

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	10/22/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 11/30/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

08 02 04 15

3. Name of Promulgating Authority

Department of Natural Resources

4. Name of Regulations Coordinator

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5. Name of Person to Call About this Document

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6. Check applicable items:

- New Regulations
 - Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: 8/26/15.
 - Repeal of Existing Regulations
 - Recodification
 - Incorporation by Reference of Documents Requiring DSD Approval
 - Reproposal of Substantively Different Text:
 - : Md. R
 - (vol.) (issue) (page nos) (date)
- Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

- Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.
- OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Shara Mervis Alpert, Assistant Attorney General, (telephone #410-260-8358) on October 21, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Mark J. Belton

Title

Secretary of Natural Resources

Telephone No.

410-260-8100

Date

October 20, 2015

Title 08
DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.04 Oysters

Authority: Natural Resources Article, §§4-215, 4-2A-03, 4-1013 and 4-11A-12,
Annotated Code of Maryland

Notice of Proposed Action

[]

The Secretary of Natural Resources proposes to amend Regulation .15 under COMAR 08.02.04 Oysters.

Statement of Purpose

The purpose of this action is to require notification while using a power dredge on a lease that is adjacent to a sanctuary and to correct a citation. The current regulation requires individuals working leases that are located in a sanctuary to call the Department 48-hours in advance of power dredging. The leases that existed prior to the creation of the sanctuaries in 2010 (Oyster Sanctuaries of the Chesapeake Bay and Its Tidal Tributaries) are adjacent to the sanctuaries, but are not considered part of the sanctuary. Therefore, these leases are currently exempt from the notification requirement. Anyone working a lease that is adjacent to a sanctuary should be required to notify the Department prior to using a power dredge. The proposed action adds the requirement. The proposed action also corrects the date of the Maryland Geological Survey sonar survey. The survey was completed in 2010, not 2012.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Power Dredging, Regulatory Staff, Department of Natural Resources Fisheries Service, B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through December 30, 2015. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2016

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

No additional funds are necessary to implement the regulation. The Department already receives calls regarding the use of power dredge so additional funds are not necessary.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

The proposed action does not require additional funds of the Department or of the regulated individuals. It simply requires notification if the individual uses a power dredge.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

See reason in E.

G. Small Business Worksheet:

Attached Document:

.15 Oyster Sanctuaries.

A.—B. (text unchanged)

C. Aquaculture in Sanctuaries.

(1) (text unchanged) Except as provided in §C(2) of this regulation, a shellfish lease may not be located within 150 feet of a Yates Bar located in an oyster sanctuary established in §A of this regulation.

(2) Until termination in accordance with Natural Resources Article, §4-11A-10, Annotated Code of Maryland or surrender in accordance with COMAR [08.02.23.03K] 08.02.23.03J, leased areas and all areas within 150 feet of the leased areas existing at the time of the enactment of Ch. 173, Acts of 2009 shall not be considered part of the sanctuaries as established in §A of this regulation.

(3) A leaseholder under Natural Resources Article, §4-11A, Annotated Code of Maryland, or permit registrant under COMAR 08.02.23.04 shall notify the Department as specified on the Shellfish Aquaculture Harvester Permit 48 hours in advance of using a power dredge in areas described in §A *or* §C(2) of this regulation.

(4) (text unchanged)

(5) St. Mary's River Oyster Sanctuary.

(a) The Department shall, based on the results of the Maryland Geological Survey's [2012] 2010 sonar survey, post on its website a map of the areas of restorable bottom in the St. Mary's River Oyster Sanctuary.

(b)—(c) (text unchanged)

MARK J. BELTON

Secretary of Natural Resources