

## Fisheries Regulatory Scoping July 2014

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.).

### **Blue Crab — Gear Labeling**

**CHANGE:** The text of each gear regulation will be changed to allow labeling with a DNRid or commercial license number or a name and address for individuals in Worcester County.

**RATIONALE:** The crab regulations require an individual to label their crab gear with their DNRid number. This is a problem for commercial harvesters who have labeled their gear with their commercial license number. It is also a problem in the coastal bays because an individual is not required to get a license to harvest crabs; therefore, they may not have a DNRid.

**CURRENT SCOPING PLAN:** The idea would be scoped on the Department's website.

### **Crayfish**

**CHANGE:** The Department is considering prohibiting the catch, use, or possession of crayfish. The prohibition would be statewide. An individual would have to remove the head in order to possess a crayfish.

**RATIONALE:**

A statewide ban on the catch, use, or possession of live crayfish would be more enforceable, easily interpreted by anglers and provide protection to all Maryland waters against the spread of invasive crayfishes. Due to their ability to achieve high densities and their importance as both prey and predator, invasive crayfishes have the capacity to affect more than just native crayfish diversity. They are known to adversely affect stream insects, mussels, snails, amphibians, reptiles, fishes, and sport fish.

Based on a survey of Maryland's freshwater anglers conducted in 2008, the release of live, unused crayfish into Maryland waters is relatively common. The introduction of invasive crayfish is the most important threat to native crayfish diversity worldwide. In the Mid-Atlantic region, the spread of invasive crayfishes through their use as bait has been followed by declines of native crayfishes in Maryland, Pennsylvania, and West Virginia. The use and release of live crayfishes as bait by anglers has resulted in the introduction of five non-native crayfish in Maryland waters. Three of these – Rusty Crayfish, Virile Crayfish, and Red Swamp Crawfish – are considered invasive due to their adverse effects on aquatic ecosystem function and native biodiversity.

**CURRENT SCOPING PLAN:**

The idea would be scoped on the Department's website through August. Other scoping methods are being discussed (constant contact, town meetings, survey monkey, email to MD anglers from COMPASS, press release, open house, others?)

**REQUEST FOR COMMISSIONERS:**

As crayfish are commonly used by anglers, we would like commissioners to discuss this regulatory idea with MD sport fishermen to help determine the best method of scoping. A presentation of invasive crayfish was provided to SFAC at their April meeting, and is good reference material that also can be distributed to the constituents you represent.

### **Nontidal Changes for 2015**

**CHANGE:** Change the Spring Put-and-Take Trout Stocking closures of Sideling Hill Creek and Flintstone Creeks from a 1,4 to a 0 closure

**RATIONALE:** Poor fishing in these streams over the last several seasons has generated numerous complaints. There are several potential causes. These areas have traditionally been stocked near the beginning of the three week #1 closure period leaving a long period for potential poaching or predation to occur. A long closure increases risk of high water causing the trout to move out of publicly accessible areas. Regional biologists have documented episodes of high pH in these streams

due to photosynthesis of heavy benthic algal growth. This may increase mortality or cause the fish to move. Allowing fishing immediately after stocking will help to reduce the chances of these problems affecting fishing success.

CHANGE: Remove the #3 and #4 Closure from the Spring Put-and-Take Trout Stocking Schedule and only have one opening day.

RATIONALE: Multiple opening days has been a source of confusion to many anglers. However, there is support for an “opening day of trout season” in Maryland. Maintaining Closures #1 and 2 (both open on the last Saturday of March) preserves that tradition. The removal of Closures #3 and 4 will allow anglers to fish for and harvest trout in Put-And-Take waters immediately after stocking. This will increase the number of days open to trout fishing. It will reduce the impacts of poaching and the need for increased enforcement during the closure periods allowing for more enforcement during legal fishing times. It will also reduce the loss of fish due to extreme weather events and migration out of publicly accessible waters. This may be met with some opposition from anglers who work during the week and feel that they won’t have a chance to fish before significant harvest has occurred.

