

MARYLAND REGISTER

## Proposed Action on Regulations

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
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**Title Subtitle Chapter Regulation**

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3. Name of Promulgating Authority

Department of Natural Resources

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**Title 08**  
**DEPARTMENT OF NATURAL RESOURCES**  
**Subtitle 02 FISHERIES SERVICE**

**08.02.03 Crabs**

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

**Notice of Proposed Action**

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The Secretary of Natural Resources proposes to amend Regulations .09 and .10 under COMAR 08.02.03 Crabs.

**Statement of Purpose**

The purpose of this action is to modify the term and expiration date for recreational crabbing licenses, modify recreational crabbing license exemptions, and make corrections to incorrect citations.

This action will modify the term and expiration date for recreational crabbing licenses to be consistent with the change to the sportfishing licenses term and expiration through Senate Bill 666. The legislation becomes effective October 1, 2015 and will change the term of the recreational sportfishing licenses from a calendar year to one year from the date of issue. Crab licenses currently expire at the end of the calendar year. If this change is not made, it would potentially be confusing for individuals to have recreational licenses on two different terms.

This action will expand the exemption for unlicensed individuals crabbing with licensed individuals. Currently, the exemption only applies to unlicensed individuals helping licensed individuals crabbing on a boat. This action will expand the exemption to apply to unlicensed individuals helping licensed individuals crabbing anywhere.

In conjunction with expanding the exemption for unlicensed individuals crabbing with licensed individuals, this action removes the licensing exemption for children under the age of 16. This exemption had been created when unlicensed/exempted individuals were able to use 10 collapsible crab traps. Based on recent regulatory changes, an unintended consequence was that exempted individuals are now able to use 30 collapsible crab traps. This increase in allowable gear has the potential to result in much higher unmonitored harvest levels. Unlicensed children will still be able to help with gear that would otherwise require a license (i.e. collapsible crab traps or trotlines) when crabbing with another licensed individual. Children crabbing alone, however, will have to be licensed in order to use collapsible crab traps or trotlines. This also eliminates the loophole of an unlicensed adult using gear that requires a license and saying their child is the operator.

The third license exemption this action modifies pertains to crabbing in license free

fishing areas (LFFAs). Current statutory text at Natural Resources Article, §4-214, Annotated Code of Maryland refers to LFFAs as areas where individuals may recreationally finfish without first obtaining a license from the Department. Under the current regulatory text, the Department has also exempted individuals crabbing in LFFAs from the recreational crabbing license requirement. This exemption existed prior to the recent regulation change that requires an individual to obtain a crabbing license in order to use collapsible crab traps and net rings. Previous to that change, an unlicensed crabber was allowed to use up to 10 collapsible crab traps and net rings. The original intent, therefore, was for an individual in an LFFA to be able to use up to 10 collapsible crab traps and net rings without first obtaining a recreational crabbing license. Based on the recent change, then, it is unclear if the exemption language now means that a person can use collapsible crab traps and net rings (up to 30) in an LFFA without a license, or if they operate as an unlicensed crabber and are restricted to hand lines and dip nets. This action will remove the licensing exemption for crabbers in LFFAs to clarify that an unlicensed individual may crab in an LFFA using gear that is exempted from the licensing requirement, but must first purchase a crabbing license if they want to use collapsible crab traps or net rings. This measure was scoped with the Sport Fisheries Advisory Commission on April 28, 2015 and received no opposition.

The final license exemption this action modifies pertains to the exemption for individuals qualified to use recreational crab pots. The intent of this exemption was to allow waterfront property owners to use up to two recreational crab pots attached to their property without requiring them to purchase a crabbing license. However, the wording is unclear and may lead to the interpretation that waterfront property owners may use any gear that would otherwise require a crabbing license without first purchasing a license. This action clarifies that the exemption pertains to the use of crab pots, and no other gear, to ensure the intent of the regulation is understood.

Lastly, this action will make corrections to outdated regulatory references.

### **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 may have an indeterminable positive impact on both the Department and recreational crabbers.

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
<hr style="border: 1px solid black;"/>			
A. On issuing agency:			
365-Day License	(R+)		Indeterminable
B. On other State agencies:			
	NONE		

C. On local governments: NONE

Benefit (+) Cost (-)	Magnitude
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D. On regulated industries or trade groups: NONE

E. On other industries or trade groups: NONE

F. Direct and indirect effects on public:

(1) 365-Day License	(+)	Indeterminable
(2) License Exemptions	(+)	Indeterminable

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

A. Transitioning from a calendar-year license to a 365-day license provides crabbers who purchase the license all 365 days to use an annual license, rather than 365 days minus the number of days into the year the license was purchased. This transition should have the effect of incentivizing more crabbers to purchase a 365-day license instead of crabbing without a license (particularly later in the year), due to the greater number of possible crabbing days relative to the calendar year license.

