

Fisheries Regulatory Update, July 2011

Regulations:

Summer Flounder — Recreational Size & Season — Emergency & Proposed

08.02.05.12

Emergency — Effective 5/20/11 to 11/16/11

Proposed — Comment Period Ends 7/5/11, Scheduled Effective 8/8/11

- Reduces the minimum size from 19 inches to 18 inches for summer flounder caught in State waters. (NOTE: this change in size limit also applies to summer flounder caught by commercial hook and line fishermen.)
- Changes the recreational season to April 16 through November 30. Regulations for 2011 will be: Season: April 16- November 30; Size: 18"; Creel: 3.

Black Sea Bass — Recreational Season – Emergency & Proposed

08.02.05.21

Emergency — Effective 6/8/11 to 12/5/11

Proposed — Comment Period Ends 7/18/11, Scheduled Effective 8/22/11

Regulations for 2011 will be the same as last year. Season: May 22 through October 11 and November 1 through December 31; Size: 12 ½; Creel: 25.

Striped Bass Permit — Transfer due to TFL Buyback Program

08.02.15.04

Comment Period Ends 7/5/11, Scheduled Effective 8/8/11

The purpose of this action is to amend Regulation 08.02.15.04 relating to the transfer of a striped bass permit. DNR has launched a program to buy back Unlimited Tidal Fish Licenses ("TFL"). TFL holders with a striped bass permit will be able to participate in the buyback, but must transfer their striped bass permit before August 31, 2011. The package was scoped at the February 2011 Scoping Meeting. All comment was favorable for change. The 1-year provision came after discussions at TFAC.

- Replaces the 3-year holding requirement with a 1-year holding requirement for transfer of a striped bass permit
- Exempts 2011 TFL Buyback participants from the holding requirement

Snapper Grouper — Housekeeping Correction

08.02.05.29

Comment Period Ends 7/18/11, Scheduled Effective 8/22/11

The proposed action corrects references for recreational creel limits. The action also updates the public notice provision to include reasons why a public notice would be issued and that the notice would be issued on the Fisheries Service website rather than a newspaper.

Hearings — Housekeeping Correction

08.02.13.02, .05, .06, and .07

Emergency — Effective 7/1/11 through 12/15/11

The proposed action clarifies existing hearing requirements before the Department may suspend or revoke a recreational or commercial fishing license. These changes will implement HB396/SB414, eliminating the requirement that the Department must hold a hearing before it suspends or revokes a commercial or recreational license and requiring only that the Department provide written notice to the licensee of a right to a hearing on request.

Leasing — Housekeeping Correction

08.02.23.02, .03, .04, and .07

Emergency — Effective 7/1/11 through 12/29/11

The proposed action adds water column leases to regulation in accordance with HB1053/SB847. These cross-filed bills allow the Department to issue water column leases. The proposed action will correct existing leasing text to include water column leasing by the Department.

Oysters — Leasing in Sanctuaries — Emergency & Proposed

08.02.04.15

Emergency Proposal Submitted 6/23/2011 — Pending AELR Approval

Proposed — Comment Period Ends 8/29/11, Scheduled Effective 10/3/11

Allow shellfish leasing in oyster sanctuaries except for Historic oyster bars as defined by the Yates survey (1906 to 1912) as specified in House Bill 208 from the 2011 General Assembly Session.

Clams — Declaration

08.02.08.05

Emergency Proposal Submitted 6/25/2011, Pending AELR Approval

Proposed — Comment Period Ends 9/12/2011, Scheduled Effective 10/17/2011

Requires an individual to declare their intent to harvest clams. There will be no fee for this declaration. This would allow the Department to determine the licensees that should be submitting clam reports and who should receive shellfish closure books.

Oysters — Harvest Reserve Areas

08.02.04.15

Comment Period Ends 8/29/11, Scheduled Effective 10/3/11

Housekeeping package that removes Harvest Reserve Areas (HRAs) that are in sanctuaries.

Fishing in Nontidal Waters — Chapter Reorganization

08.02.11.01-.05, .07-.09

Comment Period Ends 9/12/2011, Scheduled Effective 10/17/2011

Combines all sections relating to trout into one regulation, combines text where appropriate in order to make the text more readable, and repeals outdated text. No substantive changes were made in the reorganization.