CHANGE: Extend the existing Catch-and-Return Trout Fishing Area, limited to Artificial Lures, including Flies only regulation on Little Hunting Creek from the upper boundary of the Cunningham Falls State Park Manor Area upstream to the upper boundary of Cunningham Falls State Park.

RATIONALE: Little Hunting Creek is one of the highest quality wild trout resources in Frederick County supporting both native Brook Trout and naturalized Brown Trout. The creek within the Cunningham Falls State Park Manor Area has been managed for wild trout since 1994 with no trout stocking and under artificial lures and flies only, catch-and-return regulations. Under this management, the wild trout populations have thrived and provided fishermen with a high quality, wild trout resource. This change would extend those regulations upstream through a newly acquired property adjacent to the Park which had previously been closed to public fishing. Surveys in 2013 documented a brown trout standing crop of 125 lb/acre and a density of more than 565 adult brown trout per acre in this section. The regulation will protect this resource from overharvest and maintain a high quality fishery.

CHANGE: Add the pond within the Governors Bridge Natural Area in Prince George’s County to the Spring trout stocking schedule with the statewide trout daily creel limit of 2 trout per day.

RATIONALE: This will increase early season fishing and opportunities for southern Maryland trout anglers. The 2 fish per day limit will extend the period of productive fishing and potentially allow more anglers to enjoy resource.

CHANGE: Increase the possession limit to twice the daily creel limit for several fish species. This will make the possession limits consistent with other nontidal species. The possession limit will not be increased for American Eel, Baitfish, Muskellunge and Tiger Muskie. Proposed changes are shown in ***bold italics***.

RATIONALE: This regulation is proposed in order to allow someone who may be on a multi-day fishing trip the ability to keep more than one daily limit without having to consume them each day.

	Daily	Possession
Chain Pickerel	5	<b><i>10</i></b>
Northern Pike	2	<b><i>4</i></b>
Striped Bass & Hybrid Striped Bass	2	<b><i>4</i></b>
Trout - Statewide (all species)	2	<b><i>4</i></b>
Trout - Put-and-Take Areas (all species)	5	<b><i>10</i></b>
Walleye	5	<b><i>10</i></b>
Yellow Perch –	10	<b><i>20</i></b>

Statewide	10	20
Deep Creek	None	None
Lakes and Pond – Nontidal		

**CURRENT SCOPING PLAN:** The idea would be scoped on the Department's website, at meetings (2-3 in different areas of the State) held in August or September and using Survey Monkey.

**Penalty Changes for 2015**

Annual changes based on the penalty workgroup meeting that was held on June 5, 2014.

**COMMERCIAL CHANGES:**

1. Fail to be present/provide TFL and SB Permit at check station – 5 pts/No suspension (No opposition from the workgroup)
2. ITQ – Over Quota – 100 lbs or more 30 pts/365 day suspension (The workgroup wanted some tolerance before suspensions were imposed and then incremental steps over the tiers depending on the amount of overage.)
3. Common Pool – Over Catch Limit – Change current tiers to match the fine schedule with 0-50 lbs over being 10 pts, 30 day suspension and 50 lbs or more being 30 pts, 365 day suspension (The workgroup wanted some tolerance before suspensions were imposed and then incremental steps over the tiers depending on the amount of overage.)
4. Fail to have striped bass counted and weighed at a check station not later than 9 am on the day immediately following harvest – 5 pts/No suspension (No opposition from the workgroup)
5. Setting crab pots after harvest time – 5pts/No suspension (The workgroup asked DNR to wait on this addition to see if additional violations occur during the 2014 season, thus warranting the violation to be added.)
6. Members asked DNR to consider changing the oyster time penalties to allow 30 minutes before and 30 min—1 hour after instead of just 2 hours after for a penalty.
7. Members asked DNR to consider tolerances on river herring prior to a penalty being imposed, specifically with pound nets.
8. Members asked DNR to consider a tolerance for shad.

