

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 08 DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.04 Oysters

Authority: Natural Resources Article, §§4-215 and 4-1009.1, Annotated Code of Maryland

Notice of Proposed Action

[22-110-P]

The Secretary of Natural Resources proposes to repeal Regulations .13 and .14 under **COMAR 08.02.04 Oysters**.

Statement of Purpose

The purpose of this action is to remove the oyster harvest reserve area regulations and the designation of the only two areas classified as harvest reserve areas. Harvest reserve areas (HRAs) are a management tool created in statute that the Department no longer needs. At the time of their creation, HRAs were a novel tool that allowed the Department to designate and manage discrete areas with harvest measures that differed from the general rules. These areas were typically planted with oyster seed or spat-on-shell using money collected from oyster repletion taxes, closed to harvest for a period of time, then opened to harvest when certain biological criteria were met. In order to open an area, the Department was required to notify the Joint Committee on Administrative, Executive, and Legislative Review, publish the notice in at least one newspaper of general circulation in the State, publish the notice in at least one newspaper of general circulation in each county in which the affected waters were located, and post the notice on the Department's website.

In January 2016 the Department eliminated ten HRAs that had not received any investment nor had been managed the way the Department would have intended to manage HRAs. Only two HRAs remained since counties had actually been investing in their management.

Due to subsequent changes in law and regulation, such as the adoption of the Maryland Chesapeake Bay Oyster Management Plan (May 2019), the Department is now able to manage any area open for oyster harvest through public notices. The Department is able to do this without the added cost of publishing the notice in a newspaper, as statute requires for harvest reserve areas. Public notices for public fishery areas that are not harvest reserve areas are published on the Department's website, emailed to the Department's listserv, posted on the Department's social media platforms, and texted to individuals who have signed up to receive text messages from the Department. This ensures that interested parties have multiple avenues to be apprised of changes by the Department in a manner that is more accessible to contemporary society than the legal section of a newspaper.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

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 Harvest Reserve Area Regulations, Regulatory Staff, Maryland Department of Natural Resources, Fishing and Boating Services, 580 Taylor Avenue, E-4, Annapolis, MD 21401, or call 410-260-8300, or submitted at <https://dnr.state.md.us/fisheries/Pages/regulations/changes.aspx#oyster>. Comments will be accepted through July 18, 2022. A public hearing has not been scheduled.

JEANNIE HADDAWAY-RICCIO
Secretary of Natural Resources