

Title 21 STATE PROCUREMENT REGULATIONS

Subtitle 11 SOCIOECONOMIC POLICIES

21.11.11 Prevailing Wage—Contracts for Public Works

Authority: State Finance and Procurement Article, §§17-204(a) and 17-221, Annotated Code of Maryland

Notice of Final Action

[23-247-F]

On January 2, 2024, the Commissioner of Labor and Industry adopted the repeal of existing Regulation .07 and the recodification of existing Regulations .08 and .09 to be Regulations .07 and .08 under COMAR 21.11.11 Prevailing Wage—Contracts for Public Works. This action, which was proposed for adoption in 50:23 Md. R. 1023 (November 17, 2023), has been adopted as proposed.

Effective Date: January 22, 2024.

DEVKI K. VIRK
Commissioner of Labor and Industry

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

Promulgation of Regulations

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, 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.

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.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken.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an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 08 DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.03 Blue Crabs

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

Notice of Proposed Action

[23-285-P]

The Secretary of Natural Resources proposes to amend Regulations .01, .10, and .12—.14 under COMAR 08.02.03 Blue Crabs.

Statement of Purpose

The purpose of this action is to define the terms “lug”, “bushel”, and “barrel” for COMAR 08.02.03 Blue Crabs, modify rules for which containers may be used in the recreational and commercial fisheries, modify commercial catch limits currently set in regulation only in bushels, and modify recreational catch limits to account for the possibility of containers other than bushels being used by recreational crabbers.

The action proposes to define a “lug” as a rectangular-shaped container for female hard crabs that do not exceed the following inside dimensions:

- 22-7/8 inches in length across the top, 14-7/8 inches in width across the top
- 21 inches length across the bottom
- 13 inches width across the bottom
- 12-3/8 inches height

Containers of these dimensions are already used in the commercial crab fishery to hold male hard crabs and were previously allowed for mature females under an emergency action. The action also proposes definitions for the terms “bushel” and “barrel”. A circular bushel will be defined as having an 18" top diameter, 12" height, and 13.5" bottom diameter. A rectangular bushel will be defined as having an 11" height, 19.5" length, and 12.5" width. A barrel will be defined as having a 20.5" top diameter, 27.5" height, and 18" bottom diameter. Bushels will be allowed in both the recreational and commercial fisheries, while lugs and barrels will only be allowed in the commercial fishery.

This action proposes to allow mature female hard crabs to be harvested in lugs in addition to bushels and barrels. The current regulation requires mature female hard crab harvest to be held in either bushels or barrels. A shortage of wooden bushel baskets has left the commercial crabbing industry with few options for holding mature female hard crab harvests. The industry has identified the lug as the preferred alternate container, but it is larger than a bushel basket and, therefore, needs to be defined in regulation and included as a container that can be used to hold mature female hard crab harvest. To set catch limits by lug, the Department will use a conversion factor of 1.5 (1 lug equals 1.5 bushels) until additional data can be obtained to better refine the conversion.

This action proposes to require mature female hard crabs and male hard crabs to be kept in containers of identical dimensions on vessels, although crabs of different sexes may be kept in different types of containers. As an example, a harvester may have all mature females in lugs and all males in bushels, but males could not be kept in both bushels and lugs. If harvesters were to mix containers for one sex, it would be difficult for the Department to set understandable catch limits. Catch limits will be more easily enforced by prohibiting the “mixing and matching” of containers on board a vessel for one sex. Daily catch limits are integral to the Department's ability to ensure the fisheries do not overharvest crabs.

This action updates certain daily limits which are currently described in regulation in bushel amounts. The Department is proposing to add the limits for the allowable alternative containers. Commercial daily hard crab catch limits for Worcester County would be specified as 25 bushels, 16 lugs, or 10 barrels, and daily hard male crab catch limits for commercial finfish gear would be specified as 2 bushels or 1 lug. Daily hard female catch limits for commercial finfish gear will remain restricted to the daily maximum number of female crabs allowed by the individual's license type as established by public notice.

