

## Scoping Summary – Fisheries Regulations - October 2012

Based on the current scoping policy, the Commission is presented with draft regulatory ideas prior to proposal. These ideas will be posted online for public comment at least 2 weeks before proposal. The question for the Commission is whether any of these proposals listed below should have additional public scoping that may include a meeting or open house to receive public comment before submission. In the case of the pound net proposal, the Department plans to mail all registered pound net site holders the draft proposal in addition to the website notification.

### Clam FMP

A new FMP for Chesapeake clams will be scoped in the upcoming months. Currently there is a FMP specific to Coastal hard clams that does not address the unique issues of clams (hard and soft) in the Chesapeake Bay.

### Trotlines

The Department is considering a change in the set and harvest times for crab trotlines following the enactment of House Bill 1325. The bill allows the Department to have trotline catch times more than 1 hour before sunrise but in that case limits the work day (including set time) to not less than 11 hours. Currently, harvest time is one hour before sunrise to 9 hours after sunrise May-September and Sunrise to 10 hours after sunrise April, October, November, and December. The Department would like to simplify the changes and lengthen the work day for July and August. One example option would be to have one hour before sunrise to 9 hours after sunrise April – June and September – December for harvest and 2 hours before sunrise to 9 hours after sunrise in July and August for both set and harvest.

### Penalties

Annual penalty system changes were scoped in July. However, a few additional changes have been suggested through dialogue with staff since July. These include: 1) Adding recreationally oystering out of season (180 days suspension); 2) In the commercial penalty system, changing “individual” to “person” in order to apply points to offending incorporations; 3) Clarifying the definitions of “suspension” and “revocation”, in order to make clear that revocation means a permanent ban from the fishery, whereas suspension is a temporary ban where the person may return to the fishery at the end of the ban; 4) Adding a commercial provision to allow for the “freezing” of a commercial license immediately when the person accumulates more than 30 points, prior to a hearing, to prevent transferring license or selling license when the person has done something that may lead to a 365 day suspension or revocation; 5) Clarifies entitlement to engage in a particular activity or activities under a tidal fish license.

### Billfish

The Department would like to list Roundscale Spearfish (*Tetrapturus georgii*) as “in need of conservation” to allow management of Roundscale Spearfish consistently with NMFS. In 2003, the Department listed Atlantic White Marlin, Blue Marlin, Sailfish and Swordfish as “In Need of Conservation” and established regulations. When Atlantic White Marlin was listed as “In Need of Conservation,” Roundscale Spearfish was not known to exist, and had been managed as Atlantic White Marlin. However, new research has identified Roundscale Spearfish as a separate species. DNA testing and other identifying factors confirmed the taxonomic distinction in 2006. In 2008, further DNA analysis and research indicated a change in genus of Atlantic White Marlin from *Tetrapturus* to *Kajikia*. This was adopted by the Integrated Taxonomic Information System. In 2010, the National Marine Fisheries Service (NMFS) published an interpretive rule to recognize Roundscale Spearfish as part of the definition of “HMS” (Highly Migratory Species) in the Magnuson-Stevens Act (MSA). At the same time, NMFS also published a final action amending the MSA to include the taxonomic changes to Atlantic White Marlin. Currently, management of Roundscale Spearfish and Atlantic White Marlin is uniform; as new information becomes available, separate management measures may be considered.

**Pound Nets** – In July, Fisheries Service completed a report which detailed pound net activity and harvest characteristics from June through May in the striped bass spawning rivers of Chesapeake Bay. This report was presented to both the Sport Fisheries Advisory and Tidal Fisheries Advisory Commissions in July 2012. The report indicated areas where certain data elements are not well understood in this fishery, pound net activity and striped bass interaction in the active pound nets. Based on the data, we have conclude that mortality of striped bass caught in pound nets in the spring is low; however, the effects of being held in these nets and handled by fishermen may have significant sub-lethal effects on these fish. This is something that is poorly understood. To address the data limitations on pound net activity and concerns about possible sub-lethal / behavioral effects as a result of being held in pound nets, the following regulatory changes are being considered:

1. **Pound Net Activity Notification (Year Round)** – All pound netters would be required to notify the Department prior to setting a net or removing a net from one of their registered pound net site locations. This will be for all pound nets set in Chesapeake Bay and its tidal tributaries year round for all species.
2. **Soak Time Limitations (Jan to June)** – To reduce the amount of time that striped bass are held captive in a net during their spawning migration, pound nets will be required to be fished after a specific number of days. We intend to work with the industry to establish a reasonable, meaningful and enforceable time limitation.
3. **Eliminating Double Cribs (Jan to June)** – This will address extra ‘holding pens’ that are attached next to the end of a pound net. This will not eliminate what are referred to as ‘double enders’ where a crib is present on either end. The purpose of this is to reduce holding time of striped bass during their spawning migration.
4. **Time Limitations on Fishing a Pound Net (Dawn to Dusk / Jan to June)** – Daytime restrictions on fishing activity during the spawning migration will enhance enforcement.