



Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor
Jeannie Haddaway-Riccio, Secretary
Allan Fisher, Deputy Secretary

Bill Number: SB 979

Short Title: Dredging on Man-O-War Shoals - Prohibition

Department's Position: Letter of Information

Explanation of Department's Position

The Maryland Department of Natural Resources (DNR) provides the following information on SB 979.

House Bill 103 and Senate Bill 175 of 2009 directed DNR to apply for a permit to procure shell from Man-O-War shoals. In accordance with the law, DNR applied for and received a provisional permit from the U.S. Army Corps of Engineers (USACE). That permit is conditional on the subsequent award of a State Wetlands Permit, which requires Board of Public Works (BPW) approval. A full report on the proposed project was submitted to BPW by the Maryland Wetlands Administration. The U.S. Army Corps of Engineers (USACE) permit does not authorize work to begin as it is only a "provisional permit," and is conditional to obtaining a State Wetlands Permit.

Under the provisional application, the proposed project is highly structured and controlled to safeguard against any foreseeable environmental impacts that might occur during dredging. Environmental studies are required throughout the 5-year project, beginning in Year 1 even before shell dredging is allowed. Dredging can only begin in Year 2, if the USACE and the Maryland Department of the Environment (MDE) approve based on the results of the Year 1 studies. The environmental studies include in depth data collection on water quality, turbidity, fish populations, benthic populations, oysters, and bottom topography. Comprehensive monitoring is also required pre-, during, and post-construction on an ongoing basis.

The USACE provisional permit and the Maryland Department of the Environment report and recommendations have the following restrictions on shell dredging at Man-O-War to limit the potential impacts of the project:

- limiting number of cuts to approximately 10 (about 32 acres out of a total of approximately 450 acres)
- prescribing that the depth cannot cut all the way through the shoal
- prescribing the cuts shall be no more than 500' wide
- that undredged bottom be left between cuts

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- limiting the amount of shell to be removed over the 5 year period to 5 million bushels out of a total of approximately 100 million bushels available at Man-O-War Shoals (about 5%)
- restricting activity in Year 1 to environmental studies only
- restricting shell dredging in Year 2 to 2 million bushels
- that dredging can only occur after the USACE and MDE have reviewed and approved the results of the studies in Year 1
- prohibiting shell dredging in Year 3, while requiring environmental studies to continue
- prohibiting shell dredging in Year 4, while requiring that the environmental study results from Years 1,2,3 to be submitted to the permit agencies for review
- limiting shell dredging in Year 5 to the remaining 3 million bushels, but only if the agencies approve dredging based on the environmental study results from Years 1,2,3
- no dredging is allowed from February 15 through June 15 to protect anadromous spawning fish

Detailed studies, which include a final study to be submitted in Year 5, must include investigations into water quality, fish populations, benthic populations, oysters, turbidity, and bottom topography. A tally of bushels shall be provided showing the bushels used by the three oyster sectors: sanctuary, public fishery, aquaculture.

The oyster shell to be dredged from Man-O-War shoal will be planted on sanctuary bars for ecological restoration, aquaculture sites for private oyster production, harvest reserves, and open harvest areas for public fishery production. The allocation for shells has not been determined yet. DNR plans to conduct extensive stakeholder outreach in planning the project and deciding allocation.

Access to shell and substrate is important to the state's ability to continue its work in restoring oysters to the Chesapeake Bay. As shell becomes increasingly scarce, it may also negatively impact small business development for the commercial and aquaculture sectors of the seafood industry.

For any additional information, please contact our Legislative and Constituent Services Director, Bunky Luffman.