

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	06/18/2020	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 03 07

3. Name of Promulgating Authority

Department of Natural Resources

4. Name of Regulations Coordinator Telephone Number
Lisa A Eutsler 410-260-8107

Mailing Address

Tawes State Office Building, 580 Taylor Avenue, C-4

City State Zip Code
Annapolis MD 21401

Email
lisa.eutsler@maryland.gov

5. Name of Person to Call About this Document Telephone No.
Tamara O'Connell 410-507-0779

Email Address
tamara.oconnell@maryland.gov

6. Check applicable items:

- New Regulations
- Amendments to Existing Regulations
Date when existing text was downloaded from COMAR online: 5/13/2020.
- 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 General Provisions Article, §3-302(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 June 10, 2020. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Jeannie Haddaway-Riccio

Title

Secretary of Natural Resources

Telephone No.

410-260-8100

Date

June 16, 2020

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.03 Crabs

Authority: Natural Resources Article, §§4-215 and 4-803, Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of Natural Resources proposes to amend Regulation .07 under COMAR 08.02.03 Crabs.

Statement of Purpose

The purpose of this action is to relocate the crab pot line at the mouth of Eastern Bay. Currently, the crab pot line at the mouth of Eastern Bay extends from "...Lowe's Point; thence in a straight line in a northwesterly direction to Bloody Point." The proposed action relocates the line to a point on the eastern side of Harbor Cove so that crab pots may be used in the area. This action opens approximately 600 acres to crab pots.

This action is being taken to mitigate the negative impact crab potters have experienced due to the expanded Poplar Island restoration footprint. The Poplar Island restoration project began in 2001 with the goal of restoring 1,140 acres of habitat lost to erosion throughout the early 1900s. The underwater habitat provided by the eroding island is desirable habitat for crabs, making this area very productive for crab potting. In 2007, Congress authorized an expansion of the acreage to 1,715 acres with a 110 acre open water embayment. Due to the restoration and expansion of the island, commercial crabbers have not been able to work roughly 1,825 acres of bottom in this area. During the summer when hypoxia is common in deeper waters, the area where crab potting is suitable becomes condensed closer to the shore line, squeezing crab pot effort into a smaller area, which results in gear interactions. Opening an additional area for crab pots was discussed with crab harvesters. Since the entire area is desirable for use by many crabbers, they recommended moving the line to the point near Harbor Cove. This will allow crabbers to spread out and reduce gear interactions. The proposed action does not expand use of the gear into the tributaries delineated in COMAR 08.02.01.06.

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 a potential positive economic impact for commercial crab harvesters who use crab pots.

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 (+) Cost (-)	Magnitude
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D. On regulated industries or trade groups:

(1) Commercial Harvesters Using Crab Pots	(+)	Indeterminable
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(2) Commercial Harvesters Using Other Gear	(-)	Indeterminable
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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(1). The area being opened is small, approximately 600 acres. It is a productive area for blue crabs so the action has the potential to positively impact commercial harvesters who are authorized to use crab pots. Commercial crabbers in the area will be able to spread out and reduce gear interactions. Crab harvest is reported by NOAA code. The area being opened overlaps the middle bay and eastern bay NOAA codes so harvest for the specific area cannot be teased out. It is unknown how many harvesters will work the area or if it will change the amount of total harvest. For these reasons the actual impact is indeterminable.

D(2). The proposed action opens an area to use by harvesters using crab pots that is currently open to use by harvesters using trotlines. Opening the area to additional gear may have a negative impact on harvesters using trotlines because they will be competing for space. Since crab harvesters from this area worked together to recommend the location of the crab pot line, the impact is likely minimal.

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 crab 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 Blue Crab Regulations, Regulatory Staff, Department of Natural Resources Fishing and Boating Services, 580 Taylor Avenue, B-2, Annapolis, MD 21401, or call 410-260-8300, or email to PLEASE SEE MAILBOX MESSAGE, or fax to 410-260-8310. Comments will be accepted through August 31, 2020. A public hearing will be held, See mailbox message or complete the comment form at <https://dnr.maryland.gov/fisheries/Pages/regulations/changes.aspx#bcrapspop>. A webinar or similar remote conference to discuss the details of the proposed action will be held in August. Details will be announced at a later date.

