



*Larry Hogan, Governor*  
*Boyd Rutherford, Lt. Governor*  
*Mark Belton, Secretary*  
*Joanne Throwe, Deputy Secretary*

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## *Memo*

To: TFAC Commissioners  
From: Gina Hunt  
Date: April 21, 2016

At the January 28, 2016 TFAC meeting, the Commission asked DNR to research a recreational oyster license/permit. The Commission raised concerns regarding recreational harvest, the lack of bushel tax, and new charter trips. This memo is meant to clarify if the current rules and provide options.

### ***Oyster License or Permit***

A recreational oyster license or permit does not currently exist. Law (§4-1003) restricts all harvest of oysters to only residents of the State. The Department could establish a recreational oyster permit, but there is no authority to charge a fee for the permit. The Department is unclear what issue a permit is designed to address. Identifying the recreational oyster users will be problematic if the permit is free. People may get the permit even if they do not intend to use it because it is at no charge. It would also be problematic to design and fund a recreational harvest survey based on the free permit.

### ***Oyster Tax***

A severance tax of \$ 1 per bushel must be paid for every bushel of oysters caught. However, the law indicates that the tax is only levied on oysters caught for sale to a licensed oyster buyer or other consumer. Therefore, the tax is not imposed on oysters that are caught for recreational purposes.

### ***Current Rules***

*COMAR 08.02.04.02*

#### **.02 Catching Oysters for Noncommercial Purposes.**

- A. Catch Limit. Subject to the limitations in this regulation, a resident may take up to one bushel of oysters on any day without obtaining a license, if the oysters are for his own use and consumption, and not for sale or marketing.
- B. Times for Catching Oysters.
- (1) The season for catching oysters for noncommercial purposes is from October 1 through March 31, inclusive.
  - (2) A person may catch oysters for noncommercial purposes:
    - (a) Monday through Friday from sunrise until 3 p.m.; and
    - (b) Saturday from sunrise until 12 p.m.
- C. Prohibition. Except during the times specified in this regulation, it is illegal for a person to catch oysters for noncommercial purposes.
- D. Lawful Methods. A person may catch oysters for noncommercial purposes only by hand, rake, shaft tong, or diving with or without scuba equipment.
- E. A person may not take oysters for noncommercial purposes while aboard a vessel where any other person is engaged in commercial oystering.

*Md. NATURAL RESOURCES Code Ann.*

§ 4-1003. Residents may catch oysters and clams

Any resident of the State may catch oysters or clams on any area in the waters of the State from which catching oysters or clams is permitted under the provisions of this subtitle. This section applies to catching oysters or clams by rakes, tongs, patent tongs, dredges, handscrapes, or by other means permitted by law for the particular area. This section applies also to catching clams by hydraulic or mechanical dredges or rigs permitted by law for the particular area. This section does not affect any provision of this subtitle concerning the licensing or regulation of catching oysters or clams, except as specifically provided in this section.

§ 4-1020. Oyster taxes

(a) Permit and inspection tax on exported oysters. -- A separate permit shall be obtained for shipping each cargo, truckload, or other consignment of oysters in the shell out of the State. An inspection tax of 30 cents per bushel shall be levied upon marketable oysters shipped in the shell to any place outside the State and shall be paid by the shipper. The tax imposed by this subsection shall be levied in addition to every other tax imposed on oysters.

(b) Severance tax on Maryland oysters. -- A severance tax of \$ 1 per bushel shall be levied upon every bushel of oysters caught within the limits of the natural oyster bars of the State exclusive of the Potomac River. The oyster buyer or receiver shall pay the tax to the Department for deposit to the credit of the Fisheries Research and Development Fund. This section does not prevent any person licensed to catch oysters in the State from selling his oysters in the shell directly to a consumer in the State. If the consumer is a licensed buyer of oysters, he shall assume the obligations placed by this subsection on the first buyer of the oysters to remit the tax to the Department. However, if the consumer is not a licensed buyer of oysters, the seller of oysters shall assume this obligation.