

Sustainable Oyster Population and Fishery Act of 2016

FOR the purpose of requiring the Department of Natural Resources, in consultation with the University of Maryland Center for Environmental Science, to conduct a certain study related to the public oyster fishery; requiring the Department to identify certain oyster management strategies in a certain manner; requiring the Department to report submit certain reports on the study and certain oyster management strategies to the Governor, the Oyster Advisory Commission, and the General Assembly on or before a certain date; providing for the construction of this Act; providing for the termination of this Act; and generally relating to the public oyster fishery.

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

(d) (1) Conservation and management measures adopted under a fishery management plan, to the extent possible:

(i) Shall prevent overfishing while attempting to achieve the best and most efficient utilization of the State's fishery resources;

(ii) Shall be based on the best information available;

(iii) May not discriminate unfairly among groups of fishermen or have economic allocation as its sole purpose;

(iv) Shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches; and

(v) Shall avoid duplication of regulatory efforts and unnecessary costs to the State and to any other person.

(2) If it becomes necessary to allocate or assign fishing privileges among various groups of individuals under paragraph (1)(iii) of this subsection, or under any fishery management plan, that allocation shall be:

(i) Fair and equitable to all individuals;

(ii) Reasonably calculated to promote conservation; and

(iii) Carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(e) (1) Except as provided in paragraph (2) of this subsection, a fishery management plan may apply separately or jointly to the waters of the Chesapeake Bay and its tidal tributaries, the coastal bays and their tributaries, and the Maryland waters of the Atlantic Ocean and shall include:

(i) The best available estimates of sustainable harvest rates;

(ii) Indicators that would trigger any tightening or loosening of harvest restrictions;

(iii) A description of the fishery, including:

1. The history of the fishery, and its current condition relative to historic populations;

2. The numbers of potential commercial and recreational fishermen projected to participate in the fishery;

3. The type and quantity of fishing gear used commercially;

4. Where practicable, the cost likely to be incurred in the management of the fishery; and

5. The actual and potential revenues from the recreational and commercial fishery;

(iv) If the Department determines that a fishery has been, or is currently, overfished:

1. A species-specific time period for:

A. Ending or appropriately addressing overfishing; and

B. Rebuilding the stock of the species to a sustainable level; and

2. A description of:

A. Management strategies that have a high probability of reducing fishing to a target level within a target time period, as determined by the Department; and

B. The appropriate assignment or allocation of fishing privileges in accordance with subsection (d)(2) of this section; and

(v) Other pertinent data that will assist the Secretary in determining conservation and management measures reasonably necessary to ensure that the fishery resources will be sustained.

(2) The Department may waive the requirements in paragraph (1)(iv) of this subsection for a species of fish if the Department determines that meeting the requirements is not practicable or biologically appropriate based on:

(i) The specific biology of the species;

(ii) The management of the species under a federal or multi-state fishery management plan;

(iii) The designation of the species as a nuisance;

(iv) Environmental conditions; or

(v) Other ecological factors.

(3) (l) The department, in consultation with the university of Maryland Center for Environmental Science, as part of its fishery management plan for oysters, shall conduct a study to:

1. Identify all available data that may be used to conduct a stock assessment;

2. Identify possible stock assessment techniques that may be applied based on available data and the identified objectives under subsection (d) of this section for the resource and the fishery;

3. Conduct a stock assessment that provides guidance for the development of biological reference points that are based on the biological characteristics of the oyster population and other appropriate factors that affect the oyster population;

4. Identify objective and measurable means to determine if the public oyster fishery is operating within the biological reference points developed under this paragraph; and

5. Submit the study to a peer review panel composed of stock assessment experts.

(ii) Based on a determination made under item (i)4 of this paragraph and the authority of the department under this section, the department, through a public process in collaboration with the commercial oyster industry, conservation organizations, and other concerned stakeholders, shall identify management strategies to address the maintenance of a sustainable oyster population and fishery.

(iii) The department shall submit to the Governor, the Oyster Advisory Commission, and, in accordance with § 2–1246 of the state government article, the general assembly, with respect to the study required under this paragraph and any proposed or implemented oyster management strategies:

1. An interim progress report on or before December 1, 2016;

2. A subsequent interim progress report on or before December 1, 2017; and

3. A final report on or before December 1, 2018.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to limit or affect the ability of the Department of Natural Resources to manage the oyster fishery under § 4–215 of the Natural Resources Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2016. It shall remain effective for a period of 3 years and, at the end of May 31, 2019, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 28, 2016.