

Annually the Department receives revenue from an MDOT grant, severance tax on oysters harvested, and export tax on oysters sold out of State. These funds are used solely for public fishery replenishment projects including planting shucked shell. Currently there is approximately \$4,000,000 available to spend on these projects; however, in-State shucked shell is not being sold to the Department and funds are not completely spent. By allowing the price the Department pays for shell to be set by public notice to reflect current market conditions, the Department hopes to expend more of these funds. It is not determinable how much of the available funds the Department will be able to expend based on the variability of the shell market.

D. Oyster harvesters may see a long-term indeterminable positive impact based on these changes. Oyster larvae need a hard substrate to attach to and become oyster spat (baby oysters). Increasing the amount of hard substrate planted, such as shell, on an oyster bar could increase the probability that larvae will find a hard substrate and thus could potentially increase natural recruitment, the oyster population, harvest, and revenue from harvest. While it is probable that planting additional shell will lead to some amount of increase in adult oysters at some point in the future, it is not possible to definitively assess how much any prospective planting of oyster shell on a public bar may ultimately impact future availability of oysters for harvest.

E. To the extent that this action makes more oysters available for harvest by oyster harvesters, oyster dealers typically generate additional revenue as well. While it is expected this action will have a long-term positive impact on oyster dealers, the extent to which that will be the case is indeterminable.

Economic Impact on Small Businesses

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

This action may have long-term positive impacts on small businesses that harvest, process, and deal in oysters by allowing the agency to be more competitive in the shell market, which may lead to the acquisition and planting of additional oyster shells in the water and ultimately more adult oysters available for harvest.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Regulations for Fees to be Paid for Oyster Shell, Regulatory Staff, Department of Natural Resources, 580 Taylor Avenue, E-4, Annapolis, MD 21401, or call 410-260-8300, or complete the form at <https://dnr.maryland.gov/fisheries/pages/regulations/changes.aspx#Ofees>. Comments will be accepted through May 22, 2023. A public hearing has not been scheduled.

.11 General Provisions.

A.—D. (text unchanged)

E. Fees for Purchasing, Hauling, and Planting Fresh Oyster Shell.

(1) Subject to other conditions and terms agreed to each year, the rate to be paid by the Department to any person for the hauling and planting of fresh oyster shell shall be [25 cents per bushel] *established by public notice in accordance with §G of this regulation, based on current fair market value.*

(2) The rate to be paid to purchase fresh oyster shell shall be [\$2 per bushel] *established by public notice in accordance with §G of this regulation, based on current fair market value.*

F. (text unchanged)

G. General.

(1) Notwithstanding Natural Resources Article, §§4-1004, 4-1008.1, 4-1009, 4-1013, and 4-1015.1, Annotated Code of Maryland, in order to implement the Maryland Chesapeake Bay Oyster Management Plan, the Secretary may issue a public notice to:

(a) Establish or modify the season, daily catch limits, days of the week, or times for catching oysters for recreational or commercial purposes; [or]

(b) Open or close an oyster harvest area for the harvesting or conservation of oysters[.]; *or*

(c) *Establish or modify the rates to be paid for the purchase, hauling, and planting of fresh oyster shell.*

(2)—(4) (text unchanged)

JOSH KURTZ

Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.11 Fishing in Nontidal Waters

Authority: Natural Resources Article, §§4-219, 4-603, and 4-616, Annotated Code of Maryland

Notice of Proposed Action

[23-045-P]

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

Statement of Purpose

The purpose of this action is to establish a new put-and-take trout fishing area, modify the start time for trout fishing in certain waters and at certain times, remove a restriction that has outlived its usefulness, establish a youth-only trout fishing day, and expand a delayed harvest area.

The action establishes a new put-and-take trout fishing area on Little Pipe Creek in Carroll County. The put-and-take area will begin at Shepherds Mill Road and extend downstream to the MD Route 75 crossing in Union Bridge. This area is approximately 1.75 stream miles. Trout will be stocked downstream of Shepherds Mill Road and within Little Pipe Creek Park. By establishing this put-and-take area and

stocking trout, the Department will expand fishing opportunities for anglers. The Town of Union Bridge had a population of 936 in the 2020 Census, and this put-and-take area will be within walking distance for residents of the town.

The action changes the trout fishing start time from 5:30 a.m. to 6:30 a.m. in all Closure 1 and Closure 2 put-and-take trout areas on the first day the areas open. Other areas not subject to closure would not be affected, and the start time in the affected areas would not change on any other dates. With daylight saving time in early March, sunrise is approximately 7:00 a.m., with twilight beginning at approximately 6:35 a.m. Many constituents have voiced concern about the start time of 5:30 a.m. being too dark for fishing in some very crowded streams on opening day. The crowding, which typically only exists in areas that have been closed for a period and are opening on opening day (Closure 1 and Closure 2 areas), also may cause safety concerns in the darkness.

The action removes Jones Falls from the Youth, Senior, and Blind Fishing Areas list. There is no public access to Jones Falls in the area listed in the regulation. The land is privately owned, and most landowners do not allow access. This area is listed in the regulation, creating the false impression that there is a publicly accessible fishing area at this location. This provision was implemented more than 30 years ago and has outlived its usefulness.

The action establishes a youth-only fishing day for trout on the Saturday before the traditional opening day (last Saturday in March), beginning at 6:30 a.m. This would be limited to the Closure 1 and Closure 2 put-and-take trout areas and have a creel limit of two fish per day. Other trout management areas will remain unaffected by this change. This change will provide more opportunities for youth anglers (age 15 and younger). Currently, there are 11 specially regulated areas for youth to fish. Five sites are limited to fishing by persons younger than 16 years old, 65 years old and older, and blind persons; six areas are limited to fishing by persons younger than 16 years old and blind persons.

