

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Natural Resources**
(DLS Control No. 15-116)

Overview and Legal and Fiscal Impact

The regulations modify the term and expiration date for recreational crabbing licenses and make changes to recreational crabbing license exemptions. The regulations also correct several incorrect citations in the crabbing regulations.

The regulations present no legal issue of concern.

Special fund revenues may increase by an indeterminate, but relatively minimal, amount.

Regulations of COMAR Affected

Department of Natural Resources:

Fisheries Service: Crabs:
COMAR 08.02.03.09 and .10

Legal Analysis

Background

The Department of Natural Resources began issuing “noncommercial” crabbing licenses, later renamed “recreational” crabbing licenses, in 1999 in accordance with Chapters 418 and 419 of 1998. Although statutory provisions relating to recreational crabbing licenses sunset in 2003, the department has maintained license requirements in an effort to monitor recreational crab harvests. An individual must hold a license to catch crabs recreationally unless the individual falls into one of the following exempted categories:

- individuals using a dip net or hand line to catch crabs;
- individuals under the age of 16;
- individuals crabbing in a location designated by the department as a license free fishing area (LFFA);
- certain waterfront property owners and their guests;

- individuals aboard a boat assisting an individual who has a recreational crabbing license; or
- individuals aboard a licensed recreational crabbing boat.

Currently, recreational crabbing licenses and most recreational fishing licenses expire on December 31, regardless of when they were purchased. However, Chapter 376 of 2015 modified the terms and expiration dates of many recreational fishing licenses. Beginning October 1, 2015, a resident consolidated senior sport fishing license, an angler's license, and a Chesapeake Bay and coastal sport fishing license or registration will be valid for one full year following the date of issuance.

Summary of Regulations

The regulations alter the term and expiration date for recreational crabbing licenses to be consistent with the terms and expiration dates for other types of recreational licenses under Chapter 376 of 2015. Recreational crabbing licenses will no longer expire on December 31 of the year the license is issued, but will instead be valid for a full 365 days following the date of issuance.

The regulations also modify license exemptions in order to improve the department's ability to monitor recreational crab harvest levels. The regulations expand the exemption for individuals who assist license holders with recreational crabbing to cover individuals crabbing on the shore in addition to those crabbing by boat. The regulations also repeal license exemptions for children under the age of 16 and individuals crabbing in LFFAs. Children under the age of 16 and individuals crabbing in LFFAs may still use hand lines and dip nets without purchasing a license. Finally, the regulations clarify the license exemption for waterfront property owners by specifying that the exemption applies only to the two crab pots authorized under COMAR 08.02.03.07D and not to other gear types.

In addition to the substantive changes described above, the regulations make several technical changes to the recreational crabbing regulations. These changes correct incorrect citations and cross-references.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites §§ 4-215 and 4-803 of the Natural Resources Article as authority for the regulations. Section 4-215 requires the department to establish a fishery management plan for blue crabs. Section 4-803 gives the department broad authority to adopt regulations restricting blue crab harvests, including rules to restrict catching and possessing any blue crab, to prescribe the methods by which crabs are taken, or to restrict devices used to catch crabs. Section 4-803(c) requires the department to hold a public hearing before adopting new crabbing regulations.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

The department has stated that it has scheduled a public hearing on the regulations for August 11 to comply with § 4-803(c) of the Natural Resources Article and will update the notice of the proposed regulations to include the public hearing date.

Fiscal Analysis

Special fund revenues may increase by an indeterminate, but relatively minimal, amount.

Agency Estimate of Projected Fiscal Impact

The department advises that special fund recreational crabbing license fee revenues may increase by an indeterminate amount due to the availability of a 365-day license. The Department of Legislative Services concurs. In 2014, 45,599 resident recreational crabbing licenses, 4,649 nonresident recreational crabbing licenses, and 5,305 recreational crabbing boat licenses were sold. The license fees are (1) \$5 (or \$2 if the licensee already has a sport fishing license) for a resident recreational crabbing license; (2) \$10 for a nonresident recreational crabbing license; and (3) \$15 for a recreational crabbing boat license. Assuming any increase in the numbers of licenses sold due to the availability of the 365-day license is a small percentage increase over the number of licenses sold in 2014, any increase in special fund revenues should be relatively minimal.

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 regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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