Nuisance Species/General — Housekeeping

08.02.01.09

08.02.11.10, .11

08.02.19.04, .08

Comment Period Ends 9/12/2011, Scheduled Effective 10/17/2011

Housekeeping package to address crayfish/crawfish terminology and movement of sections that are being removed from the nontidal chapter to more appropriate chapters (zebra mussels to nuisance species and tidal-nontidal dividing lines to general)

Upcoming Regulations:

Soft-Shell Clam Regulation Clarifications

Modifies the soft-shell clam regulations in order to make clear which regulations apply to which species of clam (*Mya arenaria* and *Tagelus*).

Results of Scoping and Public Comment: Moving forward as planned.

Oysters — Standardization of Bushel Containers, Tagging and Taxes

The Department is proposing to add new regulations to bring Maryland in line with FDA requirements under the National Shellfish Sanitation Program's shellstock identification and traceability requirements. The regulation will include:

- Requirements for information to be included on the tag (harvesters license #, date, location, and type and quantity of shellfish)
- A requirement to place shellstock into a proper container (orange fish basket, clam crate, or standard MD tub). This will have to be done on the water, prior to leaving the bar.
- If the shellstock is harvested at more than one location, there will be a requirement to tag each container at its growing area.
- A requirement to tag each container of shellstock and the tag shall be in place while the shellstock is being transported to a dealer.
- Provisions for when the harvester is also the dealer
- Provisions for removing tags after they reach the dealer or are sold by a certified harvester
- Requirement for retaining the harvester tag for 90 days.
- Provisions for shore-based aquaculture operations
- Each tag will be pre-numbered and be marked with the year.
- The action would clarify that oyster taxes (severance and export) only apply to oyster caught in the public commercial fishery. It has been determined that the statute applies the oyster taxes to oysters caught on a natural oyster bar and the funds are used for repletion activities. Therefore, these taxes do not apply to oysters grown and harvested through aquaculture.

Results of Scoping and Public Comment: Moving forward as planned.

Penalties for Failing a Commercial Tag Audit

The Department is proposing to create a penalty for failing a tag audit related to striped bass and yellow perch commercial tags. Licensees are required to return unused tags. An audit of the reported harvest is compared to the number of tags returned. If a licensee fails this audit a penalty would be applied. The Department will define what determines "failure" of an audit and determine an appropriate penalty. A possible penalty would be that the licensee would not be allowed to get a permit the following year.

Results of Scoping and Public Comment: Moving forward as planned.

Penalty

The action would add a new regulation for egregious or repeat crab or striped bass violations based on HB 1154/SB 635 from the 2011 General Assembly Session relating to 1) using illegal gear, 2) harvesting during closed season, 3) harvesting from a closed area, 4) exceeding harvest, catch, or size limits, or 5) violating tagging and reporting requirements. Penalties are also included for operating during a suspension period.

Results of Scoping and Public Comment: Moving forward as planned.

Commercial Horseshoe Crabs, Summer Flounder, Black Sea Bass

The purpose of this action is to create consistency between regulations for the black sea bass, summer flounder, and horseshoe crab commercial fisheries and to allow some flexibility in coastal commercial permitting. Currently, there are inconsistencies in the regulations between the fisheries with regards to ownership in federally permitted vessels, changing of declared vessels, the number of commercial permits allowed on a federally permitted vessel, and quota overage management. The proposed changes would address these inconsistencies by amending the summer flounder regulations to adopt the wording of the black sea bass regulations regarding ownership of a federally permitted vessel and changing declared vessels; amending the summer flounder and horseshoe crab regulations to adopt the black sea bass regulations that allow for two permits to be fished from one vessel; and amending the horseshoe crab regulations to manage quota overages by deducting an overage in the annual harvest from the following year's quota.

In addition to the above changes, the proposed regulations will also add flexibility to the coastal permitted fisheries. Currently, the regulations for horseshoe crabs, summer flounder, and black sea bass establish declaration

deadlines, but do not allow for late declarations or define the consequences for late declarees. The proposed changes would open a 14 day period during which late declarees could appeal to declare late. Current regulations also limit the transfer of permit allocations to 30% of a permit allocation in black sea bass and no transfer specifications are made in summer flounder. The proposed changes would allow permit holders in both fisheries to transfer a full permit allocation to another permit holder.

Results of Scoping and Public Comment: Moving forward as planned.

Crabs

The action would eliminate the regulation that prohibits commercial harvest of blue crabs on the 2nd and 3rd Thursdays in November. The regulation is no longer needed because of the implementation of more effective year-long regulations that limit blue crab harvest, including the closure of the female crab fishery on November 10. The two closed days in November now impact male harvest only and do not result in any measurable reduction in harvest.