Lastly, this action modifies the recreational catch limit for scenarios where either one or two crabbing licenses are involved while crabbing in the Chesapeake Bay. When the recreational crabber is storing their crabs in a bushel, the catch limit will be 1 bushel if there is one licensed individual or an unlicensed individual is crabbing on a licensed crabbing boat. If they are not storing their crabs in a bushel, the catch limit will be six dozen crabs. In scenarios where there are two recreational licenses (i.e., two licensed individuals or one licensed individual on a licensed boat with another person), the catch limit will be 2 bushels if storing the crabs in bushels or 12 dozen if storing the crabs in containers other than bushels. These catch limits have been modified during the last 2 years by public notice based on the Blue Crab Winter Dredge Survey results, but the intention of the Department is to return to the historical catch limit when the population and management allows. The action also makes similar updates to the recreational catch limit in the Atlantic Ocean and its coastal bays.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action may have an indeterminable positive economic impact by allowing commercial harvesters to use an alternative container to hold mature female blue crabs. Due to the limited availability of the current legal containers, failure to allow an alternative container may result in negative economic impacts.

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	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
Commercial harvesters	(+)	Indeterminable
E. On other industries or trade groups:		
Crab picking houses	(+)	Indeterminable
F. Direct and indirect effects on public:	(+)	Indeterminable

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

D. Allowing commercial harvesters to utilize an alternative container rather than the currently allowed bushels and barrels will allow commercial harvesters to continue to harvest mature female crabs. It is not clear the extent to which harvesters are or will be constrained by the current lack of availability of legal containers. It is the Department’s understanding that while some bushel baskets are currently available, there

will not be enough bushel baskets available to last the industry for the whole season if the industry is to harvest the full amount that current limits would allow.

E. Crab picking houses rely heavily on mature female crabs for their operations. By allowing harvesters to use lugs, picking houses will be assured to have access to all of the mature female crabs that the current limits will allow harvesters to catch. If harvesters cannot deliver their catch to the processors, supply of crab to the public may be disrupted. This may ultimately lead to lost market share for Maryland processors and long-term negative consequences.

F. The public expects to have a consistent supply of Maryland crab, both available for purchase at markets and restaurants, as well as in the form of pasteurized crab meat. If commercial harvesters are not able to acquire the necessary containers in which to store their harvest, that supply will be disrupted. This will result in higher prices for available crabs and negative impacts on the public.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows:
The proposed action may have an indeterminable positive economic impact on small business. See Sections IID, E, and F.

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 Crabs — Containers and Limits Regulations, Regulatory Staff, Department of Natural Resources, Fishing and Boating Services, 580 Taylor Ave., E4, Annapolis, MD 21401, or call 410-260-8300, or submit comments to <https://dnr.maryland.gov/fisheries/pages/regulations/changes.aspx#bcrabcont>. Comments will be accepted through February 12, 2024. A public hearing will be held on January 25, 2024, at 1 p.m. More information available at: <https://go.activecalendar.com/doit-md/event/blue-crab-regulatory-hearing---containers-and-limits/>.

.01 Crabbing Gear.

A. (text unchanged)

B. Recreational Gear—Definitions.

(1) (text unchanged)

(2) “Bushel” means a:

(a) Circular container with the following inside dimensions:

(i) 18 inches top diameter;

(ii) 13-1/2 inches bottom diameter; and

(iii) 12 inches height; or

(b) Rectangular container with the following inside dimensions:

(i) 11 inches height;

(ii) 19-1/2 inches length; and

(iii) 12-1/2 inches width.

[(2)] (3)—[(8)] (9) (text unchanged)

C. Commercial Gear.

(1) In addition to the gear listed in §B(2)—[(7)] (8) of this regulation, the gear defined in this section may also be used for commercial crab harvesting.

(2) (text unchanged)

(3) “Barrel” means a container [with a minimum capacity of 32 gallons and] which holds not more than 2-1/2 U.S. standard bushels of crabs[,] and does not exceed the following inside dimensions:

(a) 20-1/2 inches across the top diameter;

(b) 27-1/2 inches height; and

(c) 18 inches along the bottom diameter.

(4)—(6) (text unchanged)

(7) “Lug” means a rectangular-shaped container that does not exceed the following inside dimensions:

(a) 22-7/8 inches in length across the top;

(b) 14-7/8 inches in width across the top;

(c) 21 inches length across the bottom;

(d) 13 inches width across the bottom; and

(e) 12-3/8 inches height.

.10 Recreational Crabbing Catch and Possession Limits — Chesapeake Bay and Its Tidal Tributaries.

