

B. (text unchanged)

JOSH KURTZ  
Secretary of Natural Resources

	Benefit (+) Cost (-)	Magnitude
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**Subtitle 02 FISHERIES SERVICE**

**08.02.04 Oysters**

Authority: Natural Resources Article, §4-215, Annotated Code of Maryland

**Notice of Proposed Action**

[24-053-P]

The Secretary of Natural Resources proposes to amend Regulation .04 under **COMAR 08.02.04 Oysters**.

**Statement of Purpose**

The purpose of this action is to modify the rule for filling all oyster containers. Specifically, the Department is proposing no longer allowing any oyster container to be filled past the brim of the container. This would standardize the rule for all containers.

Currently oysters in the wild fishery must be put into a container (“containerized”) after they are harvested. There are three legal types of containers, commonly known as metal oyster tubs, clam crates, and orange baskets (although some are other colors such as green or purple). Metal oyster tubs and clam crates both contain one Maryland oyster bushel, whereas orange baskets are roughly 10 percent smaller. This has at times led to confusion.

Harvesters are not allowed to fill metal oyster tubs or clam crates past the top of those containers. Harvesters have been allowed to exceed the rim of the orange baskets because that container is volumetrically less than a Maryland oyster bushel. If a Maryland oyster bushel were unloaded into an orange basket, on average the oysters would exceed the top of the basket by between one to two inches. In industry practice, harvesters are filling the baskets well above the rim by many inches and even to the point of creating a distinct “cone” on top of the basket. This is legal, since the regulation does not prohibit the overfilling of orange baskets, but also leads to concerns regarding exceeding catch limits and potential overharvest. There is also consistent confusion due to there being different rules for different containers (some of which may be “overfilled” and some of which may not exceed the rim of the container). The Department believes that standardizing the rules for the containers will address both the confusion and the potential for overharvest and lead to greater consistency in measuring catch and enforcement of catch limits.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The proposed action may have a minor indeterminable negative economic impact on commercial harvesters by resulting in the harvesting of less oysters.

**II. Types of Economic Impact.**

Impacted Entity	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	

D. On regulated industries or trade groups:

Commercial harvesters	(-)	Indeterminable
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E. On other industries or trade groups:

Oyster dealers and shucking houses	(-)	Indeterminable
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F. Direct and indirect effects on public:

NONE

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

D. It is not clear how much this action will reduce commercial harvest. Factors that will influence the impact include the number of harvesters who use the affected container, how many harvesters choose to switch to alternative containers, and how many harvesters were already “overfilling” the affected container vs. filling to the brim. Ultimately, the Department believes that the reduction is likely to be minor and therefore the negative impact to commercial harvesters will also be minor.

E. If harvesters harvest fewer oysters there will be fewer oysters sold to dealers and shucking houses. Similar to the impact on harvesters, how this action will impact dealers and shucking houses is indeterminable and will depend on a variety of factors. Some dealers and shucking houses already require harvesters they purchase from to fill the affected container either to the brim or below the brim; those dealers and shucking houses will not be impacted at all. Other dealers and shucking houses are reported to require harvesters they buy from to “overfill” those containers; those dealers and shucking houses may be slightly negatively impacted by this action depending on whether the harvesters they buy from choose to continue to use the affected container or switch containers.

**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 may have an indeterminable negative economic impact on small business. As discussed in the Estimate of Economic Impact, IID and E, above, this action may result in a slight reduction in commercial harvest, depending on a variety of factors. Harvesters will be able to avoid that reduction depending on if they continue to use the affected container. Some dealers and shucking houses will not be affected at all based on the informal rules they had in place prior to this action; other dealers and shucking houses may have fewer oysters available for purchase versus previous oyster seasons due to the requirements they had placed on the harvesters they buy from.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Oysters — Container Rules, Regulatory Staff, Department of Natural Resources, 580 Taylor Avenue, E-4, Annapolis, MD 21401, or call 410-260-8300, or submit comments to <https://dnr.maryland.gov/fisheries/pages/regulations/changes.aspx#0> cont. Comments will be accepted through June 17, 2024. A public hearing has not been scheduled.

**.04 Oyster Container and Tagging Requirements.**

A. Containers.

(1)—(2) (text unchanged)

(3) Oysters stored in accordance with [§A(1)(a) and (b)] §A(1) of this regulation may not extend beyond the top of the container.

