

the difficulty they are having with enforcement of the tolerance limit on undersized peelers due to the fact there is no legal description for a float. This has resulted in small containers, some with a base as small as one square foot, being called a float. 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 different dimensions, but aiming to maintain equity in the fishery, the proposed action requires a float used for holding or shedding peelers to have a base that has an area that is a minimum of 16 square feet.

The proposed action corrects the crab catch limits for crabbing charters. Catch limits for blue crabs are different for the Chesapeake Bay and its tidal tributaries and for the Atlantic Ocean and its coastal bays. The proposed action details the differences.

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 Blue Crab Regulations, 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 February 22, 2016.

.07 Crab Pots.

- A. (text unchanged)
- B. A crab pot shall meet the following structural requirements:
 - (1)—(3) (text unchanged)
 - (4) Except for a crab pot constructed with unstretched mesh measuring less than 1-1/2 inches or at least 2 inches on each side, a crab pot set in the Chesapeake Bay or its tidal tributaries shall have two cull rings, one of at least 2-3/16 inches and one of at least 2-5/16 inches inside diameter located in exterior side panels or the top panel of the crab pot; *and*
 - [(5) A live male blue crab used for bait, in a crab pot used for catching peeler crabs, shall be contained only in the upper chamber of the crab pot and may not be less than the minimum size; and]
 - [(6)] (5) (text unchanged)
- C. (text unchanged)
- D. General Requirements.
 - (1)—(8) (text unchanged)
 - (9) *Crabs may not be in the bait box of the crab pot.*
- E.—H. (text unchanged)

.12 Special Regulations for Crabbing in Worcester County.

A. Structural Requirements of Crab Pots. Notwithstanding Regulation .07A and B of this chapter, a crab pot set in the coastal bays of the Atlantic Ocean and their tidal tributaries shall have one unobstructed 2-5/16 inch cull ring on a side panel of the upper compartment and one 2-5/16 inch cull ring on a panel at the lower compartment of the crab pot. The cull ring is not required in a crab pot constructed with unstretched mesh measuring less than 1-1/2 inches or at least 2 inches on each side. [The cull ring shall be closed from April 23 through May 31.]

B.—F. (text unchanged)

.14 General Prohibitions.

- A. (text unchanged)
- B. Commercial — General.
 - (1)—(11) (text unchanged)
 - (12) *A float used for holding or shedding peelers shall have a base that is a minimum of 16 square feet.*
- C.—G. (text unchanged)

.15 Crabbing Charters.

- A.—C. (text unchanged)
- D. Crabbing Charters.
 - (1)—(2) (text unchanged)
 - (3) A crabbing charter:
 - (a)—(b) (text unchanged)
 - (c) *May not harvest female hard crabs or female peelers from the Chesapeake Bay and its tidal tributaries; and*
 - (d) (text unchanged)
 - (4) (text unchanged)
 - (5) *Catch Limit. A crabbing charter with one or more customers on board may not catch more than two bushels of [male]:*
 - (a) *Male hard crabs and two dozen soft crabs or male peeler crabs from the Chesapeake Bay and its tidal tributaries; or*
 - (b) *Crabs from the Atlantic Ocean and its coastal bays.*
 - (6)—(7) (text unchanged)

MARK J. BELTON
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.04 Oysters

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

Notice of Proposed Action

[16-030-P]

The Secretary of Natural Resources proposes to amend Regulation **.11** under **COMAR 08.02.04 Oysters**.

Statement of Purpose

The purpose of this action is to create a process to open and close portions of Public Shellfish Fishery Areas. Counties would like the opportunity to work with the Department to manage populations of oysters on selected areas of Public Shellfish Fishery Areas. The county committee may want an area closed because they seeded the area or because the area received a good spat set and they want to wait to put any pressure on the bar until after most of the oysters are market size. The proposed action removes outdated language that refers to making changes to the regulation and replaces it with a process that is consistent with statute and the Oyster Management Plan.

