

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, 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.

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Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken.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an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.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

[21-010-P]

The Secretary of Natural Resources proposes to amend Regulations .03, .07, .10, .13, and .14 under **COMAR 08.02.03 Blue Crabs**.

Statement of Purpose

The purpose of this action is to clarify portions of the chapter and relocate the crab pot line at the mouths of the Sassafras and Elk rivers. The crab chapter does not specify the species of crabs to which the regulations apply; however, when the chapter was originally adopted, it was intended for blue crabs. The proposed action renames the chapter to blue crabs. This change will ensure that rules meant specifically for blue crabs do not apply to individuals who harvest other species of crab, like Cancer crabs.

In Regulation .03, the proposed action clarifies buoy requirements and what is meant by bait line. The current regulation for the buoys that are required for the ends of a trotline only specifies two dimensions, when in fact, the buoy should have a third dimension so it can be easily seen on the water. The proposed action adds the third dimension to help ensure that all buoys are visible. The bait line is the portion of the trotline measured from the first bait to the last bait. The proposed action clarifies this to ensure understanding and proper compliance with length requirements for trotlines.

In Regulation .07, the proposed action adjusts the crab pot lines near the mouths of the Elk and Sassafras rivers. The Department received a request to change the crab pot lines after it was discovered

that the buoys marking the crab pot line in these areas have been placed off-station for many years. Currently, the regulation for the crab pot line at the mouth of Sassafras River is defined as from Howell Point to Grove Point. In past years, the buoys marking the crab pot line have been set roughly a quarter mile upstream of the defined line. Crab pot users have become accustomed to utilizing this area for catching crabs. To allow for continued use of this area the proposed action modifies the description to reflect the historical placement of the buoys. Currently, the regulation for the crab pot line at the mouth of Elk River is defined as extending from Pearce Creek to Buoy R 6 Fl. R 4 § to Turkey Point. In past years, the buoys marking the crab pot line have been placed in a manner excluding the inclusion of the referenced buoy. The line defined in regulation presents many challenges for marking, compliance, and enforcement. To create a simpler, more effective crab pot line, the proposed action modifies the description to remove the reference to the buoy and creates a straight line from the top of the marina on the Pearce Creek side to the most downstream rock jetty on the Turkey Point side. The modification reflects the historical placement of the buoys.

In Regulation .10, the proposed action clarifies the intention of when an individual may have female crabs in their possession. The exception is not clear in the current regulation. The intention of the regulation is that you may only have females in your possession if you are not crabbing. You must also have a bill of sale for the female crabs. The proposed action also relocates the statement about commercially harvesting crabs to the general regulation with commercial restrictions. That provision does not necessarily belong in a regulation dedicated to recreational limits and relocating it will make it easier for the commercial industry to find.

In Regulation .13, the proposed action clarifies the number of crabs a harvester may keep from finfish gear. The current regulation is not explicitly clear that commercial harvesters using finfish gear can keep their limit of female crabs. The proposed action clarifies the regulation to say that a harvester may keep up to two bushels of male crabs as well as their limit of female crabs. The proposed action also reorganizes the regulation to make it easier to read.

In Regulation .14, the proposed action relocates a restriction and updates the public notice language. The proposed action relocates the statement about commercially harvesting crabs from Regulation .10. The provision does not necessarily belong in a regulation dedicated to

recreational limits and relocating it will make it easier for the commercial industry to find. The proposed action updates the public notice language to be consistent with other species managed by a fishery management plan. The proposed action allows specific modifications to manage the fishery to implement the Chesapeake Bay Blue Crab Fishery Management Plan. The change allows publishing the notice on the Department’s website, notification at least 48 hours in advance, and dissemination of the notice in other manners (text, social media, email, hotline, and the Maryland Register). This change will make blue crabs consistent with other species.

The proposed action clarifies rules for both recreational and commercial users, makes the intent of certain regulations clear, and will help the Department manage and enforce the rules for the fishery.

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 positive economic impact on the Department.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:		
Public notice	(E-)	\$1,200 to \$2,400 per year
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:		
Public notice	(-)	\$1,200 to \$2,400 per year
F. Direct and indirect effects on public:	NONE	

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

A. The Department spends approximately \$1,200 on each public notice issued to announce the female bushel limits. There have been several years where the Department needs to issue two notices in a year. This action will be a cost savings for the Department.

E. The Department publishes public notices for blue crabs in the Baltimore Sun. Removing the requirement to publish public notices in the newspaper will impact the Baltimore Sun up to \$2,400 per year.

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 Crab Regulations, Regulatory Staff, Department of Natural Resources, Fishing and Boating Services, 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#bc_rabs. Comments will be accepted through February 16, 2021. A webinar to discuss the details of the proposed action will be held at 2 p.m. on February 4, 2021. An agenda and details on how to participate in the webinar will be announced on the Department’s website. Interested persons are invited to participate and express their views. Anyone needing special accommodations under Title II of the Americans with Disabilities Act of 1990, as amended, or under Title VI of the Civil Rights Act of 1964, should contact the Department of Natural Resources Office of Fair Practices at 410-260-8058 or at richard.allen@maryland.gov, at least 3 working days (72 hours) prior to the scheduled public hearing.