A. Daily Catch and Possession Limits.

(1) (text unchanged)

(2) Daily catch and possession limits for individuals harvesting crabs from shore or from crab pots.

(a) (text unchanged)		
(b) Licensed individual	1 bushel male hard crabs <i>if storing crabs in a bushel</i> 6 dozen male hard crabs <i>if storing crabs in any container other than a bushel</i>	2 dozen soft crabs, 2 dozen male peeler crabs, or a combination of 2 dozen soft crabs and male peeler crabs

(3) Daily catch and possession boat limits for a vessel without a recreational crabbing boat license.

(a)—(b) (text unchanged)		
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(c) One licensed individual or one licensed individual accompanied by any number of unlicensed individuals on board an unlicensed vessel	1 bushel male hard crabs <i>if storing crabs in a bushel</i> <i>6 dozen male hard crabs if storing crabs in any container other than a bushel</i>	2 dozen soft crabs, 2 dozen male peeler crabs, or a combination of 2 dozen soft crabs and male peeler crabs
(d) Two or more licensed individuals or two or more licensed individuals accompanied by any number of unlicensed individuals on board an unlicensed vessel	2 bushels male hard crabs <i>if storing crabs in bushels</i> <i>12 dozen male hard crabs if storing crabs in any container other than a bushel</i>	2 dozen soft crabs, 2 dozen male peeler crabs, or a combination of 2 dozen soft crabs and male peeler crabs

(4) Daily catch and possession boat limits for a vessel with a recreational crabbing boat license.

(a) One or more unlicensed individuals on board a licensed vessel	1 bushel male hard crabs <i>if storing crabs in a bushel</i> <i>6 dozen male hard crabs if storing crabs in any container other than a bushel</i>	2 dozen soft crabs, 2 dozen male peeler crabs, or a combination of 2 dozen soft crabs and male peeler crabs
(b) One licensed individual on board a licensed vessel	1 bushel male hard crabs <i>if storing crabs in a bushel</i> <i>6 dozen male hard crabs if storing crabs in any container other than a bushel</i>	2 dozen soft crabs, 2 dozen male peeler crabs, or a combination of 2 dozen soft crabs and male peeler crabs
(c) An individual who purchased a recreational crabbing boat license accompanied by any number of unlicensed individuals on board a licensed vessel	1 bushel male hard crabs <i>if storing crabs in a bushel</i> <i>6 dozen male hard crabs if storing crabs in any container other than a bushel</i>	2 dozen soft crabs, 2 dozen male peeler crabs, or a combination of 2 dozen soft crabs and male peeler crabs
(d) Two or more licensed individuals accompanied by any number of unlicensed individuals on board a licensed vessel	2 bushels male hard crabs <i>if storing crabs in bushels</i> <i>12 dozen male hard crabs if storing crabs in any container other than a bushel</i>	2 dozen soft crabs, 2 dozen male peeler crabs, or a combination of 2 dozen soft crabs and male peeler crabs <i>The catch limit is a bushel per licensed individual when using a bushel to hold male crabs. When not using a bushel the catch limit is 6 dozen male hard crabs per licensed individual.</i>
(e) One licensed individual, who is not the owner of the licensed vessel, accompanied by any number of unlicensed individuals on board a licensed vessel	2 bushels male hard crabs <i>if storing crabs in bushels</i> <i>12 dozen male hard crabs if storing crabs in any container other than a bushel</i>	2 dozen soft crabs, 2 dozen male peeler crabs, or a combination of 2 dozen soft crabs and male peeler crabs <i>The catch limit is a bushel per licensed individual when using a bushel to hold male crabs. When not using a bushel the catch limit is 6 dozen male hard crabs per licensed individual.</i>

B. (text unchanged)

.12 Special Regulations for Crabbing in Worcester County.

A. (text unchanged)

B. Daily Catch Limits.

(1) Commercial. The daily catch limit in the coastal bays of the Atlantic Ocean and their tidal tributaries is 25 bushels, *16 lugs, or 10 barrels* per commercial boat.

(2) Recreational. The daily catch limit in the waters of the coastal bays of the Atlantic Ocean and their tidal tributaries is:

(a) 1 bushel per individual *if storing crabs in a bushel*; [and]

(b) *6 dozen crabs per individual if storing crabs in any container other than a bushel*;

[(b)] (c) 2 bushels per boat if two or more individuals are on the boat *and storing crabs in bushels*[.]; and

(d) *12 dozen crabs per boat if two or more individuals are on the boat and storing crabs in any container other than bushels.*

C.—F. (text unchanged)

.13 Commercial Harvest of Crabs from Finfish Gear.