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 a positive impact for commercial oyster harvesters.

| II. Types of Economic Impact. | Revenue (R+/R-) | Magnitude |
|-------------------------------|---------------------|-----------|
| | Expenditure (E+/E-) | |
| A. On issuing agency: | NONE | |
| B. On other State agencies: | NONE | |

| | | |
|---|-------------|----------------|
| C. On local governments: | NONE | |
| | Benefit (+) | |
| | Cost (-) | Magnitude |
| <hr/> | | |
| D. On regulated industries or trade groups: | | |
| Commercial | | |
| Harvesters | (+) | Indeterminable |
| E. On other industries or trade groups: | NONE | |
| F. Direct and indirect effects on public: | NONE | |

(b) *Open or close portions of a Public Shellfish Fishery Area described in COMAR 08.02.04.17.*

(2) *The public notice shall state its effective hour and date and shall be published on the Fisheries Service website at least 48 hours in advance of the effective hour and date.*

(3) *The Secretary shall make a reasonable effort to disseminate a public notice issued under this section through various other media so that an affected individual has a reasonable opportunity to be informed.*

(4) *A violation of the restrictions set by the Secretary in accordance with section is a violation of this regulation.*

MARK J. BELTON
Secretary of Natural Resources

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

D. Counties will have the opportunity to request that the Department open or close certain areas in order to manage the oyster populations. Ultimately, this will benefit the industry by allowing them to invest in specific areas, giving their businesses some flexibility and, if areas are protected until most of the oysters are market size, a potential for increased income. The actual amount will depend on how each county wants to manage the harvest and is indeterminable.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows. Counties will have the opportunity to request that the Department open or close certain areas in order to manage the oyster populations. Ultimately, this will benefit the industry by allowing them to invest in specific areas, giving their businesses some flexibility and possibly increased income. The actual amount will depend on how each county wants to manage the harvest and is indeterminable.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Public Shellfish Fishery Areas, 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 February 22, 2016. A public hearing has not been scheduled.

.11 General Provisions.

[A. Under the provisions of Natural Resources Article, §4-2A-03, Annotated Code of Maryland, the Secretary may, by regulation, establish or modify a season for taking oysters or a daily catch limit on the quantities of oysters which may be caught from the natural oyster bars of the State to conserve the public resource.

B. Notice of the establishment or amendment may be given by publishing notice in a daily newspaper of general circulation not less than 1 week before the effective date.

C. The Secretary shall make reasonable effort to disseminate public notice through various other media so that an affected person has reasonable opportunity to be informed.]

[D.] A. — [G.] D. (text unchanged)

E. General.

(1) *In order to implement the Chesapeake Bay Oyster Management Plan, the Secretary may, in cooperation with the appropriate oyster committee, issue a public notice to:*

(a) *Establish or modify a season or catch limit; or*

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

Authority: Natural Resources Article, §4-2A-03, Annotated Code of Maryland

Notice of Proposed Action

[16-031-P]

The Secretary of Natural Resources proposes to amend Regulation .24 under **COMAR 08.02.05 Fish**.

Statement of Purpose

The purpose of this action is to make changes to the commercial fishery. Spiny dogfish are a highly migratory species of shark found in both federal and state waters. State and federal waters are managed through different processes. The National Oceanographic and Atmospheric Administration’s National Marine Fisheries Service (NOAA Fisheries) is responsible for implementing management in federal waters. The Atlantic States Marine Fisheries Commission (Commission) is responsible for management of spiny dogfish in state waters (0-3 miles offshore). The Commission is a collaborative entity of the Atlantic coast states from Maine to Florida and is governed by the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA). Maryland is included in the Commission fishery management plan and must comply with certain provisions contained in that plan. Spiny dogfish are currently managed under the Interstate Fishery Management Plan for Spiny Dogfish (2002) and Addenda I—V.

The proposed action reorganizes the regulation by moving text to more appropriate locations, corrects citations and makes it clear that the season for catching spiny dogfish is May 1 through April 30. The season corresponds with the federal season and adding it to the regulation helps clarify time periods associated with eligibility and reporting requirements.

The proposed action modifies the eligibility requirement from a 2 year/10,000 lb landing requirement to a 3 year/15,000 lbs requirement. Since limited entry was implemented there have been significant changes that impacted the fishery. Specifically, there were two seasons of harsh winters, the European market was lost, fuel costs increased, fish were mostly in federal waters in 2014/2015, and the price was \$0.14—17 per pound. All of these factors made it difficult or not worthwhile to catch the required 10,000 pounds of spiny dogfish. The workgroup felt the extra year would give harvesters flexibility with their businesses to pursue spiny dogfish and maintain their permit.

The proposed action includes provisions to allow new entrants into the spiny dogfish fishery by setting tiered catch limits based upon ownership of a permit and by establishing a process to reissue a spiny dogfish permit that was revoked or not renewed. The proposed action describes the process for allocating the commercial quota by public notice. The catch limits will be established each year so that