**RECREATIONAL/CHARTER CHANGES (No opposition from the workgroup on any item listed below):**

1. Striped bass in possession between 12am and 5am – 90 day suspension
2. Crabbing trotline length violation – 90 day suspension
3. Improper rec gear use:
  - a. # of jugs/trotlines/traps/rods – 90 day suspension
  - b. Distance violations for projectile gears – 180 day suspension
4. Crab pots w/o TEDs – 180 day suspension
5. River herring (11+) – 365 day suspension
6. Targeting striped bass in closed area – 180 day suspension
7. Recreational crab pot registration – 365 day suspension

**CHARTER ONLY CHANGES:**

Crabbing Charters Decal – failure to obtain – 365 day suspension (No opposition from the workgroup)

**GENERAL CHANGE:**

Do we want to add a provision to address individuals who receive multiple violations during a certain time period (1-2 years) but these violations do not fall into the penalty schedule? In other words, if a person violates fishing laws 5 times in a year, but those violations are not listed in the penalty schedule, do we still want to be able to suspend that individual? The old system was similar to this, but under the new system some folks are not penalized because the specific item has not been added to the schedule but they have multiple violations. (The workgroup asked staff to put together a list of examples. Staff will work on this and provide back the group.)

CURRENT SCOPING PLAN: Scoped on the Department's website and through the Penalty Workgroup.

### **Scientific and Education Collection Permits**

CHANGE: Create a general regulation spelling out requirements to obtain a permit, reporting requirements and penalties.

RATIONALE: Currently, all of the requirements are on each individual permit. These will be spelled out in regulation to make it clear how everything works.

CURRENT SCOPING PLAN: The idea would be scoped on the Department's website.

### **Sharks**

CHANGE: Remove the requirement of obtaining a federal permit when catching sharks commercially from State waters.

RATIONALE: The current regulation requires all commercial harvesters to obtain a permit from the National Oceanographic and Atmospheric Administration (NOAA) prior to commercially harvesting sharks, regardless of whether the sharks are taken from state or federal waters. NOAA does not currently require harvesters to obtain federal permits to harvest sharks from state waters. The text would be changed to reflect that the federal permits are only needed when catching sharks from federal waters.

CURRENT SCOPING PLAN: The idea would be scoped on the Department's website.

### **Shellfish Aquaculture**

CHANGE: The Department is developing regulations necessary for the implementation of a Demonstration Leasing Program.

RATIONALE: A Demonstration Lease is defined as a lease of submerged land for the purpose of demonstrating the ecological benefits of growing shellfish or for research or education. Existing Maryland law, Natural Resources Article, §4-11A-11, establishes certain restrictions/requirements for Demonstration Leases. The regulations will include requirements for the application, lease usage (educational, research, ecological, source of seed, amount, methods of growth, monitoring, etc.), application review and penalty processes. The regulations will also establish the water quality classifications upon which demonstration leases can be issued (not issued in waters classified as prohibited by MDE). Regulations will require leaseholders/workers to notify DNR prior to power dredging in a sanctuary, and require operator cards for individuals working on a lease. There will be no fees for the lease application or lease rental.

CURRENT SCOPING PLAN: The ideas were scoped at the Aquaculture Coordinating Council meeting on July 10, 2014 and will be scoped on the Department's website.

### **Shellfish — General (applies to all shellfish vessels)**

CHANGE/RATIONALE: The Department will create a regulation so that vessels involved with shellfish harvest or purchase will comply with the NSSP Model Ordinance for the disposal of human sewage from vessels. The regulation will include requirements for containing and dumping human sewage.

CURRENT SCOPING PLAN: The idea would be scoped on the Department's website.

### **Snapper Grouper**

CHANGE: Clarify that harvest limits of species within the Snapper Grouper complex are in whole pounds, not gutted or filleted weight.

RATIONALE: Maryland's regulations limiting harvest of species within the Snapper Grouper complex were adopted to address coastwide stock concerns. Our regulations were based on those of state and federal partner agencies that manage snapper grouper species. Those regulations all limit

harvest in pounds of whole fish. To be consistent with our partner agencies, Maryland needs to clarify that our harvest limits are also in whole pounds.

