

*D. Effect of Automatic Deposits and Withdrawals on Presumption of Abandonment.*

(1) A depositor or shareholder shall be deemed to have actively deposited or withdrawn funds from an account covered by this regulation, thereby overcoming the presumption of abandonment described in §C of this regulation, if:

(a) The depositor or shareholder authorized and established an automatic deposit or withdrawal;

(b) The authorization has not been cancelled, revoked, rescinded, or otherwise terminated; and

(c) Funds are deposited or withdrawn automatically based on the depositor or shareholder's effective authorization.

(2) A depositor or shareholder may not be deemed to have actively deposited or withdrawn funds from an account covered by this regulation if:

(a) The bank or financial organization automatically deposits interest or dividends earned on the account; or

(b) The bank or financial organization automatically withdraws a service charge.

**.02 Service Charges.**

A.—B. (text unchanged)

[C. For purposes of Commercial Law Article, §17-308.1, an account shall be considered dormant or inactive, if, with respect to that account, the owner has for a period of 4 consecutive years, taken none of the actions set forth in Commercial Law Article, §17-301. When a service charge is permitted in these regulations, the maximum amount of the charge shall be \$5 per year for an account that does not exceed \$50 and \$10 per year for an account that exceeds \$50. The provisions of this paragraph shall expire on June 29, 2002.

D. Effective June 30, 2002 and expiring June 29, 2003, for purposes of Commercial Law Article, §17-308.1, Annotated Code of Maryland, an account shall be considered dormant or inactive, if, with respect to that account, the owner has for a period of 3 consecutive years, taken none of the actions set forth in Commercial Law Article, §17-301, Annotated Code of Maryland. When a service charge is permitted, the maximum amount of the charge shall be \$5 per year for an account that does not exceed \$50 and \$10 per year for an account that exceeds \$50.]

E. (text unchanged)

PETER FRANCHOT  
Comptroller

how to properly cull oysters. The changes under consideration would make it clear to all affected parties which oysters must be returned to the oyster bar, which oysters may be retained, and which oysters would be included in the calculation of the percentage of undersized oysters.

Historically, the oyster culling laws — Natural Resources Article, §§4-1015 and 4-1015.1, Annotated Code of Maryland — have controlled how oyster harvesters separate legal oysters from sub-legal oysters. The Department has also implemented an oyster culling regulation at COMAR 08.02.04.11C which largely restates the culling procedure prescribed in statute. It is clear, based on the current statutory language, that oyster harvesters may keep a market-sized oyster which has an attached oyster that is less than 1 inch in length from hinge to bill that cannot be separated without destroying the small oyster. Based on the Department's survey work, an oyster that is less than 1 inch in length from hinge to bill cannot be removed from a market-sized oyster without being destroyed. The statutory text is not clear with regards to what should be done with a market-sized oyster which has an oyster that is larger than 1 inch and less than 3 inches in length from hinge to bill that cannot be separated without destroying the small oyster.

The Department is proposing to clarify that a harvester may possess an oyster which is larger than 1 inch and less than 3 inches in length from hinge to bill that is attached to a market-sized oyster in such a way that the undersized oyster cannot be separated from the market-sized oyster without being destroyed. Oyster harvesters are still required to separate all undersized oysters which can be removed without being destroyed and return those to the bar from which they were taken. The Department believes that this clarification is in line with the original intent of the statute. Historically, Maryland was home to many oyster shucking houses. Oysters would often be shucked in relatively close proximity to where they had been harvested and the shells of the shucked oysters would be returned to the water. This meant that any small oysters which were attached to market-sized oysters were also returned to the water to continue to grow. Given this historical context, it makes sense to allow harvesters to retain undersized oysters that were attached so closely to market-sized oysters that the undersized oyster could not be removed without being destroyed. The Department is also defining "undersized oyster" and "spat" so the syntax of the sentence is clearer. Additionally, the Department is clarifying that market-sized oysters may not be included in the measurement of any undersized oysters (i.e., in the cull cup). These changes will result in clearer rules with greater enforceability while adhering to the historical intent of the law.

**Title 08**  
**DEPARTMENT OF NATURAL**  
**RESOURCES**

**Subtitle 02 FISHERIES SERVICE**

**08.02.04 Oysters**

Authority: Natural Resources Article, §4-1015(a), Annotated Code of Maryland

**Notice of Proposed Action**

[22-115-P]

The Secretary of Natural Resources proposes to amend Regulation **.11** under **COMAR 08.02.04 Oysters**.

