

## **Fisheries Regulatory Scoping October 2015**

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 — Cull Rings in Coastal Bays**

Cull rings are required to be closed in the coastal bays from April 23 through May 31.

Discussion/Solution: There is a requirement to have cull rings in crab pots in the coastal bays and also a requirement that the cull rings must be closed for a period of time. This seems inconsistent and the closure should be removed.

Solution: Remove the required closure in 08.02.03.12A

Scoping Recommendation: Scope on the Department's website, Constant Contact, Facebook and Twitter.

### **Blue Crab — Commercial — Crabs in the Bait Box**

Prohibit the use of crabs in the bait box

Discussion: The regulation currently requires that male crabs used as bait for peelers must be contained in the upper parlor. Doing so substantially reduces the mortality of the bait crabs compared to them being placed in the bait box (the chamber in the crab pot that holds the bait). The Department was made aware that the industry has begun using female peelers as bait for male hard crabs by placing the female peelers in the bait box. Revising the language in the current regulation will protect all crabs used for bait, whether male or female and in both the hard and peeler crab fishery.

Scoping Recommendation: Scope on the Department's website, Constant Contact, Facebook and Twitter.

### **Fishery Management Plan (FMP) — Eel Amendment**

Amend the 1991 American Eel FMP to include a provision that recognizes the Atlantic States Marine Fisheries Commission's (ASMFC) management measures and ensures flexibility when regulatory requirements change.

Discussion: Amendment #1 includes a provision for the adoption of current and future management requirements established by ASMFC, an update of the current status of the eel resource, and a framework for managing and monitoring the eel fishery. The Fisheries Service's Plan Review Team reviewed the plan in 2014 and recommended that the 1991 American Eel FMP be amended to include a provision that recognizes ASMFC and ensures management flexibility when regulatory requirements change.

Solution: Add Amendment #1 to the Chesapeake Bay American Eel Fishery Management Plan (1991) and incorporate the amendment by reference.

Scoping Recommendation: The 2014 review of the American Eel FMP was presented to the SFAC and TFAC during the October 2014 meetings. Members of both groups had the opportunity to provide input on the review and there were no significant comments at that time. Scope on the Department's website, Constant Contact, Facebook and Twitter.

### **Monetary Values of Fish**

Update the monetary values of fish.

Discussion: The Department currently has monetary values of fish listed in COMAR. These values were put in place in 1975 and have not been changed in 40 years. These values are now very out-of-date and are not in line with the current value of fish species. It is also not clear how these values should be applied to fish (i.e. whether the value should be applied to any violation, egregious violations, or incidents of large-scale fish kills due to man-made causes).

Solution: Remove outdated fish values and replace them with the most up-to-date values as

determined by the American Fisheries Society (AFS). The original AFS document was the basis for the 1975 regulations, so this will be in line with current practice. The Department will incorporate the document by reference and make the document available on the Fisheries Service's website. Additionally, the Department will add a "Scope" regulation to the chapter on monetary values of fish to clarify that the regulations will only apply to fish kill incidents. Scoping Recommendation: Scope on the Department's website, Constant Contact, Facebook and Twitter.

### **Oysters — Commercial Fishery**

Create a process to open and close natural oyster bars in regulation.

Discussion: Natural Resources Article, §4-1106(d), Annotated Code of Maryland allows the Department to close a natural oyster bar with the approval of the appropriate committee of oystermen. The Department would like to create the process for opening and closing bars that are part of the Public Shellfish Fishery Areas. County committees have invested time and money seeding bars and would like the opportunity to manage these areas. The Department has received a request from Charles County requesting to close the following bars to harvest to allow for a majority of planted oysters to grow to market size: Rock Point (local name is John Thomas); Lancaster; Wicomico Middle Ground; Windmill; Mills West; Stoddard; and Joes Lumps. See attached letter.

Solution: Propose a regulation to create the process for opening/closing a natural oyster bar that is part of a public shellfish fishery area to harvest. The process will include a written request by the county oyster committee, consultation with the Department and a public notice process that includes 48 hour notice before becoming effective. The notice will be disseminated on the Fisheries Service's webpage and to all county committees.

Scoping Recommendation: County Committees have already been called to notify them of this new regulation and determine if they would like to add areas to the regulation from their County. Scope on the Department's website, Constant Contact, Facebook and Twitter.

## **Updates to Topics that were Previously Scoped**

### **American Eel — Update**

The 2012 American Eel Benchmark Stock Assessment indicated the American eel population in U.S. waters is depleted.

Discussion: The ASMFC American Eel Management Board approved Draft Addendum IV to the Interstate Fishery Management Plan (FMP) for American Eel with a goal to reduce overall mortality and increase conservation of American eel stocks. Addendum IV established a coast wide catch cap for the commercial yellow eel fishery starting in 2015. The following two management triggers were established: if the harvest cap is exceeded by more than 10% in any one year or if the harvest cap is exceeded for two consecutive years, then an individual state quota is allocated and required to be managed in the following year. Therefore, if the coast wide American eel harvest exceeds the coast wide cap by more than 10% in 2015, Maryland must have the ability to manage their quota (pre-determined in Addendum IV) starting in 2016.