The extent to which crabbing license sales will increase is indeterminable. However, the following strategic behavior by crabbers regarding license purchases should be considered: 1) The general increased flexibility for crabbers (i.e., 365 days to use the product) may encourage crabbers who otherwise would not buy a crabbing license. 2) There may be an incentive to some crabbers to delay purchase (to the day of the first crabbing trip following license expiration) with the implementation of a 365 day license. This could create a situation where there will be increases in the period of time an individual is unlicensed.

F(1). Recreational crabbers who buy a crabbing license will have full use of that license for 365 days, rather than 365 days minus the number of days into the year the license was purchased. This will provide greater value in the license without increasing license fees.

F(2). Expanding the exemption to allow for an unlicensed individual to help a licensed individual crabbing anywhere, rather than only on a boat, will likely have the greatest impact on the recreational crabbing community. This change will allow licensed individuals to take friends or guests crabbing who may have never crabbled before without requiring those individuals to also purchase a crabbing license. This action will negatively affect those unlicensed individuals who only crabbled in license free fishing areas (LFFAs) with gear that would otherwise require a license. The number of individuals that fall into this category is unknown but believed to be very small. While this action removes the exemption for children under the age of 16, since the action expands the exemption for unlicense individuals helping licensed individuals, and because most children crab with an adult and that adult would have needed to have been

licensed already, this aspect of the action will likely have a negligible impact. An instance where a child would be impacted by this action is a child who operates a vessel alone (which is possible for children ages 14 and 15), and runs a trotline or collapsible crab traps. While that child had previously been exempt, they will now have to either purchase a crabbing license or be on a licensed crab boat.

### **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 Recreational Crabbing License Changes, Regulatory Staff, Department of Natural Resources, Fisheries Service B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to [fisheriespubliccomment.dnr@maryland.gov](mailto:fisheriespubliccomment.dnr@maryland.gov), or fax to 410-260-8310. Comments will be accepted through August 24, 2015. A public hearing will be held, TBA

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 16

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

No funds are necessary to implement these regulations. The term of the license will be changed via COMPASS changes already being undertaken to implement SB 666, and there is no cost to the change in license exemptions.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

These regulations change the term of the recreational crabbing licenses and license exemptions, neither of which impact small businesses.

G. Small Business Worksheet:

Attached Document:

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**.09 Recreational Crabbing Licenses — Chesapeake Bay and Its Tidal Tributaries.**

A. Recreational Crabbing License.

(1) An individual who catches or attempts to catch crabs for recreational purposes in the waters of the Chesapeake Bay and its tidal tributaries shall pay the fee and obtain a recreational crabbing license in order to use the following gear to catch crabs:

(a)—(b) (text unchanged)

(c) Up to ten eel pots for catching the individual's own bait, which are:

(i) (text unchanged)

(ii) Not placed in a buoy free channel as listed in [Regulations] *Regulation .07H* [and *.08E*] of this chapter or *COMAR 08.02.05.08F*; and

(d) (text unchanged)

(2)—(3) (text unchanged)

B.—D. (text unchanged)

E. Exceptions. An individual who catches or attempts to catch crabs for recreational purposes in the waters of the Chesapeake Bay and its tidal tributaries is not required to have a recreational crabbing license if the individual:

(1) Uses any of the following gear:

(a)—(b)

(c) *Up to two crab pots, if qualified to use crab pots as set forth in Regulation .07D of this chapter;*

[(2) Is younger than 16 years old;

(3) Is crabbing for recreational purposes in an area which has been designated by the Department in *COMAR 08.02.01.07C* as a free fishing area;

(4) Is qualified to use not more than two crab pots as set forth in *Regulation .07D* of this chapter;]

[(5) (2) Is [aboard a boat] assisting an individual who has a recreational crabbing license; or

[(6) (3) (text unchanged)

F. General.

(1) A recreational crabbing license, recreational crabbing boat license, or private waterfront property crab pot registration is valid for [not more than 1 year and expires December 31] *365 days* following the date of issuance.

(2)—(4) (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) Except as provided in [§E(2)] §B(2) of this regulation, an individual may not catch or possess female hard crabs or female peelers.

(2) (text unchanged)

C. (text unchanged)

**Mark J. Belton**

**Secretary of Natural Resources**