

## Chapter 5

**(House Bill 720 of the 2019 Regular Session)**

AN ACT concerning

**Natural Resources – Fishery Management Plans – Oysters**

FOR the purpose of requiring the Department of Natural Resources to convene the Oyster Advisory Commission, in coordination with the University of Maryland Center for Environmental Science, on or before a certain date; providing for the membership of the Commission; requiring certain persons to provide information to the Commission under certain circumstances but prohibiting certain persons from participating as voting members; establishing certain requirements for the fishery management plan for oysters; requiring the Department of Natural Resources, in coordination with the University of Maryland Center for Environmental Science, to convene a certain stakeholder workgroup ~~Science and the Commission, to develop a certain package of consensus recommendations for enhancing and implementing the fishery management plan for oysters; providing for the membership of the stakeholder workgroup;~~ requiring the ~~stakeholder workgroup~~ Commission, with certain assistance, to develop certain recommendations based on a certain process, ~~review certain oyster management actions and~~ recommend certain oyster management actions to achieve certain goals, and review certain results for certain oyster management actions; prohibiting the Department from using certain funds for a certain purpose; authorizing the Commission to meet and deliberate in closed session for a certain purpose under certain circumstances, notwithstanding a certain provision of law; requiring the Department to submit a certain interim report and a final report by certain dates to the Governor and General Assembly; requiring the Department to perform certain reviews of the oyster stock and, with certain input, implement certain management actions; providing for the termination of the terms of certain members of the Commission; requiring the Secretary of Natural Resources to convene the Commission in a certain manner; requiring the Department to implement a certain Fishery Management Plan for Oysters subject to certain requirements; and generally relating to a fishery management plan for oysters.

BY repealing and reenacting, with amendments,

Article – Natural Resources  
Section 4-204(c) and 4-215(e)(4)  
Annotated Code of Maryland  
(2018 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Natural Resources  
 Section 4-215(b)(6)  
 Annotated Code of Maryland  
 (2018 Replacement Volume)

~~BY repealing and reenacting, with amendments,  
 Article – Natural Resources  
 Section 4–215(e)(4)  
 Annotated Code of Maryland  
 (2018 Replacement Volume)~~

BY adding to  
 Article – Natural Resources  
 Section 4–215(e)(5)  
 Annotated Code of Maryland  
 (2018 Replacement Volume)

### Preamble

WHEREAS, Large connected oyster populations provide a number of environmental benefits to the Chesapeake Bay ecosystem, including reef habitat for finfish, shellfish, and other marine life, improved water quality, reduced sedimentation, carbon storage, and increased shellfish propagation; and

WHEREAS, The oyster population in the Bay is languishing at ~~1% of historic populations~~ a historic low; and

WHEREAS, The oyster resource is a valuable resource to the State of Maryland; and

WHEREAS, Chapter 703 of the Acts of the General Assembly of 2016 required the Department of Natural Resources to conduct a stock assessment and, based on this assessment, identify management strategies to address the maintenance of a sustainable oyster population and fishery; and

WHEREAS, With the completion of the oyster stock assessment, new regulations and policies for oyster management in Maryland are needed to sustain and grow the oyster resource, industry, and ecosystem; and

WHEREAS, A consensus-based process, as demonstrated by the OysterFutures model which utilizes a 60–40 balance of stakeholders, can be used to develop regulations and policies for oyster management that have broad stakeholder support and are informed by the oyster stock assessment, stakeholder knowledge, and scientific evidence; ~~now, therefore,~~ and

WHEREAS, It is the intent of the General Assembly that the recommendations of this Commission be the fishery management plan for oysters; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Natural Resources**

4-204.

(c) (1) There is an Oyster Advisory Commission in the Department.

(2) (I) [The Commission consists of members appointed by the Secretary] ON OR BEFORE JUNE 1, 2019, AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT SHALL, IN COORDINATION WITH THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE, CONVENE THE MEMBERS OF THE COMMISSION.