(4)—(5) (text unchanged)

B.—E. (text unchanged)

JOSH KURTZ  
Secretary of Natural Resources

**Subtitle 02 FISHERIES SERVICE**

**Notice of Proposed Action**

[24-051-P]

The Secretary of Natural Resources proposes to amend:

(1) Regulations **.23**, **.26**, and **.27** under **COMAR 08.02.05 Fish**; and

(2) Regulation **.02** under **COMAR 08.02.22 Sharks**.

**Statement of Purpose**

The purpose of this action is to make it easier for recreational anglers to comply with the catch card census program’s reporting and tag requirements. The Department is proposing the following changes: switching from paper to electronic catch cards, eliminating tags, and requiring all releases of bluefin tuna, both live and dead, to be reported.

The National Marine Fisheries Service requires all recreational anglers to report bluefin tuna, billfishes, and swordfish. Additionally, all landed sharks (except spiny dogfish) are required to be reported in Maryland. To fulfill this requirement, the National Marine Fisheries Service works with the Department by providing technical support and funding to implement a catch card census program.

Anglers are required to complete a catch card when they return to port for each bluefin tuna, billfish, swordfish, or shark on board the vessel. The angler returns the catch card to a reporting station, and a tag is provided for each completed catch card. The angler is required to place this tag around the tail of the fish before removing it from the vessel. Trailered boats cannot be pulled from the water until the tag is in place. Shore-based shark anglers must turn in the catch card and tag the shark prior to moving it from the point of landing.

Catch cards are available from the Department’s website, reporting stations, and kiosks. Tags can only be obtained by exchanging the completed catch card at an open reporting station. When reporting stations are closed, anglers must use a self-serve kiosk. Anglers must complete the catch card and the attached receipt. The angler retains the receipt, which replaces the tag, and deposits the catch card into the locked box at the kiosk. This is inconsistent with the current regulatory requirement but is necessary for reporting purposes. Making the change from paper to electronic reporting in regulation will allow for easy, timely reporting while eliminating the need for plastic tags and reducing reporting redundancy for charter/headboats.

The requirement for shore-based anglers to tag the shark prior to moving it from the point of landing creates many issues for anglers. The drive to the nearest reporting station or self-serve kiosk can be long and burdensome, requiring all gear to be put away, airing up tires, finding someone to attend to their catch, and, on busy park days, possibly not being allowed back on the beach until capacity allows. Allowing shore-based anglers to electronically report will make it easier for anglers while eliminating the need for plastic tags.

Electronic reporting is anticipated to improve compliance because it will be easier than going to a reporting station to exchange a catch card for a tag. It will also eliminate the need for some vessels to make a stop at a reporting station prior to proceeding to their private dock or pulling their vessel from the water.

Eliminating plastic tags has environmental and financial advantages. It would be beneficial to the environment as the manufacturing, delivery, and disposal processes would not be needed. Improperly disposed of used tags would no longer be found in the coastal environment. Additionally, there is a financial savings in both cost and in staff time spent on accounting.

Lastly, the Department is proposing to add the requirement to report all releases of bluefin tuna, both live and dead. This would be consistent with NOAA Fisheries reporting requirements for HMS permit holders. NOAA Fisheries is required to report this information to the International Commission for the Conservation of Atlantic Tunas (ICCAT). Currently, this information is only obtained when anglers report landing a species required to have a catch card.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** This action may have an indeterminable positive economic impact for recreational anglers who fish for bluefin tuna, billfish, swordfish, or sharks by removing the requirement to go to a check station to get a tail tag for a fish that has been retained.

**II. Types of Economic Impact.**

Impacted Entity	Revenue	Magnitude
	(R+/R-)	
	Expenditure	
	(E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:		
Recreational anglers and charter captains	(+)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

D. Recreational anglers and charter captains will no longer have to go to a check station to get a tail tag for a fish that has been retained. This will simplify the landing procedures and save time and fuel. Shore-based anglers will have a much easier time with complying as they will no longer have to leave their fish at the point of catch, go to a check station, then return to the point of catch with the tail tag.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Bluefin Tuna, Billfish, Swordfish, and Shark — Recreational Reporting, Regulatory Staff, Department of Natural Resources, Fishing and Boating Services, 580 Taylor Avenue, E-4, Annapolis, MD 21401, or call 410-260-8300, or submit comments to <https://dnr.maryland.gov/fisheries/pages/regulations/changes.aspx#HMS>. Comments will be accepted through June 17, 2024. A public hearing has not been scheduled.