

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Natural Resources**
(DLS Control No. 14-054)

Overview and Legal and Fiscal Impact

The regulation implements new rules for crabbing charters operated by licensed fishing guides. The regulation also clarifies restrictions on commercial fishermen taking charter customers on normal commercial trips.

The regulation presents no legal issues of concern.

Special fund expenditures increase minimally to purchase crabbing charter decals. Revenues are not affected. There is no fiscal impact on local agencies.

Regulation of COMAR Affected

Department of Natural Resources:

Fisheries Service: Crabs: COMAR 08.02.03.15

Fish: COMAR 08.02.05.02

Legal Analysis

Background

The Department of Natural Resources reports that Maryland's current recreational blue crab license structure has shortcomings that are recognized by crabbers, enforcement officers, and fishery managers alike. According to the department, recreational crabbers find it complicated and confusing; Natural Resources Police have a hard time explaining its multiple catch limits and gear restrictions to help crabbers understand and follow the rules; and fishery managers often lack sufficient information on recreational harvests to make management decisions. The impact of the recreational blue crab license shortcomings also extends to Maryland's budding eco-tourism industry.

In April, 2013, the department began scoping crabbing charter regulations aimed at clarifying permissible activities and improving flexibility for businesses that offer recreational crabbing charters. After receiving comments through the scoping process, the department met with representatives of the tourism industry, the Charterboat Association, and the Tidal Fisheries Advisory Commission to develop a draft regulatory proposal. The regulation is based on the feedback from stakeholders at those meetings.

Summary of Regulation

The regulation creates a crabbing charter decal and implements new rules for licensed fishing guides who offer recreational crabbing trips to paying customers. The crabbing charter decal is offered free of charge and is only available to individuals holding a fishing guide, master fishing guide license, or operating vessels for a master fishing guide. The decal covers the crabbing license requirement for any customers on board the vessel. All crabbing charters must comply with the recreational seasons, times, size limits, and gear restrictions established for licensed recreational crabbers. No more than two bushels of male hard crabs and two dozen soft crabs or male peeler crabs may be caught on a crabbing charter, and all harvests must be reported to the department on forms provided by the department.

The regulation also clarifies the rules for commercial crabbers who offer crabbing charters. Individuals who possess a commercial crabbing authorization and either a fishing guide license, master fishing guide license, or who are operating vessels for a master fishing guide may take out customers during normal commercial trips. Commercial harvest time periods, gear, and catch limits apply. If the commercial crabber also has a seafood dealer license, then he or she may sell the catch directly to the customer. Commercial crabbers must include these charter trips in their normal commercial harvest records. Finally, the regulation clarifies a prohibition on commercial licensees from taking customers on a hook and line trip.

Legal Issue

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 4-206, 4-215, 4-701 and 4-803 of the Natural Resources Article as authority for the regulation. Section 4-803 contains the most specific statement of the department's authority to regulate blue crab harvests. Among other things, this section allows the department to adopt regulations restricting catching and possessing any blue crab; limiting the methods by which crabs are taken; or restricting the devices used to catch crabs. Section 4-803 requires the department to hold a public hearing before any regulations pertaining to blue crabs may become effective. The department advises that it has scheduled a public hearing on the regulations for May 13.

Section 4-206, 4-215, and 4-701 contain more general authorizations. Subsection 4-206(c) authorizes the department to require licensees to submit harvest reports. Section 4-215 requires the department to prepare fishery management plans for specified species, including blue crabs, and authorizes the department to adopt regulations necessary to carry out fishery management plans. General rules applicable to tidal fish licenses, including commercial crabbing authorizations and fishing guide licenses, appear in § 4-701.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Technical Corrections and Special Notes

The department has identified an error in the regulation, which it intends to fix prior to publication in the *Maryland Register*. COMAR 08.02.05.02 should list the unchanged sections as “A. – I.” and “K. – O.,” rather than “A. – O.”

Fiscal Analysis

Special fund expenditures increase minimally to purchase crabbing charter decals. Revenues are not affected. There is no fiscal impact on local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that special fund expenditures from the Fisheries Research and Development Fund increase by an indeterminable amount annually for the department to purchase crabbing charter decals. The number of decals to be provided under the regulation is unknown. The Department of Legislative Services generally concurs but notes that:

- each decal costs approximately \$1;
- in anticipation of the regulations, the department has already spent \$500 on decals;
- there are approximately 2,600 current licenses that *could* request a decal; and
- the amount spent annually on decals is anticipated to be relatively minimal.

The department advises that the regulations have no impact on local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no material impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have a meaningful economic impact on small businesses in the State. Specifically, the department advises that (1) licensees may benefit economically from the opportunity to add flexibility to their businesses and possibly generate supplemental income from crabbing charters and (2) tourism may be positively impacted by additional charters. The Department of Legislative Services concurs.

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