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:

.07 Crab Pots.

A.—D. (text unchanged)

E. Crab Pot Line for the Chesapeake Bay and Potomac River.

(1)—(2) (text unchanged)

(3) The following lines mark the headlands of the rivers, bay, creeks, sounds, coves, and inlets beginning on the western side of Chesapeake Bay at Locust Point on Spesutie Island; then southwesterly along the shore to Bear Point; thence to Black Point; thence southwesterly along shore to Abbey Point; thence to Lego Point; thence along the shore to Ford Point; thence along the shore to Robbins Point; thence along the shore to southwestern tip of Rickett Point; thence in a northwesterly direction to the point of Carroll Island at Lat. 39°18'52.29"N., Long. 76°19'42.11"W. to Weir Point to Lower Point; thence to the northeasterly point of Millers Island; thence southerly along southeasterly shores of Millers Island, Hart Island, and Patapsco River Neck to the southernmost tip of North Point; thence southwesterly along a line to Buoy R "6" to within 200 yards of the Brewerton channel; thence in a southeasterly direction to intersect a point along a line from North Point to Bodkin Point 200 yards north of the Brewerton channel; thence to Bodkin Point; thence southerly along shore to Mountain Point; thence to Persimmon Point; thence along shores to Sandy Point to Hackett Point; thence to Greenbury Point; thence to Tolly Point; thence along shore to Thomas Point; thence to Saunders Point; thence along shore to Dutchman Point; thence to Curtis Point; thence along shore to point on north side

of entrance into Parkers Creek; thence to Holland Point; thence southerly along shore to Plum Point and to Cove Point and to Drum Point; thence to Hog Point; thence along shores to Cedar Point to Point No Point and to Point Lookout; thence southeasterly across the Potomac River to Smith Point; thence northeasterly along State line to intersection with westerly shore of Smith Island, crossing Big Thorofare at points marking its western entrance and continuing northward along shore to Fog Point; thence to southwesternmost point of land on Pry Island; thence to southernmost point of Holland Island; thence along western shores of Holland Island, Adam Island, Billys Island, and Bloodsworth Island to tip of shore on southwesterly side of entrance into Okahanikan Cove; thence to Navy-maintained tower; thence to nun Buoy N "2", thence to Honga River Light Fl. 4 § 16 ft. 4M; thence to Billy's Point at Lat. 38°14.52'N., Long. 76°07.58'W. on lower Hoopers Island; thence westerly along shore of Hoopers Island to Pons Point; thence to southernmost point of Barren Island; thence northerly along the western shore of Barren Island crossing Tar Bay at points marking its northwestern entrances, and continuing northerly along west shores of Meekins Neck, Taylors Island, and James Island to James Point; thence to Hills Point; thence to Black Walnut Bar Bell buoy; thence to Black Walnut Point; thence northerly along west shore of Tilghman Island to point on northerly side of Paw Paw Cove; thence northerly along shore to [Lowe's Point] *a point on the eastern side of Harbor Cove defined by Lat. 38°46'43.98"N., Long. 76°19'23.38"W.*; thence in a straight line in a northwesterly direction to Bloody Point; thence northerly along west shore to Kent Island to Love Point; thence to northwest point of Eastern Neck Island; thence northerly along west shore of Eastern Neck to Huntingfield Point; thence to Swan Point; thence northerly along shore to point on south side of Fairlee Creek marking its entrance; thence along shore to Worton Point; thence along shore to Plum Point; thence along shore to include area known as Still Pond to Meeks Point; thence along shore to Howell Point; thence to Grove Point; thence along the shore to Pearce Creek; thence westerly to Buoy R 6 Fl. R 4 § thence to Turkey Point; thence northerly along the western shore of Elk Neck to Rocky Point; thence westerly across the Bay to Locust Point, the point of beginning.

F.—H. (text unchanged)

JEANNIE HADDAWAY-RICCIO
Secretary of Natural Resources