

## Feasibility of Expanding Areas for Clamming

Update for TFAC

**Task: "Chris Judy will work with Mitch Tarnowski to research the request presented by George O'Donnell to expand existing clamming grounds, Chris will report findings out to commission."**

Clamming grounds in Maryland's Chesapeake Bay are determined by law. See the Natural Resources Article, sections 4-1037 and 4-1038 in particular. Large and small areas are closed to clamming, as are certain setbacks from shore. Natural Oyster Bars are also closed to clamming.

Due to the complexity of where clamming can and cannot occur and due to the fact that DNR can't predict where clammers might be interested in expanding, it was determined that the initial steps for this task should be:

- Meet with a few representative clammers.
- Obtain charts from the clammers that highlight areas of interest.
- Review the legal status for expanding clamming in these areas.
- Report back to TFAC for feedback on the above steps. Then plan the "Next Steps"

### MEETING and CHARTS

George and Chris met with several clammers on March 30, 2016 on Kent Island. The clammers proposed a focused effort, rather than large scale changes. They came with charts showing areas of interest to them in Eastern Bay. George brought DNR oyster bar charts and the clammer's areas were transferred to the legal oyster bar charts. The areas proposed are inside Natural Oyster Bars (NOB's) where clamming is illegal. These areas are portions of the NOB's (not the entire NOB) and were proposed because they are likely no longer actual oyster bars but are probably sand bottom with no oysters.

George and Chris discussed the need for a DNR survey to determine if the proposed areas were in fact no longer oyster bars, and the need to discuss these proposed areas with the County Oyster Committees. Lastly, it was discussed that a process needs to be developed to change the oyster bar charts to declassify these sections of the NOB's. Only after the charts are changed will the areas be open to clamming.

### LEGAL STATUS

The clamming areas highlighted at the meeting are in charted NOB's, where clamming is illegal. However, under Natural Resources Article, section 4-1102 DNR has the authority to amend an NOB. Once this is done, the portion of the NOB that has been removed will be available for clamming, assuming clamming is already generally legal in the overall region. The basic steps for amending an NOB under 4-1102 are:

1. Survey the site to determine the position and extent of the NOB.
2. Determine that the NOB is located incorrectly on the existing charts, or that the existing charts do not reflect the actual condition of site.
3. Amend the existing charts by regulation (no regulation exists yet – will have to be developed).

Note, the County Oyster Committee(s) for the tributary will be consulted about any proposed change to an NOB and their input will be considered before any change is made.

#### NEXT STEPS

After feedback is obtained from TFAC on the above report, the next steps are:

- A regulation needs to be developed that specifies how to amend the NOB charts.
- DNR will develop the regulation, working with clammers, oystermen, TFAC and others.
- DNR will conduct a survey to determine the status of the proposed sites.

For a regulation, DNR proposes a regulation and discusses it with the public and certain committees during “scoping”. Then the proposed regulation is published in the Maryland Register for a 30 day comment period. Revisions can occur and then it is re-published in the Maryland Register as a final regulation. Timespan – about 95 days.

This timespan of about 95 days only creates the regulation. After this, the process in the regulation then needs to be implemented to conduct the survey, meet with the Oyster Committee(s), change the oyster charts, etc.

If a law change is involved, this can only occur during Session. A bill sponsor is needed and then the bill goes to hearing, where it receives public comment and agency testimony. Then it goes to the Governor for signature or veto. Most bills become effective between June and October the year they are signed. Timespan – about 5-9 months.