

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.		
Symbol Key <ul style="list-style-type: none">• Roman type indicates existing text of regulation.• <i>Italic type</i> indicates proposed new text.• [Single brackets] indicate text proposed for deletion.		
Promulgation of Regulations <p>An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.</p> <p>Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.</p> <p>Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.</p>		

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.01 General

Authority: Natural Resources Article, §4-205, Annotated Code of Maryland

Notice of Proposed Action
[16-328-P]

The Secretary of Natural Resources proposes to amend Regulation .09 under **COMAR 08.02.01 General**.

Statement of Purpose

The purpose of this action is to establish a dividing line on Barren Creek for tidal and nontidal waters. Barren Creek is a large tributary to the Nanticoke River. Each water body in Maryland is assigned a use class by the Maryland Department of the Environment. The use class is a grouping or set of designated uses that apply to a water body which individually may or may not be supported now, but should be attainable. Barren Creek is designated as Use Class I (nontidal) upstream of the U.S. Route 50 Bridge and Use Class II (tidal) downstream of the bridge. Use Class I designated uses include: water contact recreation and protection of nontidal warm water aquatic life. Use Class II designated uses include: support of estuarine and marine aquatic life and shellfish harvesting. The proposed action establishes a dividing line on Barren Creek at the U.S. Route 50 Bridge located in Mardela Springs to maintain consistency with the state use classifications. Dividing lines are established for the purpose of delineating those areas in which nontidal fishing licenses or Chesapeake Bay and coastal sport fishing licenses are required and tidal or nontidal fishing regulations apply.

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 may have an impact on anglers and the Department.		
II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
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A. On issuing agency:		
(1) Nontidal Angler's Licenses	(R+)	Indeterminable
(2) Chesapeake Bay & Coastal Fishing License	(R-)	Indeterminable
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:		
License Requirements	(+)	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.)		
A(1). There could be an increase in nontidal angler's license sales since an individual will now need a nontidal license to fish above the dividing line. However, this action also provides additional fishing areas for individuals that already have a nontidal license. The actual magnitude is indeterminable.		

A(2). There could be a decrease in Chesapeake Bay & Coastal fishing license sales since an individual will now need a nontidal license to fish above the dividing line instead of the tidal license. The actual magnitude is indeterminable because it is unknown how many individuals will be affected by this action.

D. This action could benefit some anglers and could be a cost for others. There are several different scenarios that could happen with the license type needed for fishing in this area. The impact would be different for each situation and the magnitude cannot be determined since the Department cannot predict the actions of anglers. There are anglers who currently purchase a Nontidal Sport Fishing License that will not be affected economically, but will have another area to fish. There are anglers that traditionally had to purchase a Chesapeake Bay and Coastal Sport Fishing license to fish in the area that will now have to purchase a Nontidal Sport Fishing License if they want to fish upstream of the dividing line. The cost of a Nontidal Sport Fishing License is \$20.50 per year. The cost of a Chesapeake Bay and Coastal Sport Fishing License is \$15 per year. Some individuals will only need one license type and others will need both license types. The magnitude of the impact is indeterminable because the Department does not know the numbers of individuals that fish in those areas and which license type they currently purchase.

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 Dividing Lines, 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 fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through January 9, 2016. A public hearing has not been scheduled.

.09 Dividing Lines; Tidal and Nontidal Waters.

The following boundaries are designated as official dividing lines for tidal and nontidal waters. These boundary lines are for the purpose of delineating those areas in which nontidal fishing licenses or Chesapeake Bay and coastal sport fishing licenses are required and tidal or nontidal fishing regulations apply, and have no other legal significance.

A.—G. (text unchanged)

H. Wicomico and Worcester Counties.

(1)—(4) text unchanged)

(5) *Barren Creek: U.S. Route 50 Bridge*

I.—M. (text unchanged)

MARK J. BELTON
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.11 Fishing in Nontidal Waters

Authority: Natural Resources Article, §§4-215, 4-602 and 4-614, Annotated Code of Maryland

Notice of Proposed Action

[16-315-P]

The Secretary of Natural Resources proposes to amend Regulations .01 and .04 under **COMAR 08.02.11 Fishing in Nontidal Waters**.

Statement of Purpose

The purpose of this action is to amend and clarify existing regulations for fishing in nontidal waters. Specifically, the proposed action increases the possession limits for trout, changes the closures for four put-and-take areas (Accident Pond, Georges Creek, Muddy Creek, and Little Youghiogheny River), extends the boundary on the North Branch Potomac River upper catch-and-return trout fishing area; makes possession limits for game fish consistent, defines when an individual needs a trout stamp, and clarifies the regulation by removing duplicate text.

The proposed action increases the trout possession limit. Increasing the possession to twice the daily creel will allow someone who may be on a multi-day fishing trip the ability to keep more than one daily limit without having to consume the fish they catch each day.

The proposed action changes the closure period from a “1” to a “0” on four streams (Georges Creek, Accident Pond, Muddy Creek and Little Youghiogheny River) managed under put-and-take trout fishing areas. The areas where the closure period is being changed to “0” are currently closed to fishing for up to three weeks after the initial stocking. The Department has received calls during the past several years that catch rates were low or non-existent by opening day. Georges Creek still has acid mine drainage (AMD) issues and is a very “flashy” stream during rain events. The Little Youghiogheny River within the Town of Oakland becomes quite turbid during rain events. Muddy Creek has experienced fish kills due to acidification; however, fish kills have been avoided since limestone was deposited in the stream (1999 - present), but during heavy snowmelt events the pH can still dip below 6.0. Removing the closure provides increased angler opportunity and a better return (catch) on the stocked trout. A change from a “1” closure to a “0” closure will allow fishing immediately after the initial stocking. All four locations combined will provide for an additional 84 days of recreational fishing opportunities. Water quality issues that may occur during the three week closure period may be less of an issue if anglers can fish for the trout immediately after stocking. All areas have the approval from local jurisdictions.

The proposed action extends the upper boundary on the North Branch Potomac River’s upper catch-and-return trout fishing area. The purpose of this action is to increase angler access and fishing opportunities in the North Branch Potomac River. The United States Army Corps of Engineers (USACE) approached the Department regarding increasing public access to the upper catch-and-return trout fishing area in May 2016. Currently the public has access along the river via the Senator Sarbanes Trail; however, one must walk downstream approximately 165 yards before legally being able to fish. The USACE would like to provide fishing opportunities in this stretch of the river. The boundary is being moved upstream to the point where the Senator Sarbanes Trail meets the river, at a location agreed upon by the USACE. This may also provide additional stocking locations since it will be open to public fishing.