

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Natural Resources**
(DLS Control No. 14-086)

Overview and Legal and Fiscal Impact

This regulation updates rules for participation in the State's commercial horseshoe crab fishery. It modifies the declaration period when a tidal fish licensee may apply to the Department of Natural Resources for a horseshoe crab landing permit. It also clarifies the department's authority to suspend or deny a licensee's horseshoe crab landing permit as well as the licensee's right to receive a hearing on such suspension or denial.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Natural Resources:

Fisheries Service: Horseshoe Crabs:
COMAR 08.02.10.01

Legal Analysis

Background

In addition to their ecological role as a food source for migratory seabirds, horseshoe crabs support a small but important commercial fishery. Horseshoe crabs caught in Maryland waters provide bait for commercial American eel and conch fisheries along the coast. Horseshoe crabs' unique blood is also used to produce *Limulus* Amoebocyte Lysate, which is used to ensure that biomedical products (*e.g.*, intravenous drugs, vaccines, and medical devices) are free of bacterial contamination.

Maryland's total commercial quota is set by the Atlantic States Marine Fisheries Commission and enforced by the Department of Natural Resources. In 2013, this quota was 255,980 male horseshoe crabs. Under legislation adopted in 2013, a tidal fish licensee must pay a \$25 fee to the department and obtain a horseshoe crab landing permit in order to participate in the State's commercial fishery.

Summary of Regulation

The regulation updates the period for a tidal fish licensee to apply for a horseshoe crab landing permit and makes other minor changes to the rules regarding the commercial horseshoe

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crab fishery. The application period is set to run from August 1 through April 30, inclusive, coinciding with the period for purchasing or renewing a tidal fishing license. A tidal fish licensee may submit an application as late as May 14 (or the next business day if May 14 falls on a weekend) if he or she can show good reason for missing the April 30 deadline. The regulation also clarifies the department's authority to deny a permit application for failure to comply with the State's horseshoe crab regulations. New language specifies that the department must (1) notify a tidal fish licensee of the department's decision to deny or suspend the licensee's horseshoe crab landing permit and (2) offer the licensee an opportunity to receive a hearing on the decision, consistent with the State's contested case procedures.

Legal Issue

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 4-206, 4-215, and 4-701 of the Natural Resources Article as authority for the regulation. Sections 4-206 and 4-701 relate to the department's authority to regulate licensees. Section 4-701 creates a single commercial fishing license called a tidal fish license, administered by the department. Under subsection (f) of this section, the department may require a tidal fish licensee to pay a fee and obtain a permit to harvest certain fish species, including horseshoe crabs. Under subsection (n) of this section, the department may suspend or revoke a licensee's authorization to participate in a particular fishery for failure to comply with applicable laws and regulations. Before suspending or revoking an authorization, the department must notify the licensee in writing of the licensee's right to a hearing on request. Section 4-206(c) authorizes the department to impose reporting requirements on licensees.

Section 4-215 requires the department to prepare fishery management plans for specified species, including horseshoe crabs. Subsection (h) of this section authorizes the department to adopt separate regulations to implement or modify measures contained in a fishery management plan.

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

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation has no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

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

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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