

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	06/17/2020	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 7/31/2020

2. COMAR Codification

Title Subtitle Chapter Regulation

08 02 04 01

3. Name of Promulgating Authority

Department of Natural Resources

4. Name of Regulations Coordinator Telephone Number

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6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: May 20, 2020.

Repeal of Existing Regulations

Notice of Proposed Action

[]

The Secretary of Natural Resources proposes to amend Regulation .01 under COMAR 08.02.04 Oysters.

Statement of Purpose

The purpose of this action is to revise the patent tong line in the Patuxent River. Specifically, the proposed action adds approximately 8 acres to the existing patent tong area. The department received a request to change the patent tong line in the lower third of the Patuxent River to include a small area of oyster bottom. The area being added is currently open to harvest by hand tong and by diving. After evaluation, the department concluded to proceed with the request because other gears are allowed in the area and patent tonging occurs broadly over the entire surrounding area. The boundaries of Neal Addition Sanctuary, surrounded by the patent tong area, are not changing.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

The proposed action has the potential to positively impact commercial harvesters who use patent tongs.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:		
Harvesters	(+)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D. The area being opened is a very small area. There are roughly 9,000 -10,000 acres open to patent tonging that surround the proposed area. An average of five harvesters per year, but as many as 29, have reported harvest from the surrounding area since 2009, so the action has the potential to positively impact commercial harvesters who use patent tongs. However, it is unknown how many harvesters will work the new area and adding 8 acres is not likely to have a large impact on the number of oysters that a licensee harvests. Since much of the area is near shore and likely sandy bottom, it is unlikely that there is much oyster habitat or population. For these reasons the impact is likely minimal, but the actual impact is indeterminable.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

The proposed action has the potential to benefit commercial oyster harvesters, which are considered small businesses. Please see the assumptions in the Types of Impact statement.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Patent Tong Line Regulations, Regulatory Staff, Department of Natural Resources Fishing and Boating Services, 580 Taylor Ave., B-2, Annapolis, MD 21401, or call 410-260-8300, or email to please see mailbox comment, or fax to 410-260-8310. Comments will be accepted through August 31, 2020. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2021

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 funds are necessary to implement this action. The action does not create additional work for the Department. Natural Resource Police officers will enforce the regulations in their normal course of daily duties.

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

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

G. Small Business Worksheet:

Attached Document:

.01 Patent Tong Areas.

A. (text unchanged)

B. Exceptions. A person may catch oysters by patent tong in the areas listed in this section.

(1)—(5) (text unchanged)

6) Patuxent River. All of the waters of the Patuxent River enclosed by a line beginning at a point on the shore at Hog Point defined by Lat. 38°18.586' N, Long. 76°23.993' W; then running westerly along the shore to a point on the shore at Fishing Point defined by Lat. 38°18.285' N, Long. 76°25.355' W; then running 345° True to a point defined by Lat. 38°18.525' N, Long. 76°25.434' W; then running 251° True to a point defined by Lat. 38°18.271' N, Long. 76°26.356' W; then running 196° True to a point on the shore, defined by Lat. 38°17.503' N, Long. 76°26.640' W; [then running northwesterly along the shore to a point defined by Lat. 38°22.412' N, Long. 76°31.504' W; then running 27° True to a point defined by Lat. 38°22.540' N, Long. 76°31.420' W; then running 307° True to a point defined by Lat. 38°22.612' N, Long. 76°31.540' W; then running 208° True to a point on the shore, defined by Lat. 38°22.491' N, Long. 76°31.621' W;] then running northwesterly along the shore to a point on shore at Sotterly Wharf, defined by Lat. 38°22.728' N, Long. 76°32.003' W; then running 77° True to a point near St Leonard's Creek Beacon, defined by Lat. 38°23.065' N, Long. 76°30.177' W; then running 77° True to a point on the shore, defined by Lat. 38°23.128' N, Long. 76°29.826' W; then running southeasterly along the shore to a point defined by Lat. 38°20.631' N, Long. 76°28.241' W; then running 282° True to a point defined by Lat. 38°20.638' N, Long. 76°28.287' W; then running 213° True to a point defined by Lat. 38°20.008' N, Long. 76°28.815' W; then running 132° True to a point on the shore, defined by Lat. 38°19.983' N, Long. 76°28.780' W; then running southeasterly along the shore to a point at the south entrance of Solomon's Harbor, defined by Lat. 38°19.263' N, Long. 76°27.103' W; then running 7° True to a point at the north entrance of Solomon's Harbor, defined by Lat. 38°19.370' N, Long. 76°27.087' W; then running easterly along the shore to Drum Point defined by Lat. 38°19.143' N, Long. 76°25.266' W; then running 119° True to the point of beginning, *excluding the waters of Neal Addition Sanctuary which is defined as: All of the waters of the area enclosed by a line beginning at a point defined by Lat. 38°22.480'N, Long. 76°31.460'W; then running approximately 307° True to a point defined by Lat. 38°22.552'N, Long. 76°31.580'W; then running approximately 28° True to a point defined by Lat. 38°22.612'N, Long. 76°31.540'W; then running approximately 127° True to a point defined by Lat. 38°22.540'N, Long. 76°31.420'W; then running approximately 208° True to the point of beginning.*

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Secretary of Natural Resources