperatures. Previously, harvesters were allowed to begin at sunrise and end at a curfew stipulated in the *V.p.* Control Plan. For the months of July and August, that curfew is 10:30 a.m. As sunrise happens later throughout the summer months, harvesters are limited to a decreasing amount of time to harvest and land their product by the curfew. Allowing shellfish aquaculture harvesters to begin harvesting 30 minutes before sunrise in July and August allows additional flexibility during these months while maintaining compliance with the public health control measures of the National Shellfish Sanitation Program.

Who will this affect?

This change will affect Shellfish aquaculture harvesters who harvest activities during summertime months regulated by the *V.p.* Control Plan.

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 will not create any new recordkeeping or reporting requirements.

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.