**Statement of Purpose**

The purpose of this action is to clarify the culling rule for oysters. The current culling law language contradicts itself and has been interpreted in a variety of ways that has led to confusion regarding

**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 Oyster Culling Clarifications, Regulatory Staff, Department of Natural Resources, Fishing and Boating Services, 580 Taylor Avenue, E4, Annapolis, MD 21401, or call 410-260-8300, or complete the comments form at <https://dnr.maryland.gov/fisheries/pages/regulations/changes.aspx#cu> ll. Comments will be accepted through August 15, 2022. A public hearing has not been scheduled.

**.11 General Provisions.**

A. Definitions.

(1) (text unchanged)

(2) Terms Defined.

(a) (text unchanged)

(b) “Marketable oyster” means an oyster that measures at least 3 inches in length from hinge to bill.

[(b)] (c) Oyster Harvest Area.

(i)—(ii) (text unchanged)

(d) “Spat” means an oyster that measures less than 1 inch in length from hinge to bill.

(e) “Undersized oyster” means an oyster that measures at least 1 inch in length from hinge to bill and less than 3 inches in length from hinge to bill.

B. (text unchanged)

C. Oyster Culling.

(1) (text unchanged)

(2) [Any oysters] Except as provided in §C(4) and (5) of this regulation, any oyster whose shell measures less than 3 inches in length, from hinge to bill, shall be included in the culling and replaced upon the bar from which caught.

[(2)] (3) A person may not possess more than 5 percent shells and oysters less than the allowable size specified in [§C(1)] §C(2) of this regulation.

(4) [However, a] A person may possess marketable oysters that have undersized oysters [or spat less than 1 inch in length from hinge to bill] attached to them that cannot be separated without destroying the [small] undersized oyster.

(5) A person may possess marketable oysters that have spat attached to them.

D.—G. (text unchanged)

JEANNIE HADDAWAY-RICCIO  
Secretary of Natural Resources

**Title 14**

**INDEPENDENT AGENCIES**

**Subtitle 39 INTERAGENCY  
COMMISSION ON SCHOOL  
CONSTRUCTION**

**14.39.02 Administration of the Public School  
Construction Program**

Authority: Education Article, §§4-126, 5-112, and 5-303; State Finance and Procurement Article, §5-7B-07; Annotated Code of Maryland

**Notice of Proposed Action**

[22-113-P]

The Interagency Commission on School Construction proposes to adopt amendments to Regulation .05 under **COMAR 14.39.02 Administration of the Public School Construction Program**. This action was considered by the Interagency Commission on School Construction at an open meeting held on June 8, 2022, notice of which was given by publication on the General Assembly website pursuant General Provisions Article, §3-302(c), Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to codify changes to the State cost share formula in accordance with Ch. 32, Acts of 2022.

**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 Jonathan Borghetti, Policy Analyst, Interagency Commission on School Construction, 200 W. Baltimore Street, Baltimore, MD 21201, or call 410-767-0742, or email to jonathan.borghetti@maryland.gov, or fax to 410-333-6522. Comments will be accepted through August 15, 2022. A public hearing has not been scheduled.

**Open Meeting**

Final action on the proposal will be considered by the Interagency Commission on School Construction during a virtual public meeting to be held on September 8, 2022, at 9 a.m., the link to which will be available at mdschoolconstruction.org).

**.05 State Cost Share Percentage.**

A. (text unchanged)

B. Percentages.

(1) (text unchanged)

(2) Reductions in the cost share [that exceed -5 percent shall be phased in over 2 years so that a 1-year reduction in the cost share percentage does not exceed -5 percent] may not exceed 5 percent.

(3) The maximum State share of public school construction funding is 100 percent of eligible costs of approved projects.

[(3)] (4) (text unchanged)

C. Revisions to Percentages.

(1) (text unchanged)

(2) The IAC shall use the formula in [§C(3)] §D of this regulation to recommend revisions to the State cost share percentage for each county.

D. LEA State Cost Share.

[(3)] The IAC shall add the following amounts to calculate the recommended revised cost share amounts:

[(a)] (1)—[(g)] (7) (text unchanged)

E. Project Based Add-Ons to State Cost Share. The IAC shall add the following amounts to an LEA’s State Cost share of a proposed school construction project as applicable:

(1) 10 percentage points if the proposed school construction project, when the LEA submits the project for approval to the IAC, is at a school with a concentration of poverty level, as defined in Education Article, §5-223, Annotated Code of Maryland, of 80 percent or greater;

(2) 5 percentage points if the proposed school construction project, when the LEA submits the project for approval to the IAC, is at a school with a concentration of poverty level, as defined in Education Article, §5-223, Annotated Code of Maryland, of less than 80 percent but greater than 55 percent;

(3) 5 percentage points if the proposed school construction project is at a school that, in the most recent school maintenance effectiveness assessment by the IAC, received an assessment rating of:

(a) Good;

(b) Superior; or