

Fisheries Regulatory Scoping July 2013

Please review the following possible regulatory changes. DNR is looking for your advice on how to proceed with scoping (i.e. open houses, web feedback only, etc.).

Snapping Turtles — Recommendations from the Snapping Turtle Workgroup.

Create a new declaration period of August 1 – January 31 and a penalty system for suspending permits based on snapping turtle violations. The creation of the new declaration period is based upon the passage of Senate Bill 662 which created specific permits and permit fees.

Current Scoping Idea(s): Discussed at the Snapping Turtle Workgroup meeting and Web feedback

Yellow Perch and Horseshoe Crab— 2014 Updates

Creates a new declaration period of August 1- October 31 for Yellow Perch Permits and August 1 through April 30 for Horseshoe Crab Permits. The creation of the new declaration periods is based upon the passage of Senate Bill 662 which created specific permits and permit fees.

Current Scoping Idea(s): Web feedback

Bait Harvester Permit — 2014 Updates

Add mole crabs to the bait harvester permit so individuals are able to commercially harvest these species for bait purposes. Authority related to permits was changed in Senate Bill 662 and now allows the addition of other fish species beyond just finfish.

Current Scoping Idea(s): Web feedback

Nontidal — 2014 Regulation Changes

Remove Deer and Swan creeks from the “It is illegal” section. Change the upper boundary of the Put-and-Take/Catch and Release area on Owens Creek from Raven Rock to Buck Lantz Rd.

Current Scoping Idea(s): Web feedback

Striped Bass — 2014 Fishing rules for the common pool and ITQ fisheries were discussed by the Striped Bass Industry Workgroup in late June. The following fishing rules are being considered.

All striped bass fisheries (Common Pool and ITQ) would require commercially harvested striped bass to be tagged prior to landing.

The ITQ fishery would open June 1 and allow Friday fishing for hook and line. An extra hour of fishing for hook and line would be added to the fishing day (sunrise to sunset). Fish could be checked in by 9am the following day. An individual quota cap of 1% on temporary transfers would be implemented. Over-harvest tolerances would be for up to 50 pounds; however, any overages would be paid back the following year.

The Common Pool Fishery would have a March transfer period with expiration dates. The 50 pound tolerance for daily landing limits would be removed.

Current Scoping Idea(s): Discussed with the Striped Bass Industry Workgroup, Public Meeting in August and Web feedback

License Targets — 2014 Updates

Update license target numbers to reflect final upgrades to unlimited tidal fish licenses (To be discussed at TFAC 7/25/13) and to reflect downgrades to individual authorization types.

Current Scoping Idea(s): Web feedback

Penalties — Changes discussed at the June TFAC/SFAC Penalty Workgroup Meeting.

Commercial system changes include adding: menhaden violations to Tier III, 15 pts, 60 day suspension, transporting nuisance species to Tier VI, 30 pts, 365 day suspension, possessing nuisance species (5 or more) to Tier VI, 30 pts, 365 day suspension, and shark/spiny dogfish violations for fin to carcass ratio to Tier II, 10 pts, 30 day suspension. Recreational system changes include adding: shark tagging and reporting violations – 180 day suspension, specific finfishing gear violations 30 day suspension, and transporting nuisance species 365 day suspension, possessing 5 or more nuisance species 365 day suspension. Charter system changes include adding crabbing charters without proper licensing, permit, or decal 15 pts, 60 day suspension, specific finfishing gear violations 10 pts, 30 day suspension, transporting nuisance species 30 pts, 365 day suspension, possessing 5 or more nuisance species 30 pts, 365 day suspension.

Current Scoping Idea(s): Discussed at TFAC/SFAC Penalty Workgroup meeting and Web feedback

Sharks — Required Federal Changes. We are considering implementing regulations that would liberalize smooth dogfish fin to carcass ratios (total weight of separated fins to total weight of carcasses) based on ASMFC approval of Addendum II to the Coastal Sharks FMP. The addendum allows states to implement a ratio of 12% for smooth dogfish only. Currently, Maryland's ratio is 0% for all species. Based on fishing practices, and to limit opportunities for illegal activity, we are considering allocating a percentage based on the fin set (dorsal and pectoral vs. caudal) that is retained, not to exceed 12%.

