

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Natural Resources  
(DLS Control No. 15-306)**

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**Overview and Legal and Fiscal Impact**

The action repeals redundant fishery regulations relating to the licensing of otter and beam trawls and price setting procedures under the Oyster Shell Purchase Program.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

**Regulations of COMAR Affected**

**Department of Natural Resources:**

Fisheries Service: Fish: COMAR 08.02.05.03

Aquaculture Permits: COMAR 08.02.14.13

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**Legal Analysis**

**Background**

Bottom trawling is a commercial fishing technique used to catch fish on or near the ocean floor. Commercial trawling is prohibited in the Chesapeake Bay and within State waters up to one mile from the coast. However, trawling is allowed in waters of the Atlantic Ocean beyond one mile from the Maryland shoreline. Species targeted by the bottom trawl fishery include horseshoe crabs, Atlantic croaker, summer flounder, skates, weakfish, and striped bass. In Maryland, the bottom trawl fishery is dominated by two gear types: otter trawls and beam trawls. The Department of Natural Resources advises that the regulation pertaining to licensing requirements for otter and beam trawls is no longer necessary because these requirements are covered elsewhere in statute and in regulation.

The department's Oyster Shell Purchase Program buys shells from licensed oyster dealers for use in the department's oyster restoration efforts. State law requires the department to consult annually with the Oyster Advisory Commission and the Tidal Fisheries Advisory Commission to determine the fair market value that the department will pay for fresh oyster shells and the transportation and placement of fresh oyster shells under the program. The department indicates that COMAR 08.02.14.13 – that details price, transportation, and placement requirements for fresh oyster shells – is unnecessary in light of other regulations. Specifically, COMAR 08.02.04.11 F

sets the price of fresh oyster shell at \$2 per bushel and the price of hauling and planting fresh oyster shell at 25 cents per bushel, subject to other conditions and terms agreed to each year.

### **Summary of Regulations**

The action repeals Regulation .03 under COMAR 08.02.05, which describes licensing requirements for otter and beam trawls. The action also repeals Regulation .13 under COMAR 08.02.14, which describes the process for determining the price the department pays for fresh oyster shells as well as the transportation and placement of fresh oyster shells.

### **Legal Issues**

The regulations present no legal issues of concern.

### **Statutory Authority and Legislative Intent**

The department cites §§ 4-710 and 4-1019.2 of the Natural Resources Article as statutory authority for the regulations. Section 4-710(b) authorizes “an appropriately licensed person” to use an otter or beam trawl to fish in the waters of the Atlantic Ocean, subject to department regulations. Section 4-1019.2 establishes the Oyster Shell Purchase Program in the department. Under subsection (f) of this section, the department must consult annually with the Oyster Advisory Commission and the Tidal Fisheries Advisory Commission to determine the fair market value that the department will pay for fresh oyster shells and the transportation and placement of fresh oyster shells under the program. The department must adopt regulations to implement this requirement.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

### **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

### **Agency Estimate of Projected Fiscal Impact**

The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs.

### **Impact on Budget**

There is no impact on the State operating or capital budget.

## **Agency Estimate of Projected Small Business Impact**

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

### **Contact Information**

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