The action would remove the requirement to list a vessel number on a crabbing license. The provision was originally put in place in 2001 to assist with enforcement of the commercial day off requirement. However, Natural Resources Police now have access to the computer license system (COIN) to confirm a waterman's day off rather than what is printed on the license. Therefore, the provision is no longer needed for enforcement purposes.

The action would also clarify that all recreational crab pots are required to be marked with the owner's name and address regardless of whether they are set on a pole, buoy or attached to the owner's pier or dock. This aids enforcement officers when identifying the owner of the pot.

The action would allow all types of temporary and permanent transfers of frozen and male only limited crab harvester licenses (LCCs). Some permanent transfers are currently allowed. Prohibiting the temporary and some permanent transfers of these LCCs has caused a restriction on temporary and permanent transfers of other authorizations as well. This was unintended; allowing all types of transfers of frozen and male only LCCs will provide license holders with more business flexibility and does not affect conservation measures.

Results of Scoping and Public Comment: Moving forward as planned.

General — Housekeeping

Adds recreational license reciprocity agreement language for recreational fishing registrations. The recreational license reciprocity agreement was altered in light of the changes local jurisdictions made regarding the Federal Saltwater Angler Registry. Maryland and Virginia have reciprocal licenses under this agreement but will require the holders of such licenses to register in their State.

Results of Scoping and Public Comment: Moving forward as planned.

Felt definition — Housekeeping

Defines what a felt is in order to clarify current ban for enforcement purposes. Felt will be defined to include all felt or felt-like materials.

Results of Scoping and Public Comment: Moving forward as planned.

License Targets — Housekeeping

The action would adjust the numbers of limited crab harvester (LCC), crab harvester -300, 600, 900 pots (CB3, CB6, CB9), and unlimited tidal fish (TFLs with CB3, CB6, CB9) licenses. These adjustments would be made based on the decrease in each license category due to the latent effort buy back programs.

Results of Scoping and Public Comment: Moving forward as planned.

Public Notices Issued in June & July:

Striped Bass

Modification to the catch limit for the commercial hook and line striped bass fishery published in the Baltimore Sun on June 4, 2011. Effective June 7, 2011, the daily catch limit is 500 pounds per day with a

weekly catch limit of 1,500 pounds per authorized tidal fish licensee. Fishing days will be limited to Monday through Thursday and may be modified based on the monthly striped bass harvest.

Horseshoe Crabs

Modification for the 2011 commercial horseshoe crab fishery published in the Baltimore Sun on June 4, 2011. Effective for the 2011 harvest season, a person must land at least two male horseshoe crabs for each female horseshoe crab landed. The commercial horseshoe crab fishery will open June 8 for areas outside of 1 mile of the Atlantic coast and July 13 for the tidal waters of the State and continue as described in regulation.

Blue Crabs

Revision of commercial mature female hard crab catch limit for September 1 – November 10, 2011 for the Chesapeake Bay and its tidal tributaries published in the Baltimore Sun on June 3, 2011. The commercial mature female hard crab bushel limits for September 1 – November 10, 2011 are: LCC – 12; TFL or CB3 – 30; TFL with CB6 or CB3 with CB6 – 42; and TFL with CB9 or CB3 with CB9 – 54.

Lease Application

Application for three submerged land leases by John W. Tieder, III and John W. Tieder, Jr. in Slaughter Creek, Dorchester County, Maryland published in the Dorchester Star on June 10, June 17, June 24, and July 1.

Lease Application

Application for submerged land lease by John F. Tucker Brown at the mouth of Breton Bay, St. Mary's County, Maryland published in the Enterprise on May 27, June 3, June 10 and June 17.

Lease Application

Application for submerged land lease by Robert T. Brown, Sr. and Victoria M. Williamson at the mouth of Breton Bay, St. Mary's County, Maryland published in the Enterprise on May 27, June 3, June 10 and June 17.

Lease Application

Application for submerged land lease by Robert T. Brown, Sr. and Jason G. Brown in St. Clements Bay, St. Mary's County, Maryland published in the Enterprise on May 27, June 3, June 10 and June 17.

Lease Application

Application for submerged land lease by Robert T. Brown, Sr. and Robert T. Brown, Jr. in St. Clements Bay, St. Mary's County, Maryland published in the Enterprise on May 27, June 3, June 10 and June 17.

Lease Application

Application for submerged land lease by Jon Farrington in the Patuxent River, Calvert County. Published in the Calvert Recorder on Friday, July 15, July 22, July 29 and August 5