

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 145 (Delegate McIntosh)
Environmental Matters

Natural Resources - Fisheries Management - Regulations

This bill allows for Department of Natural Resources (DNR) regulations to authorize specified fisheries management changes, such as opening or closing a fishing season, modifying a harvestable area, or changing a catch limit, to be made by public notice.

The bill takes effect June 1, 2014.

Fiscal Summary

State Effect: None. The bill codifies current practice.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: A regulation adopted under provisions governing fishery management plans and provisions requiring the Secretary of Natural Resources to adopt measures to conserve fish resources of the State may authorize DNR to, by public notice:

- open, close, set, or modify a fishing season;
- modify or restrict a harvestable area; or
- establish for a fishery (1) permissible harvest times and days; (2) a catch limit or target harvest amount; (3) an allocation or a quota; (4) a size limit; or (5) reporting requirements.

Such public notices are not subject to requirements under the Administrative Procedure Act governing regulations, such as legislative review and, for nonemergency regulations, a period for public comment.

Current Law: DNR must prepare fishery management plans for various listed species and may prepare fishery management plans for other species if determined to be necessary. The plans and any proposed conservation and management measures must be adopted by regulation. Conservation and management measures may be adopted in separate proceedings and by separate regulations. DNR is also required to conduct investigations of the fish resources of the State and adopt regulations to conserve those resources.

Background: In its review of proposed DNR regulations on behalf of the Joint Committee on Administrative, Executive, and Legislative Review (AELR), the Department of Legislative Services, in 2013, raised concern about whether fisheries regulations that authorized DNR to make certain fisheries management changes (such as to fishing seasons and catch limits) by public notice rather than by regulation were consistent with statute. While the Counsel to the General Assembly, in a letter to the Senate Chair of the AELR Committee, viewed the proposed regulations as legally sufficient, the counsel suggested that the General Assembly consider clarifying DNR's authority to adopt such regulations.

Pursuant to existing regulations, DNR currently establishes or modifies fishing rules in certain fisheries by issuing public notice 48 hours before the action becomes effective. DNR indicates that action by public notice is much faster than the regulatory process, allowing for changes, whether increasing or restricting access to a fishery, to be made more quickly. The types of changes DNR currently makes by public notice are covered in the bill.

Additional Information

Prior Introductions: None.

Cross File: SB 145 (Senator Conway) - Education, Health, and Environmental Affairs.

Information Source(s): Department of Natural Resources, Office of the Attorney General, Chesapeake Bay Seafood Industries Association, Department of Legislative Services

Fiscal Note History: First Reader - January 17, 2014
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