A. (text unchanged)

B. The harvest and possession of crabs from a pound net is:

(1)—(3) (text unchanged)

(4) Restricted to a maximum of 2 bushels *or 1 lug* of male crabs per licensee per day; and

(5) (text unchanged)

C. (text unchanged)

.14 General.

- A. (text unchanged)
- B. Commercial — General.
 - (1)—(4) (text unchanged)
 - (5) Mature female hard crabs shall be kept in separate bushels, *lugs* or barrels from male hard crabs or peeler crabs.
 - (6) *Mature female hard crabs on board a vessel shall be stored in the same type of containers of similar dimensions.*
 - (7) *Male hard crabs on board a vessel shall be stored in the same type of containers of similar dimensions.*
 - [(6)] (8)—[(13)] (15) (text unchanged)
- C.—G. (text unchanged)

JOSH KURTZ
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.03 Blue Crabs

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

Notice of Proposed Action

[23-271-P]

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

Statement of Purpose

The purpose of this action is to clarify the allowable areas where commercial crabbers may set crab pots in the Chesapeake Bay and its tidal tributaries and to clarify the number of crab pots which any commercial licensee may set in the Atlantic Coastal Bays.

This action will clarify the waters in which crab pots may be set in the Chesapeake Bay and its tidal tributaries by describing prohibited waters in a more straightforward, effective, and accurate manner. The main objectives are to remove the large mainstem polygon and replace it with individual lines for each tributary, creek, cove, inlet, etc., address lines that are inaccurate, confusing, or of concern for the resource, remove the ambiguity of the phrase “along the shore,” provide and update coordinates for all points and references to landmarks in the regulation, and address emerging issues in the canals of the Coastal Bays. The action will make it easier for individuals to find the lines relevant to their commercial operation by more clearly dividing the sections of the Bay, as well as assigning coordinates to specific points based on the current regulation, which was at times open to interpretation. A very small number of lines have been modified in minor directions to accommodate the goal of providing clear points of reference for both crabbers and enforcement purposes.

This action clarifies the number of crab pots an individual may set in the Atlantic Coastal Bays. Based on the current wording of the regulation, it was not fully clear if an individual who has a 600-pot or 900-pot endorsement may set more than 300 pots in the Atlantic Coastal Bays. The Department’s original intention was to limit all harvesters to 300 pots per licensee in the Coastal Bays in order to avoid gear saturation. The higher pot limits were intended to be utilized in the Chesapeake Bay and its tributaries; the higher limits were not intended to be used in the Atlantic Ocean and the coastal bays. This action clarifies the regulation by reflecting the original intent.

Estimate of Economic Impact

The proposed action has no economic impact.

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 Blue Crabs — Crab Pot Line Clarifications, Regulatory Staff, Department of Natural Resources, Fishing and Boating Services, 580 Taylor Ave., E4, Annapolis, MD 21401, or call 410-260-8300, or submit comments to <https://dnr.maryland.gov/fisheries/pages/regulations/changes.aspx#bcrapotlineclar>. Comments will be accepted through February 12, 2024. A public hearing will be held on January 25, 2024, at 1 p.m. More information is available at <https://go.activecalendar.com/doi-md/event/blue-crab-regulatory-hearing---containers-and-limits/>.

.07 Crab Pots.

- A.—C. (text unchanged)
- D. General Requirements.
 - (1)—(5) (text unchanged)
 - (6) A person commercially licensed to catch crabs may set crab pots in the coastal bays of the Atlantic Ocean and their tidal tributaries subject to the following limitations:
 - (a) A person licensed to catch crabs with more than 50 pots may not set or fish more than 300 pots [per day]; and
 - (b) Regardless of the number of licensees per boat, not more than 300 pots [per day] may be set or fished.
 - (7) (text unchanged)
- [E.]—[G.] (proposed for repeal)
- E. *Except as specifically allowed, crab pots may not be set in the waters described in §§F—I of this regulation.*
- F. *Upper Chesapeake Bay — North of the William Preston Lane Jr. Memorial Bridge (Chesapeake Bay Bridge).*
 - (1) *Western Shore and Susquehanna Flats.*