.03 Trotlines.

- A. (text unchanged)
- B. The length of a trotline [is] *shall be* measured along the bait line *from the first bait to the last bait*.
- C.—D. (text unchanged)
- E. Buoy Requirements.
 - (1) A trotline shall have a *three-dimensional* buoy of the same color, size, and shape attached to each end.
 - (2) Buoys that have a [round or] spherical shape shall be at least 12 inches in diameter.
 - (3) Buoys that do not have a [round or] spherical shape shall be at least:
 - (a) 12 inches long; [and]
 - (b) 10 inches wide; *and*
 - (c) 10 inches high.
 - (4) (text unchanged)

.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 Cove; thence northerly along shore to 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 the area known as Still Pond to Meeks Point; thence along shore to Howell Point; thence along the shore to a point defined by Lat. 39°22’16.68” N, Long. 76°6’22.04” W; thence 73° True to a point defined by Lat. 39°23’12.32” N, Long. 76°2’12.99” W; thence along shore to Grove Point; thence along the shore to a point near Pearce Creek defined by Lat. 39°26’20.04” N, Long. 75°58’46.50” W; thence [westerly to Buoy R 6 Fl. R 4 §] 301° True to a point defined by Lat. 39°26’59.96” N, Long. 76°0’9.72” W; thence along shore 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)

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

A. (text unchanged)

B. Female Hard Crabs and Female Peelers.

(1) (text unchanged)

(2) [Exceptions] *Exception.*

[a)] An individual may *only* possess female peeler or hard crabs if the [female]:

(a) *Female* crabs are accompanied by a bill of sale[.]; and

(b) [An individual recreationally harvesting crabs may not be in possession of female peeler or hard crabs] *Individual is not catching or attempting to catch crabs.*

[C. An individual commercially harvesting crabs aboard a vessel may only have crabs that are commercially harvested on board.]

.13 Commercial Harvest of Crabs from Finfish Gear.

A. (text unchanged)

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

(1)—(2) (text unchanged)

(3) Restricted by the size limits provided in Regulation .14 of this chapter; [and]

(4) Restricted to a maximum of 2 bushels of *male crabs* per licensee per day[, except as described in Regulation .14 of this chapter, harvested from a single pound net or a combination of pound nets registered to the individual]; and

(5) *Restricted to the daily maximum number of female crabs allowed by the individual’s license type.*

C. Notwithstanding COMAR 08.02.25.04, a licensee may only harvest or possess crabs from a pound net or combination of pound nets registered in the licensee’s name.

.14 General [Prohibitions].

A. (text unchanged)

B. Commercial — General.

(1)—(12) (text unchanged)

(13) *An individual commercially harvesting crabs aboard a vessel may only have crabs that are commercially harvested on board.*

C.—F. (text unchanged)

F. Limited Crab Harvester. (text unchanged)

G. Public Notice. [The Department may open, close, or modify a season, or catch limits to manage the harvest at safe management levels by:

(1) Publishing notice in a daily newspaper of general circulation at least 48 hours in advance of the time of modification, stating the effective hour and date; and]

(1) *The Secretary may establish or modify catch limits or modify seasons for blue crabs in order to implement the Chesapeake Bay Blue Crab Fishery Management Plan by issuing a public notice on the Department’s website.*

(2) *The public notice shall state its effective hour and date and shall be published on the Department’s website at least 48 hours in advance of the effective hour and date.*

[(2)] (3) [Disseminating] *The Secretary shall make a reasonable effort to disseminate a public notice [of modification] issued under this section through various other media so that an affected person has a reasonable opportunity to be informed.*

(4) *A violation of the restrictions set by the Secretary in accordance with this section is a violation of this regulation.*

JEANNIE HADDAWAY-RICCIO
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.15 Striped Bass

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

Notice of Proposed Action

[21-018-P]

The Secretary of Natural Resources proposes to amend Regulation .12 under **COMAR 08.02.15 Striped Bass.**

Statement of Purpose

The purpose of this action is to establish an in-season closure period for the striped bass recreational and charter boat fishery and create a definition for target. The 2018 benchmark stock assessment for striped bass indicated the striped bass stock is overfished and experiencing overfishing. Based on these findings, the Atlantic States Marine Fisheries Commission (ASMFC) determined that conservation measures are needed. Addendum VI to Amendment 6 to the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Atlantic Striped Bass (Addendum) was finalized by ASMFC in October of 2019. The conservation goal set by ASMFC is to reduce the total number of striped bass that are killed by fishing activities. This means reducing the number of fish that are harvested and the number of fish that die after being caught and returned to the water, known as dead discards. The Department adopted regulations to implement reductions required by the Addendum, including an in-season closure; however, that period for the recreational fishery was only for the year 2020 and needs to be updated for the future.