

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 08

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.03 Crabs

Authority: Natural Resources Article, §§4-215 and 4-803, Annotated Code of Maryland

Notice of Proposed Action

[15-196-P]

The Secretary of Natural Resources proposes to amend Regulations .09 and .10 under **COMAR 08.02.03 Crabs**.

Statement of Purpose

The purpose of this action is to modify the term and expiration date for recreational crabbing licenses, modify recreational crabbing license exemptions, and make corrections to incorrect citations.

This action will modify the term and expiration date for recreational crabbing licenses to be consistent with the change to the sportfishing licenses term and expiration through S.B. 666 of 2015. The legislation becomes effective October 1, 2015, and will change the term of the recreational sportfishing licenses from a calendar year to one year from the date of issue. Crab licenses currently expire at the end of the calendar year. If this change is not made, it would potentially be confusing for individuals to have recreational licenses on two different terms.

This action will expand the exemption for unlicensed individuals crabbing with licensed individuals. Currently, the exemption only applies to unlicensed individuals helping licensed individuals crabbing on a boat. This action will expand the exemption to apply to unlicensed individuals helping licensed individuals crabbing anywhere.

In conjunction with expanding the exemption for unlicensed individuals crabbing with licensed individuals, this action removes the licensing exemption for children under the age of 16. This

exemption had been created when unlicensed/exempted individuals were able to use 10 collapsible crab traps. Based on recent regulatory changes, an unintended consequence was that exempted individuals are now able to use 30 collapsible crab traps. This increase in allowable gear has the potential to result in much higher unmonitored harvest levels. Unlicensed children will still be able to help with gear that would otherwise require a license (i.e., collapsible crab traps or trotlines) when crabbing with another licensed individual. Children crabbing alone, however, will have to be licensed in order to use collapsible crab traps or trotlines. This also eliminates the loophole of an unlicensed adult using gear that requires a license and saying their child is the operator.

The third license exemption this action modifies pertains to crabbing in license-free fishing areas (LFFAs). Current statutory text at Natural Resources Article, §4-214, Annotated Code of Maryland, refers to LFFAs as areas where individuals may recreationally finfish without first obtaining a license from the Department. Under the current regulatory text, the Department has also exempted individuals crabbing in LFFAs from the recreational crabbing license requirement. This exemption existed prior to the recent regulation change that requires an individual to obtain a crabbing license in order to use collapsible crab traps and net rings. Previous to that change, an unlicensed crabber was allowed to use up to 10 collapsible crab traps and net rings. The original intent, therefore, was for an individual in an LFFA to be able to use up to 10 collapsible crab traps and net rings without first obtaining a recreational crabbing license. Based on the recent change, then, it is unclear if the exemption language now means that a person can use collapsible crab traps and net rings (up to 30) in an LFFA without a license, or if they operate as an unlicensed crabber and are restricted to hand lines and dip nets. This action will remove the licensing exemption for crabbers in LFFAs to clarify that an unlicensed individual may crab in an LFFA using gear that is exempted from the licensing requirement, but must first purchase a crabbing license if they want to use collapsible crab traps or net rings. This measure was scoped with the Sport Fisheries Advisory Commission on April 28, 2015, and received no opposition.

The final license exemption this action modifies pertains to the exemption for individuals qualified to use recreational crab pots. The intent of this exemption was to allow waterfront property owners to use up to two recreational crab pots attached to their property without

requiring them to purchase a crabbing license. However, the wording is unclear and may lead to the interpretation that waterfront property owners may use any gear that would otherwise require a crabbing license without first purchasing a license. This action clarifies that the exemption pertains to the use of crab pots, and no other gear, to ensure the intent of the regulation is understood.

Lastly, this action will make corrections to outdated regulatory references.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action may have an indeterminable positive impact on both the Department and recreational crabbers.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:		
365-day license	(R+)	Indeterminable
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
(1) 365-day license	(+)	Indeterminable
(2) License exemptions	(+)	Indeterminable

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. Transitioning from a calendar-year license to a 365-day license provides crabbers who purchase the license all 365 days to use an annual license, rather than 365 days minus the number of days into the year the license was purchased. This transition should have the effect of incentivizing more crabbers to purchase a 365-day license instead of crabbing without a license (particularly later in the year), due to the greater number of possible crabbing days relative to the calendar year license.

The extent to which crabbing license sales will increase is indeterminable; however, the following strategic behavior by crabbers regarding license purchases should be considered:

(1) The general increased flexibility for crabbers (i.e., 365 days to use the product) may encourage crabbers who otherwise would not buy a crabbing license; and

(2) With the implementation of a 365-day license, there may be an incentive to some crabbers to delay purchase (to the day of the first crabbing trip following license expiration), which could create a situation where there will be increases in the period of time an individual is unlicensed.

F(1). Recreational crabbers who buy a crabbing license will have

full use of that license for 365 days, rather than 365 days minus the number of days into the year the license was purchased. This will provide greater value in the license without increasing license fees.