(II) THE COMMISSION SHALL INCLUDE ONLY:

1. A REPRESENTATIVE FROM EACH COUNTY OYSTER COMMITTEE ESTABLISHED UNDER § 4-1106(B) OF THIS TITLE DESIGNATED BY THE COMMITTEE;

2. A REPRESENTATIVE FROM THE MARYLAND WATERMEN’S ASSOCIATION, DESIGNATED BY THE ASSOCIATION;

3. A REPRESENTATIVE FROM THE MARYLAND OYSTERMEN’S ASSOCIATION, DESIGNATED BY THE ASSOCIATION;

4. A REPRESENTATIVE FROM THE BLACKS OF THE CHESAPEAKE FOUNDATION, DESIGNATED BY THE FOUNDATION;

5. A REPRESENTATIVE FROM THE AQUACULTURE INDUSTRY, DESIGNATED BY THE AQUACULTURE COORDINATING COUNCIL;

6. A REPRESENTATIVE FROM THE COMMERCIAL SEAFOOD BUYER INDUSTRY, DESIGNATED BY THE SECRETARY;

7. A REPRESENTATIVE FROM THE COASTAL CONSERVATION ASSOCIATION OF MARYLAND, DESIGNATED BY THE ASSOCIATION;

8. A REPRESENTATIVE FROM THE CHESAPEAKE BAY FOUNDATION, DESIGNATED BY THE FOUNDATION;

9. A REPRESENTATIVE FROM THE NATURE CONSERVANCY, DESIGNATED BY THE CONSERVANCY;

10. A REPRESENTATIVE FROM THE SHORERIVERS RIVERKEEPER ASSOCIATION, DESIGNATED BY THE ASSOCIATION;

11. A REPRESENTATIVE FROM THE ARUNDEL RIVERS FEDERATION, DESIGNATED BY THE FEDERATION;

12. A REPRESENTATIVE FROM THE OYSTER RECOVERY PARTNERSHIP, DESIGNATED BY THE PARTNERSHIP;

13. A REPRESENTATIVE FROM THE CHESAPEAKE BAY COMMISSION, DESIGNATED BY THE CHESAPEAKE BAY COMMISSION;

14. A REPRESENTATIVE FROM BLUE OYSTER ENVIRONMENTAL, DESIGNATED BY BLUE OYSTER ENVIRONMENTAL;

15. A REPRESENTATIVE FROM THE CHESAPEAKE BAYSAVERS, ~~APPOINTED~~ DESIGNATED BY THE CHESAPEAKE BAYSAVERS;

16. A REPRESENTATIVE FROM THE NATIONAL AQUARIUM, DESIGNATED BY THE NATIONAL AQUARIUM; ~~AND~~

17. A REPRESENTATIVE FROM THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE, DESIGNATED BY THE CENTER; ~~AND~~

18. A REPRESENTATIVE FROM THE PATUXENT ENVIRONMENTAL AND AQUATIC RESEARCH LABORATORY, MORGAN STATE UNIVERSITY, DESIGNATED BY THE RESEARCH LABORATORY.

(3) THE FOLLOWING PERSONS SHALL PROVIDE INFORMATION TO THE COMMISSION AT THE REQUEST OF THE COMMISSION BUT MAY NOT PARTICIPATE AS VOTING MEMBERS:

(I) STATE AND FEDERAL AGENCIES TASKED WITH OYSTER MANAGEMENT AND RESTORATION RESPONSIBILITIES, INCLUDING THE DEPARTMENT, THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, AND THE U.S. ARMY CORPS OF ENGINEERS;

~~(II) THE PATUXENT ENVIRONMENTAL AND AQUATIC RESEARCH LABORATORY, MORGAN STATE UNIVERSITY;~~

~~(III)~~ (II) TWO MEMBERS OF THE SENATE, ONE FROM EACH POLITICAL PARTY, APPOINTED BY THE PRESIDENT OF THE SENATE; AND

**~~(IV)~~ (III) TWO MEMBERS OF THE HOUSE OF DELEGATES, ONE FROM EACH POLITICAL PARTY, APPOINTED BY THE SPEAKER OF THE HOUSE.**

**[(3)] (4) The Commission shall:**

(i) Provide the Department with advice on matters related to oysters in the Chesapeake Bay;

(ii) Review the best possible science and recommend changes to the framework and strategies for rebuilding and managing the oyster population in the Chesapeake Bay under the Chesapeake Bay Oyster Management Plan;

(iii) Review the latest findings relevant to the Environmental Impact Statement evaluating oyster restoration alternatives for the Chesapeake Bay;