Updated Solution: Maryland will establish an eel harvester permit that will be required for all commercial eel harvesters, this includes commercial finfish and crab license holders. Crab license holders are included because they are allowed to harvest eels for bait. If a state quota is implemented, all eel permit holders will be subject to daily reporting requirements. These reporting requirements will comply with Addendum IV. In order to effectively manage the eel quota, the regulation will include a provision to allow the Department to modify, open or close the season or modify catch limits by public notice. Maryland's regulations would allow the

Department to manage quotas, which would include the ability to transfer quota or modify quota in the result of previous year overage.

Scoping Recommendation: Scope on the Department's website, Constant Contact, Facebook and Twitter.

### **Blue Crab — Commercial — Peeler Float Definition — Update**

The current regulation allows 20 undersized peelers per float, but does not define float. Harvesters may call any container a float which creates problems for both the resource and enforcement.

\*\*\*This was scoped with the Commissions in April 2015, on the Fisheries Service's website in May and with the Blue Crab Industry Advisory Committee. Based on public feedback and continued dialogue with the Natural Resources Police, the Department has amended its previous suggestion to change the definition of a "float" and the associated peeler crab regulations.

Discussion: NRP brought to Fisheries Service staff attention the difficulty they are having with enforcement of the tolerance limit on undersized peelers due to the fact there is no legal definition for a "float" in our current regulations. The lack of a definition to standardize the size of a float means there is no basis to keep small containers (some as small as 1ft<sup>2</sup>) from being called a float.

Updated Solution: Based on feedback from the industry and NRP, it was determined that the typical float, used to shed peelers that will be sold as soft crabs, is built with a 4ft x 4ft or 4ft x 8ft sheet of plywood as the base. Recognizing that there could be reasons for a peeler float to have dimensions other than that, Fisheries Service is proposing a float be defined as an area that is equal to or greater than 16 ft<sup>2</sup> that is either land-based or attached to land. The tolerance for undersized peeler crabs for a float would remain 20 per float. The tolerance for undersized peeler crabs not in a float would be 10 per container for a bushel or container larger than a bushel and 2 per container for containers smaller than a bushel.

Scoping Recommendation: Scope with the Blue Crab Industry Advisory Committee, the Department's website, Constant Contact, Facebook and Twitter.

### **Spiny Dogfish — Commercial Fishery — Update**

Five of seven members of the Spiny Dogfish Work Group (SDWG) met on May 27, 2015 to discuss performance of the fishery. Follow-up phone calls were made to 6 out of 7 SDWG members in September to further discuss permit replacement.

Eligibility — The SDWG voted unanimously to change the 2 year/10,000 lb landing requirement to 3 years/15,000 lbs.

Discussion: Since limited entry was implemented there have been significant changes that impacted the fishery. Specifically, there were two seasons of harsh winters, European market was lost, fuel costs, fish were mostly in federal waters in 2014/2015, and the price was \$0.14-17/lb.

Eliminating paper permits —The SDWG voted unanimously in support of eliminating paper permit cards.

Discussion: Permits are listed on the commercial fishing license. COMAR requires spiny dogfish to be sold to a federally permitted dealer so the landings data are available to managers within one week which is faster than the permit card. Permit cards are not submitted until the end of the season. The Spiny dogfish fishing season is May 1-April 30.

#### **Updated New Entrants** —

1) Atlantic Striped Bass Permit Holder — Allow someone who owns an Atlantic Striped Bass Permit to have a higher vessel trip limit than the bycatch allowance. Four out five of the SDWG members supported this measure.

Discussion: This is a way to allow new people into the fishery. This will help catch the quota by watermen that catch spiny dogfish as bycatch when targeting striped bass. This may help reduce dead discards of spiny dogfish.

2) Permit Replacement — The Department will be working with the SDWG to develop a method for issuing a spiny dogfish permit when an existing permit expires for failing to declare two years in a row or not meeting harvest requirements.

Discussion: This will allow an opportunity for new participants, create stability in the fishery, and be consistent with goals of the SDWG as well as the Department.

Solution: Methods may include but are not limited to a waitlist or random selection.

Scoping Recommendation for All Spiny Dogfish Changes: Scope on the Department's website, Constant Contact, Facebook and Twitter.

## **Housekeeping — Regulation Clean-Up**

### **Aquaculture — Housekeeping**

Remove 08.02.14.13. This action simply cleans up the Aquaculture chapter. The regulation describes how the Department will pay for fresh shell. It does not belong in the Aquaculture chapter because this chapter does not apply to shellfish. This exists in the Oyster chapter.

### **Blue Crab — Housekeeping**

Crabbing Charters — Remove the prohibition on catching females in the coastal bays. Right now the prohibition in 08.02.03.15 applies to both the Bay and Ocean. It should only apply to the Bay.

### **Endangered, Threatened and In Need of Conservation — Housekeeping**

Remove regulations that apply to Endangered and Threatened species.

Discussion: Regulations appearing in the Endangered and Threatened Species chapter refer to permits the Fisheries Service no longer issues, as the Wildlife and Heritage Service manages threatened and endangered species. All species determined to be endangered or threatened are listed in the Wildlife and Heritage regulations. All of the definitions are in statute and are not necessary in regulation.

### **Gear — Housekeeping**

Recreational crab and oyster gear needs to be exempted from this chapter. The gear chapter applies to all fish. However, crab and oyster gear are spelled out elsewhere and are not included in this chapter.

### **License for Trawls — Housekeeping**

Remove 08.02.05.03. This regulation is very old and no longer required. The details are covered elsewhere in statute and regulation.