F(2). Expanding the exemption to allow for an unlicensed individual to help a licensed individual crabbing anywhere, rather than only on a boat, will likely have the greatest impact on the recreational crabbing community. This change will allow licensed individuals to take friends or guests crabbing who may have never crabbed before without requiring those individuals to also purchase a crabbing license. This action will negatively affect those unlicensed individuals who only crabbed in license-free fishing areas (LFFAs) with gear that would otherwise require a license. The number of individuals that fall into this category is unknown but believed to be very small. While this action removes the exemption for children under the age of 16, since the action expands the exemption for unlicensed individuals helping licensed individuals, and because most children crab with an adult and that adult would have needed to have been licensed already, this aspect of the action will likely have a negligible impact. An instance where a child would be impacted by this action is a child who operates a vessel alone (which is possible for children ages 14 and 15) and runs a trotline or collapsible crab traps. While that child had previously been exempt, they will now have to either purchase a crabbing license or be on a licensed crab boat.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Recreational Crabbing License Changes, Regulatory Staff, Department of Natural Resources, Fisheries Service B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through August 24, 2015. A public hearing will be held on August 11, 2015, at 6 p.m., at Tawes State Office Building, 580 Taylor Avenue, Annapolis, MD 21401.

.09 Recreational Crabbing Licenses — Chesapeake Bay and Its Tidal Tributaries.

A. Recreational Crabbing License.

(1) An individual who catches or attempts to catch crabs for recreational purposes in the waters of the Chesapeake Bay and its tidal tributaries shall pay the fee and obtain a recreational crabbing license in order to use the following gear to catch crabs:

(a)—(b) (text unchanged)

(c) Up to ten eel pots for catching the individual's own bait, which are:

(i) (text unchanged)

(ii) Not placed in a buoy free channel as listed in [Regulations] *Regulation .07H* [and *.08E*] of this chapter *or COMAR 08.02.05.08F*; and

(d) (text unchanged)

(2)—(3) (text unchanged)

B.—D. (text unchanged)

E. Exceptions. An individual who catches or attempts to catch crabs for recreational purposes in the waters of the Chesapeake Bay and its tidal tributaries is not required to have a recreational crabbing license if the individual:

(1) Uses any of the following gear:

(a) (text unchanged)

(b) A handline; *or*

(c) *Up to two crab pots, if qualified to use crab pots as set forth in Regulation .07D of this chapter;*

[(2) Is younger than 16 years old;

(3) Is crabbing for recreational purposes in an area which has been designated by the Department in COMAR 08.02.01.07C as a free fishing area;

(4) Is qualified to use not more than two crab pots as set forth in Regulation .07D of this chapter;]

[(5)] (2) Is [aboard a boat] assisting an individual who has a recreational crabbing license; or

[(6)] (3) (text unchanged)

F. General.

(1) A recreational crabbing license, recreational crabbing boat license, or private waterfront property crab pot registration is valid for [not more than 1 year and expires December 31] *365 days* following the date of issuance.

(2)—(4) (text unchanged)

.10 Recreational Crabbing Catch and Possession Limits — Chesapeake Bay and its Tidal Tributaries.

A. (text unchanged)

B. Female Hard Crabs and Female Peelers.

(1) Except as provided in [§E(2)] §B(2) of this regulation, an individual may not catch or possess female hard crabs or female peelers.

(2) (text unchanged)

C. (text unchanged)

MARK J. BELTON
Secretary of Natural Resources

**Title 09
DEPARTMENT OF LABOR,
LICENSING, AND
REGULATION**

Subtitle 10 RACING COMMISSION

09.10.03 Prohibited Acts

Authority: Business Regulation Article, §11-210, Annotated Code of Maryland

Notice of Proposed Action

[15-193-P]

The Maryland Racing Commission proposes to amend Regulation **.01-1** under **COMAR 09.10.03 Prohibited Acts**.

Statement of Purpose

The purpose of this action is to provide for a maximum permitted threshold of cobalt to be present in a horse's system during the running of a race.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to J. Michael Hopkins, Executive Director, Maryland Racing Commission, 300 East Towsontown Boulevard Towson, MD 21286, or call 410-296-9682, or email to mike.hopkins@maryland.gov, or fax to 410-296-9687. Comments will be accepted through September 11, 2015. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland Racing Commission during a public meeting to be held on September 15, 2015, at 12:30 p.m., at Laurel Park, Laurel, Md. 20745.

.01-1 Restricted Use of Medications and Other Substances.

The use of the following medications and other substances are permitted if quantitated at not more than the specified thresholds:

A. — E. (text unchanged)

E-1. Cobalt quantitated at not more than 25 nanograms per milliliter of blood plasma or serum;

F. — CC. (text unchanged)

J. MICHAEL HOPKINS
Executive Director

**Title 10
DEPARTMENT OF HEALTH
AND MENTAL HYGIENE**

**Subtitle 09 MEDICAL CARE
PROGRAMS**

10.09.59 Specialty Mental Health Services

Authority: Health-General Article, §§2-104(b), 2-105(b), 15-103, and 15-105, Annotated Code of Maryland

Notice of Proposed Action

[15-198-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations **.01—, .04, .06—, .09, .12, and .13**, repeal existing Regulation **.05**, and adopt new Regulation **.05** under **COMAR 10.09.59 Specialty Mental Health Services**.

Statement of Purpose

The purpose of this action is to clarify and update provider requirements and behavioral health services provided by specialty mental health providers within the Public Behavioral Health System.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.