Update the in need of conservation statement and list of species.

Current Scoping Idea(s): Web feedback

St. Mary's River Leasing Criteria—

The purpose of this action is to add criteria for shellfish aquaculture leasing in the St. Mary's River Oyster Sanctuary. Revisions to the lease law allowed leasing in sanctuaries that is compatible with oyster restoration. Specific rules put in place to ensure restoration compatibility included that leases

shall not occur on or within 150 feet of historic Yates oyster bars and that the total acreage of leased area shall not exceed 10% of the total sanctuary area.

The St. Mary's sanctuary is unique in that very few oysters grow within the Yates bars, and areas of high oyster density exist outside of Yates bars. Because of this, the Department is seeking to establish a combination of regulations and policies to ensure that leasing is compatible with oyster restoration in the St. Mary's River sanctuary. Because the suitable bottom in the St. Mary's is small relative to the total sanctuary area, to ensure that the restoration goals within the river can be met a minimum of 75 percent of the restorable bottom in the St. Mary's River will be protected.

The action establishes an oyster density criteria based on the Chesapeake Bay Program Sustainable Fisheries Goal Implementation Team guidelines for a restored area of 15 oysters / m². This is the minimum density considered to be a restored oyster bar. The oyster density would be calculated as the average density within a prospective lease based on multiple samples within the prospective lease area. If the average oyster density in the applied area is at or above 15 oysters / m² the lease application will not be approved. This criterion would be in addition to existing regulations including no more than 10 percent of a total sanctuary area may be leased and leases may not be on Yates bars. The combined criteria will ensure that areas that are not considered restored may have their oyster densities increased through aquaculture.

Eleven complete submerged land lease applications totaling approximately 90 acres were filed between August and December 2011 for the St. Mary's River sanctuary.

Current Scoping Idea(s): Web feedback (Draft was scoped at a public open house in December 2012, following scoping at both TFAC and SFAC meetings)

Regulatory Reform — 2013 Required Regulation Review. Every 8 years the Department is required to evaluate COMAR for the purpose of satisfying the requirement of State Government Article, §§ 10-130 – 19-139, Annotated Code of Maryland. The chapters that have not been extensively amended in the last 8 years are listed below. The process for evaluation will be:

Invite public comment on the regulations by publishing notice in the Maryland Register and on the Fisheries Service's website (post in August, accept comment through October);

Discuss with Tidal Fisheries Advisory Commission and Sport Fisheries Advisory Commission to obtain their feedback and also to seek additional recommendations (additional meetings, email contact, etc.) for ensuring stakeholder participation (July and October).

Gather any recent scientific information related to the regulations being reviewed, similar regulations adopted or repealed by other states or the federal government; and other appropriate information (now through January 2014).

Evaluate the need to retain, amend, or repeal each existing regulation based on the following criteria: continue to be necessary for public interest; continue to be supported by statutory authority and judicial opinions; are obsolete or otherwise appropriate for amendment or repeal; continue to be effective in accomplishing the intended purpose of the regulations; and the information gathered (January – March 2014).

Prepare and submit report to the Administrative, Executive and Legislative Review (AELR) Committee by April 1, 2014.

Chapter 08.01.01 – Advisory Commissions

Regulation .06 – Tidal Fisheries Advisory Commission

Regulation .07 – Sport Fisheries Advisory Commission

Chapter 08.02.09 – Aquatic Animal Values

-Currently under review and to be replaced with the new restitution value system for which scoping began last year following discussions with the TFAC/SFAC Penalty Workgroup

Chapter 08.02.14 – Aquaculture Permits

Chapter 08.02.16 – Oyster Recovery Areas

Chapter 08.02.17 – Fish Refuges