Lastly, the action moves the boundary of the Delayed Harvest Area on Catoctin Creek in Frederick County from the boundary of Catoctin Creek Park at the Sumantown Road Bridge upstream 200 feet. There have been enforcement issues in this area because upstream of the boundary is open year-round to trout harvest, while the delayed harvest area beginning at the bridge is closed to trout harvest from October 1 through May 31. Also, during that period, a person may not use any natural or live bait, or any device enhanced with a scent and capable of catching fish in the delayed harvest area. After stocking, trout often reside under the bridge. By moving the special management line upstream of the bridge, anglers on both sides of the bridge will be fishing the area under the same rules.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action may have an economic impact on trout anglers, but the extent of the impact is indeterminable.

II. Types of Economic Impact.

Impacted Entity	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	<u>Benefit (+) Cost (-)</u>	<u>Magnitude</u>
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
Trout anglers	(+)	Indeterminable

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

F. The proposed action may have a positive impact on trout anglers. This action will increase opportunity for trout anglers in Carroll County, as well as provide additional opportunity for youth trout anglers Statewide. Furthermore, this action modifies the start time on the most crowded day of the trout season to more address constituent concerns. In totality, trout anglers will potentially have to drive less to reach waters where they can fish as well as receive more benefit from their fishing license as a result of the increased youth fishing opportunity. It is not possible to determine how much of a benefit trout anglers will ultimately realize, but it is not expected that the impact will be significant.

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 Fishing in Nontidal Waters Regulations, Regulatory Staff, Department of Natural Resources, 580 Taylor Avenue, E-4, Annapolis, MD 21401, or call 410-260-8300, or complete the comment form at <https://dnr.maryland.gov/fisheries/pages/regulations/changes.aspx>. Comments will be accepted through May 22, 2023. A public hearing has not been scheduled.

.01 Trout Fishing and Management Areas.

A. Basic Statewide Trout Fishing. Except as listed in §§B—[H] I of this regulation, the following shall be in effect for trout fishing in all nontidal waters of the State:

(1)—(5) (text unchanged)

B. Put-and-Take Trout Fishing Areas.

(1) Open Season. [Put-and-take] *Except as provided in §I of this regulation, put-and-take* trout fishing areas are closed to all fishing from 10 p.m. of the first date to 5:30 a.m. of the last date, during the period listed in the following schedule:

(a)—(c) (text unchanged)

(2) Fishing Hours.

(a) Except as provided in [§(2)(b)] §B(2)(b) and (c) and §I of this regulation, the fishing hours are from 5:30 a.m. to 10 p.m.

(b) (text unchanged)

(c) *In areas designated as Closure 1 or Closure 2 areas in §B(5) of this regulation, the fishing hours on the last Saturday in March are from 6:30 a.m. to 10 p.m.*

(3)—(4) (text unchanged)

(5) Except as provided in §C(1) of this regulation the following areas are designated as put-and-take trout fishing areas and are subject to the provisions in §B(1)—(3) of this regulation:

	Closure Periods
(a)—(e) (text unchanged)	
(f) Carroll County:	
(i)—(viii) (text unchanged)	
(ix) <i>Little Pipe Creek from Shepherds Mill Road downstream to the Maryland Route 75 bridge</i>	0
(g)—(n) (text unchanged)	

C.—D. (text unchanged)

E. Areas Limited to Fishing by Persons Younger than 16 Years Old, Persons 65 Years Old or Older, and Blind Persons.

(1) (text unchanged)

(2) Areas subject to provisions of this section:

[(a) Jones Falls, Baltimore County. That portion of Jones Falls and tributaries above Stevenson Road to their source.]

[(b)] (a)—[(e)] (d) (text unchanged)

F. (text unchanged)

G. Delayed Harvest Trout Fishing Areas and Requirements.

(1) Group I Delayed Harvest Trout Fishing Areas and Restrictions.

(a) Group I Fishing Areas.

(i) (text unchanged)

(ii) *Catoctin Creek (Frederick County) [within the boundaries of Catoctin Creek Park] from the southernmost boundary of Catoctin Creek Park upstream to 200 feet north of the Sumantown Road Bridge.*

(iii)—(v) (text unchanged)

(b)—(c) (text unchanged)

(2) (text unchanged)

H. (text unchanged)

I. Youth Trout Fishing Day.

(1) *Youth trout fishing day is the Saturday before the last Saturday in March in areas designated as Closure 1 or Closure 2 in §B of this regulation.*

(2) *Fishing Hours. The fishing hours on youth trout fishing day are from 6:30 a.m. to 10 p.m.*

(3) *Fishing in the areas during the date and times described in this section is limited to individuals younger than 16 years old.*

(4) *Creel and Possession Limits.*

(a) *Brook trout — Daily: 0, Possession: 0.*

(b) *All other species of trout in aggregate — Daily: 2, Possession: 2.*

JOSH KURTZ
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.11 Fishing in Nontidal Waters

Authority: Natural Resources Article, §§4-219, 4-602, 4-603, and 4-616, Annotated Code of Maryland

Notice of Proposed Action

[23-036-P]

The Secretary of Natural Resources proposes to adopt new Regulation .02 and amend Regulation .04 under **COMAR 08.02.11 Fishing in Nontidal Waters**.

Statement of Purpose

The purpose of this action is to amend Regulation .04 and adopt new Regulation .02 under COMAR 08.02.11 Fishing in Nontidal Waters.

The proposed action would legalize the use of cut bait in nontidal waters Statewide with the following restrictions: 1) Only fish with no minimum size restrictions can be used as cut bait; and 2) An angler may possess no more than one quart of cut bait at any time.