(iv) Review any other scientific, economic, or cultural information relevant to oysters in the Chesapeake Bay; [and]

**(V) DEVELOP A PACKAGE OF CONSENSUS RECOMMENDATIONS, IN COORDINATION WITH THE DEPARTMENT, FOR ENHANCING AND IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR OYSTERS UNDER § 4-215 OF THIS SUBTITLE; AND**

**[(v)] (VI) By December 31, 2007 and to the extent reasonably appropriate, report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on:**

1. Strategies to minimize the impact of oyster disease, including the State repletion program and bar cleaning;

2. The framework and effectiveness of the oyster sanctuary, harvest reserve, and repletion programs, and the overall management of natural oyster bars, after performing a cost-benefit analysis that considers biological, ecological, economic, and cultural issues;

3. Strategies to maximize the ecological benefits of natural oyster bars; and

4. Strategies to improve enforcement of closed oyster areas.

**(5) THE DEPARTMENT MAY NOT USE FUNDS ALLOCATED TO A COUNTY OYSTER COMMITTEE FOR THE COMMISSION ESTABLISHED UNDER THIS SUBSECTION.**

4-215.

(b) The Department shall prepare fishery management plans for the following species:

(6) Oysters;

(e) (4) (i) Subject to subparagraph (ii) of this paragraph, the Department may not take any action to reduce or alter the boundaries of the oyster sanctuaries established in “Oyster Sanctuaries of the Chesapeake Bay and its Tidal Tributaries (September 2010)” until the Department has developed a fisheries management plan for the scientific management of the oyster stock [following the completion of its reports in accordance with paragraph (3) of this subsection] **BASED ON MANAGEMENT STRATEGIES AND MEASUREMENTS RECOMMENDED BY THE OYSTER ADVISORY COMMISSION UNDER PARAGRAPH (5) OF THIS SUBSECTION AND DETERMINED BY THE DEPARTMENT IN CONSULTATION WITH THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE.**

(ii) **THE FISHERY MANAGEMENT PLAN DEVELOPED IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION SHALL:**

**1. END THE OVERFISHING OF OYSTERS IN ALL AREAS AND REGIONS OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES WHERE OVERFISHING HAS OCCURRED ACCORDING TO BIOLOGICAL REFERENCE POINTS ESTABLISHED BY THE MOST RECENT OYSTER STOCK ASSESSMENT WHILE MAINTAINING A HARVEST IN THE FISHERY;**

**2. ACHIEVE FISHING MORTALITY RATES AT TARGET LEVELS;**

**3. INCREASE OYSTER ABUNDANCE;**

**4. INCREASE OYSTER HABITAT; AND**

**5. FACILITATE THE LONG-TERM SUSTAINABLE HARVEST OF OYSTERS, INCLUDING THE PUBLIC FISHERY.**

(iii) This paragraph may not be construed to prevent the Department from:

1. Selecting the final two tributaries for tributary-scale oyster restoration sanctuary projects in accordance with the 2014 Chesapeake Bay Agreement; or

2. Establishing, in the discretion of the Department, any dimensions for a tributary-scale oyster restoration sanctuary project.

**(5) (I) THE DEPARTMENT SHALL:**

**1. IN COORDINATION WITH THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE AND THE OYSTER ADVISORY COMMISSION, ~~CONVENE A STAKEHOLDER WORKGROUP TO~~ DEVELOP A PACKAGE OF CONSENSUS RECOMMENDATIONS FOR ENHANCING AND IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR OYSTERS THAT WILL 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:**

- A. OYSTER ABUNDANCE;**
- B. OYSTER HABITAT;**
- C. OYSTER HARVEST;**
- D. OYSTER HARVEST REVENUE; AND**
- E. NITROGEN REMOVAL; AND**

**2. HOLD PUBLIC LISTENING SESSIONS THROUGHOUT THE STATE TO IDENTIFY POSSIBLE MANAGEMENT ACTIONS FOR USE IN THE PUBLIC OYSTER FISHERY.**

