

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 808

(Senator Elfreth)

Education, Health, and Environmental Affairs

Environment and Transportation

Natural Resources - Fishery Management Plans - Oysters

This emergency bill (1) changes the deadline (from June 1, 2019, to April 1, 2020) for convening the reestablished Oyster Advisory Commission (OAC) under Chapters 5 and 9 of 2020; (2) repeals an authorization under Chapters 5 and 9 for OAC to meet and deliberate in closed session under specified circumstances; and (3) modifies reporting requirements related to the development of specified consensus recommendations pursuant to Chapters 5 and 9, including moving the due date of the final report from July 1, 2021, to December 1, 2021. The bill also clarifies that the Department of Natural Resources' (DNR) implementation of the 2019 fishery management plan for oysters must be consistent with a current restriction on reduction or alteration of existing oyster sanctuary boundaries.

Fiscal Summary

State Effect: None. The bill does not materially affect State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Deadline to Convene the Reestablished Oyster Advisory Commission

The bill changes the date by which DNR must, in coordination with the University of Maryland Center for Environmental Science (UMCES), convene the members of OAC, as

reestablished under Chapters 5 and 9 of 2020. The bill changes the date from June 1, 2019, to April 1, 2020.

Repeal of Authorization for Closed Session Meetings

The bill repeals a provision under Chapters 5 and 9 that authorizes OAC, with the consent of a 75% majority of its members, to meet and deliberate in closed session to develop the package of consensus recommendations (for enhancing and implementing the fishery management plan for oysters) required under Chapters 5 and 9.

Modification of Reporting Requirements

The bill extends the timeline for the development of the package of consensus recommendations required under Chapters 5 and 9, by moving the due date of the final report from July 1, 2021, to December 1, 2021, and requiring an additional interim report, by August 1, 2021 (in addition to existing interim reports due August 1, 2020, and December 1, 2020). The interim report submitted by August 1, 2021 must include (1) the status of the development of the science-based modeling tool used to quantify the long-term impacts of identified management actions and (2) a summary of the model results of any actions identified by OAC on or before the date of the interim report.

Clarification of 2019 Oyster Management Plan Implementation

The bill clarifies that DNR's implementation of the 2019 fishery management plan for oysters, pending the development of consensus recommendations pursuant to Chapters 5 and 9, must be consistent with the provision in Chapters 5 and 9 that prohibits DNR from taking any action to reduce or alter the boundaries of existing oyster sanctuaries until the department has developed a fisheries management plan for oysters based on the consensus recommendations developed under Chapters 5 and 9.

Current Law/Background:

Reestablishment of the Oyster Advisory Commission

Chapters 5 and 9 of 2020 (House Bill 720/Senate Bill 830 of 2019) reestablish OAC, with new membership that includes various representatives of the oyster industry and conservation and research organizations. Chapters 5 and 9 require DNR, in coordination with UMCES, to convene the reestablished OAC by June 1, 2019, a date that has already passed, due to the bills having been introduced and passed in the 2019 session but enacted as Chapters 5 and 9 of 2020 in January 2020 through veto overrides.

Development of Consensus Recommendations

Chapters 5 and 9 require DNR and the reestablished OAC, in coordination with UMCES, to develop a package of consensus recommendations for enhancing and implementing the fishery management plan for oysters. The consensus recommendations must:

- be developed through a facilitated consensus solutions process, based on a 75% majority agreement level for each recommendation;
- recommend management actions or combinations of management actions to achieve the targets identified in the oyster stock assessment with the goal of increasing oyster abundance; and
- be informed by a collaboratively developed, science-based modeling tool to quantify the long-term impacts of identified management actions and possible combinations of management actions on (1) oyster abundance; (2) oyster habitat; (3) oyster harvest; (4) oyster harvest revenue; and (5) nitrogen removal.

Chapters 5 and 9 authorized OAC, with the consent of a 75% majority of its members, to meet and deliberate in closed session to develop the package of consensus recommendations.

DNR must submit interim reports to the Governor and General Assembly on the development of the package of consensus recommendations by August 1, 2020, and December 1, 2020. A final report, which must include an implementation schedule for the consensus recommendations, must be submitted by July 1, 2021.

Restriction on Reduction or Alteration of Oyster Sanctuary Boundaries

Chapters 5 and 9 prohibit DNR from taking any action to reduce or alter the boundaries of existing oyster sanctuaries until the department has developed a fisheries management plan for the scientific management of the oyster stock based on management strategies and measurements recommended by OAC through the consensus recommendations process and determined by the department in consultation with UMCES.

2019 Oyster Management Plan

DNR released a final draft of the *2019 Maryland Chesapeake Bay Oyster Management Plan* in summer 2019, replacing the previous plan released in 2004 and amended in 2010. The plan describes the history and current status of the State's oyster fishery and provides a broad framework for managing oyster harvesting, restoration, and aquaculture going forward to "conserve, protect, and where possible, rebuild oyster populations to fulfill their important ecological role and to support the culturally significant oyster fishery and industry throughout the Maryland portion of the Chesapeake Bay." For additional SB 808/ Page 3

background on the plan and on oyster restoration in the State in general, see [Oyster Restoration in Maryland](#), Department of Legislative Services (December 2019).

Additional Information

Prior Introductions: None.

Designated Cross File: HB 911 (Delegate Gilchrist, *et al.*) - Environment and Transportation.

Information Source(s): Department of Natural Resources; University System of Maryland; Department of Legislative Services

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