CURRENT SCOPING PLAN: The idea would be scoped on the Department's website.

### **Spiny Dogfish**

CHANGE: Possible changes to the requirements for an operator. The spiny dogfish workgroup is considering limiting a licensee to naming 2 operators. The operator would be named on the permit at declaration and could be changed one time during the permit year. Only the person specified on the permit would be able to fish in place of the licensee. Currently an operator does not have to be named on the permit (anyone can be the operator as long as they are in possession of the permit and are on the assigned vessel).

RATIONALE: The industry wants some flexibility to allow someone to have more than one operator in a fishing year due to changes in availability. They want to limit operators to limit people involved in the fishery, but they don't want to eliminate all flexibility. The current practice and understanding of the workgroup is that the operator must be named on their permit.

CURRENT SCOPING PLAN: The idea developed from the Spiny Dogfish Workgroup at their meeting on July 10, 2014. The idea would also be scoped on the Department's website.

### **Striped Bass**

CHANGE: The Department will be meeting with the Striped Bass Workgroup to discuss possible changes to striped bass management. The topics for discussion include permanent transfers of permits/shares and annual renewal of permits.

#### RATIONALE:

Currently, permanent transfers of striped bass permits and allocation are not allowed within the striped bass ITQ fishery. A striped bass permit can only be permanently transferred if the entire license (TFL) is transferred along with the permit. This provision was put in place with the implementation of the ITQ so that the dynamic of allocation transfers could be observed and to prevent unintended consequences such as consolidation of quota within a given sector or among individuals. After a year of ITQ management, some striped bass harvesters are beginning to request that permanent transfers of permits and allocation be allowed.

Currently in the ITQ fishery, a striped bass harvester needs only one striped bass permit. However, some harvesters came into the ITQ fishery holding more than one permit. The Department is seeking ideas from the industry workgroup on how to handle additional permits held by some harvesters – including renewal and possible redistribution of these permits.

CURRENT SCOPING PLAN: The idea would be scoped on the Department's website.

### **Yellow Perch**

Fisheries Service staff met with the commercial yellow perch permit holders on July 8, 2014 to discuss potential adjustments/changes to the management of the commercial fishery. This meeting was requested by the permit holders at the April 2014 TFAC meeting.

CHANGE: Change the season end date from March 10 to April 1.

RATIONALE: The industry requested a change to the season end date that would provide more opportunity to harvest the annual commercial quota. In 2013 and 2014 32% and 27% of the commercial quota was not harvested. Based on outcomes of the July 8 meeting, the Department is considering changing the season end date from March 10 to April 1. Minimal user conflicts are expected with this change due to existing upriver fyke net exclusionary areas.

CHANGE: Live market tagging requirements were also discussed at the July 8 meeting. Two options were discussed: 1) Either remove the tag requirement (currently they must return unused tags that would have been on each fish) or 2) Maintain the tag requirement, but not charge for the tags since the tags are immediately returned, unused, to the Department.

RATIONALE: Under the current system, individuals marketing live yellow perch must purchase tags from the Department and then return the unused tags when fish are harvested. Live market catch must be validated by DNR employees upon landing (DNR staff provide documentation to the harvester at landing), so purchasing and then immediately returning tags without use seems superfluous. Removing the tagging requirement would not result in the loss of accountability.

OUTSTANDING CHANGES: Other outstanding yellow perch changes that were previously scoped are the declaration period alignment with commercial license renewal and minor changes to the coordinates in the Northeast and Elk Rivers.

CURRENT SCOPING PLAN: The ideas were scoped at a meeting with yellow perch permit holders on July 8, 2014 and will also be scoped on the Department's website.

**Regulations Being Developed —Ideas Previously Scoped**

Commercial License Targets

Dealer Penalties

Restitution

Shellfish – Power Dredge Area Line Corrections; Wild Grounds Study Area

Snapping Turtle Declaration Period

License Free Fishing Areas

Aquaculture Harvester Permit Restrictions