

Subtitle 02 FISHERIES SERVICE

08.02.23 Shellfish Aquaculture and Leasing

Authority: Natural Resources Article, §4-11A-10, Annotated Code of Maryland

Notice of Proposed Action

[24-198-P]

The Secretary of Natural Resources proposes to amend Regulation .04 under COMAR 08.02.23 Shellfish Aquaculture and Leasing.

Statement of Purpose

The purpose of this action is to establish harvest hours for shellfish aquaculture. The times for harvesting shellfish were previously in statute, but were removed during the 2024 legislative session. 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 Vibrio parahaemolyticus Control Plan (COMAR 10.15.07.06) 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 Vibrio parahaemolyticus Control Plan. Except for July and August, the proposed action establishes the same times for harvesting that were previously in statute. The previous harvest times for July and August are changed to allow harvest to begin 30 minutes before sunrise. Allowing shellfish aquaculture harvesters to begin harvesting oysters from leased areas 30 minutes before sunrise in July and August allows additional flexibility during the hottest months while maintaining compliance with the public health control measures of the National Shellfish Sanitation Program.

Specifically, the proposed action establishes the times an individual may harvest oysters from a shellfish lease as: sunrise to sunset from October through May; sunrise to the time the Vibrio parahaemolyticus Control Plan requires the oysters to be delivered to a dealer for June and September; and 30 minutes before sunrise to the time the Vibrio parahaemolyticus Control Plan requires the oysters to be delivered to a dealer for July and August.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action could have a positive economic impact for shellfish aquaculture leaseholders and seafood dealers during the months of July and August.

II. Types of Economic Impact.

Table with 4 columns: Impacted Entity, Revenue (R+/R-), Expenditure (E+/E-), and Magnitude. Rows include A. On issuing agency, B. On other State agencies, C. On local governments, D. On regulated industries or trade groups, and E. On other industries or trade groups.

F. Direct and indirect effects on public: NONE

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D. The proposed action could have a positive economic impact for aquaculture leaseholders and seafood dealers during the months of July and August. All other months are not a change based on what was previously allowed. During July and August, leaseholders will have an additional 30 minutes to harvest their oysters. Allowing aquaculture leaseholders 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. The actual amount that this action will economically benefit aquaculture leaseholders and seafood dealers is indeterminable because the change is designed to give harvesters more flexibility while harvesting during the hottest months. It is unknown how many leaseholders will take advantage of this opportunity or if it will increase the number of oysters that are harvested and delivered to seafood dealers.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows:

The proposed action could have a positive economic impact for aquaculture leaseholders and seafood dealers during the months of July and August. Aquaculture leaseholders and seafood dealers are considered small businesses. Please see the explanation in Section D.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Shellfish Aquaculture Harvest Hours, Regulatory Staff, Maryland Department of Natural Resources, 580 Taylor Avenue, E-4, Annapolis, MD 21401, or call 410-260-8300, or email Submit comment at https://dnr.maryland.gov/fisheries/pages/regulations/changes.aspx#shellhours. Comments will be accepted through February 10, 2025. A public hearing has not been scheduled.

.04 Shellfish Aquaculture Harvester Permit.

A.—D (text unchanged)

E. Any individual engaged in aquaculture activities on a leased area or transporting shellfish from a lease to a dealer:

(1)—(6) (text unchanged)

(7) Shall store oysters in accordance with §G of this regulation;

[and]

(8) Shall tag oysters in accordance with §H of this regulation[.]

; and

(9) May harvest oysters only during the following time periods:

(a) October through May — sunrise to sunset;

(b) June and September — sunrise to the delivery time specified in COMAR 10.15.07.06; and

(c) July and August — 30 minutes before sunrise to the delivery time specified in COMAR 10.15.07.06.

F.—K. (text unchanged)

JOSH KURTZ Secretary of Natural Resources