**~~(II) THE STAKEHOLDER WORKGROUP SHALL INCLUDE:~~**

- ~~1. A REPRESENTATIVE FROM EACH COUNTY WATERMEN'S ASSOCIATION;~~**
- ~~2. A REPRESENTATIVE FROM THE MARYLAND WATERMEN'S ASSOCIATION;~~**
- ~~3. A REPRESENTATIVE FROM THE COASTAL CONSERVATION ASSOCIATION OF MARYLAND;~~**
- ~~4. A REPRESENTATIVE FROM THE CHESAPEAKE BAY FOUNDATION;~~**
- ~~5. A REPRESENTATIVE FROM THE NATURE CONSERVANCY;~~**

~~6. A REPRESENTATIVE OF A COMMERCIAL SEAFOOD ORGANIZATION;~~

~~7. A REPRESENTATIVE FROM THE AQUACULTURE INDUSTRY;~~  
AND

~~8. STATE AND FEDERAL AGENCIES TASKED WITH OYSTER MANAGEMENT AND RESTORATION RESPONSIBILITIES.~~

~~(H)~~ (II) THE ~~STAKEHOLDER WORKGROUP~~ OYSTER ADVISORY COMMISSION, WITH THE ASSISTANCE OF EXTERNAL CONFLICT RESOLUTION AND FACILITATION SPECIALISTS, SHALL:

1. DEVELOP A PACKAGE OF CONSENSUS RECOMMENDATIONS THROUGH A FACILITATED CONSENSUS SOLUTIONS PROCESS, BASED ON A 75% MAJORITY AGREEMENT LEVEL FOR EACH RECOMMENDATION;

~~2. REVIEW CURRENT AND PROPOSED MANAGEMENT ACTIONS FOR COMPLETENESS AND RECOMMEND ADDITIONAL~~ 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

3. REVIEW MODEL RESULTS FOR EACH MANAGEMENT ACTION OR COMBINATION OF MANAGEMENT ACTIONS TO INFORM ~~STAKEHOLDER WORKGROUP~~ ITS RECOMMENDATIONS.

(III) NOTWITHSTANDING § 3-305 OF THE GENERAL PROVISIONS ARTICLE, AND WITH THE CONSENT OF A 75% MAJORITY OF ITS MEMBERS, THE OYSTER ADVISORY COMMISSION MAY MEET AND DELIBERATE IN CLOSED SESSION TO DEVELOP THE PACKAGE OF CONSENSUS RECOMMENDATIONS FOR ENHANCING AND IMPLEMENTING THE FISHERY MANAGEMENT PLAN FOR OYSTERS UNDER THIS PARAGRAPH.

(IV) 1. THE DEPARTMENT SHALL SUBMIT INTERIM REPORTS ON THE DEVELOPMENT OF THE PACKAGE OF CONSENSUS RECOMMENDATIONS BY DECEMBER 1, 2019, AUGUST 1, 2020, AND DECEMBER 1, 2020, TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

2. THE DEPARTMENT SHALL PROVIDE A FINAL REPORT BY JULY 1, 2021, WHICH WILL INCLUDE AN IMPLEMENTATION SCHEDULE FOR THE



**CONSENSUS RECOMMENDATIONS, TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

**(v) TO BE RESPONSIVE TO CHANGES IN THE OYSTER RESOURCE DUE TO ENVIRONMENTAL CONDITIONS, THE DEPARTMENT SHALL:**

**1. REVIEW THE STATUS OF THE STOCK RELATIVE TO REFERENCE POINTS EVERY 2 YEARS AND CONDUCT A BENCHMARK STOCK ASSESSMENT EVERY 6 YEARS WITH CONSIDERATION OF NEW METHODS AND WITH EXTERNAL PEER REVIEW; AND**

**2. WITH THE INPUT OF INTERESTED STAKEHOLDERS, IMPLEMENT MANAGEMENT ACTIONS THAT INCREASE OYSTER HABITAT, MAINTAIN HARVEST, AND GROW THE OYSTER STOCK.**

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The terms of the members serving on the Oyster Advisory Commission established under § 4-204(c) of the Natural Resources Article before the effective date of this Act shall terminate on the effective date of this Act.

(b) The Secretary of Natural Resources shall convene the new members of the Oyster Advisory Commission in accordance with the provisions of Section 1 of this Act.

(c) The terms of the new members convened under subsection (b) of this section shall begin on the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Natural Resources shall implement the 2019 Fishery Management Plan for Oysters pending the development of consensus recommendations in accordance with this Act.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

**Gubernatorial Veto Override, January 30, 2020.**