

(2) The Plan's decision to deny warranty coverage for all or part of a claim shall be based on a good faith review of the claim by the Plan.

(3) If the Plan is unable to grant or deny warranty coverage within 90 days, the Plan may submit a written request for an extension to the Division, with a copy to the consumer, stating:

(a) The reason the Plan is unable to meet the 90-day deadline; and

(b) The date by which the decision will be reached.

(4) Any written request for an extension to the Division shall be deemed to be granted, unless the Division notifies the Plan otherwise within 10 days of the request.

(5) The notice of decision shall include under separate headings:

(a) The consumer's name, address, and phone number;

(b) The Plan's file number or other means of identifying the consumer's claim and the builder's name, address, and enrollment number;

(c) The warranty date and the date the Plan received notification of the consumer's claim;

(d) A description of each claim from the consumer that was granted or denied and a statement of the facts upon which each denial is based, including reference to the specific terms and sections of the Plan;

(e) An identification and copies of all evidence upon which each denial is based, including inspection and expert reports; and

(f) The procedures that the consumer shall follow to appeal or contest the decision, including all time limitations.

J. Arbitration.

(1) If the procedures that a consumer shall follow to appeal or contest a Plan's decision under §I of this regulation require the consumer to submit the matter to arbitration:

(a) The Plan shall offer the arbitration at no cost to the consumer and may elect to use the Division's arbitration program, may use another no cost program, or may pay the fees imposed by the arbitration program; and

(b) The Plan shall clearly and conspicuously disclose to a consumer in a section that is separately initialed by the consumer that:

(i) By agreeing to the arbitration provision, the consumer is waiving the consumer's right to proceed in court and the consumer's right to a trial by jury; and

(ii) Any claim by the consumer against the Home Builder Guaranty Fund may be stayed while the arbitration proceeds.

(2) The arbitration agreement shall require the arbitrator to apply the terms of the new home warranty consistent with the provisions of Real Property Article, § 10-601, et seq., Annotated Code of Maryland.

(3) A copy of the arbitration decision shall be sent to the Division at the same time it is sent to the parties to the arbitration.

K. The Plan shall send a copy of each claim and notification under §H of this regulation to the Division at the same time that the notice is sent to the consumer.

.05 Other Disclosures by the Plan to the Division.

A. Within 20 days of its occurrence, a new home warranty security plan shall report to the Division the name and Maryland Home Builder Registration Number of any builder in Maryland who has become a new member of the Plan, who is no longer a member of the Plan and the reason why, or who has been disciplined or sanctioned by the Plan, and the reason why.

B. A Plan shall produce to the Division information, documents, and explanations required by the Division to determine whether a builder or Plan is complying with Real Property Article, Title 10,

Subtitle 6, Annotated Code of Maryland, or the terms of any new home warranty issued in Maryland.

STEVEN M. SAKAMOTO-WENGEL
Deputy Chief

**Title 08
DEPARTMENT OF NATURAL
RESOURCES**

Subtitle 02 FISHERIES SERVICE

08.02.19 Nuisance Species

Authority: Natural Resources Article, §4-205.1, Annotated Code of Maryland

Notice of Proposed Action

[13-235-P]

The Secretary of Natural Resources proposes to amend Regulations .04 and .06 under **COMAR 08.02.19 Nuisance Species**.

Statement of Purpose

The purpose of this action is to add species to the restricted lists of aquatic nuisance species. The action adds three species of Asian horseshoe crabs (*Tachypleus tridentatus*, *Tachypleus gigas*, and *Carcinoscorpius rotundicauda*) to the list of species that may not be imported, transported, purchased, propagated, possessed, sold, or released into State waters. This action will prohibit these species from being imported into the State to be used as bait; decreasing the likelihood that the species will carry pathogens into the State.

In 2011, approximately 2,000 *T. gigas* were imported into New York state. In 2012, there have been reports of at least 7,400 kg of varying species of Asian horseshoe crabs continuing to be imported into New York. The Atlantic States Marine Fisheries Commission (ASMFC) has grown concerned about the dangers these importations may cause and has advised the Atlantic coastal states to prohibit their importation. Its concern about the species is that the crabs may carry pathogens and other nuisance organisms which pose a potential threat to marine resources and to human health.

Native horseshoe crabs (*Limulus polyphemus*), which have experienced population declines, are put in further danger by the transportation of pathogens such as parasitic flatworms, which can easily survive even in a dead host crab. The parasite's spread to native horseshoe crabs will not only harm the horseshoe crab population, but also several migratory shorebirds, such as red knots, which depend on horseshoe crab eggs for food. The red knot is a Candidate Species under the U.S. Endangered Species Act, and thus steps have been taken to protect the North American horseshoe crab as one of their critical food sources. There has not yet been any confirmation on what, if any, species have been transported into the U.S. by the host horseshoe crabs, as previous attempts at testing samples have been unsuccessful.

Further, one species of Asian horseshoe crab (*C. rotundicauda*), is known to contain a powerful neurotoxin tetrodotoxin (TTX), which may pose harm to human health. *C. rotundicauda* has been identified as being imported into the U.S., and is often used as bait for catching whelk and eels. It could potentially be consumed by humans either by consuming *C. rotundicauda* directly (sold in Asian markets in New York City), or by consuming whelks or eels which are caught with *C. rotundicauda* as bait.

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 has an economic impact on the regulated industry.

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

D. On regulated industries or trade groups:		
Harvesters using horseshoe crabs as bait	(-)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

D. There is no evidence that harvesters have used the named species as bait at this time in Maryland. However, this could impact the commercial watermen that harvest whelks because they use horseshoe crabs as bait. Native horseshoe crab harvests have been increasingly constrained in recent years, and some states' harvesters have turned to Asian horseshoe crabs to replace the natives as bait. This could reduce the amount of bait available impacting the whelk fishery. This will also likely increase the cost of the native horseshoe crabs used as bait

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

The proposed action would have an economic impact on small business. Please see assumptions under Estimate of Economic Impact.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Nuisance Species Regulations, Regulatory Staff, Department of Natural Resources Fisheries Service, 580 Taylor Avenue, Annapolis MD, 21401, or call 410-260-8260, or email to fisheriespubliccomment@dnr.state.md.us, or fax to 410-260-8310. Comments will be accepted through September 23, 2013. A public hearing has not been scheduled.

.04 Classification of Nonnative Aquatic Organisms.

A. A person may not import, transport, purchase, possess, propagate, sell, or release into State waters the following nonnative aquatic organisms:

- (1) Fish species:
 - (a) Asian horseshoe crabs (*Tachypleus tridentatus*, *Tachypleus gigas*, *Carcinoscorpius rotundicauda*);
 - [(a)] (b) — [(r)] (s) (text unchanged)
 - (2) (text unchanged)

B. — D. (text unchanged)

.06 Snakehead Prohibitions.

- A. — D. (text unchanged)
- E. Taking of Snakeheads.
 - (1) (text unchanged)
 - (2) Snakeheads may be taken by any means, as described in [COMAR 08.02.11.04U] *COMAR 08.02.11.04P*.

JOSEPH P. GILL
Secretary of Natural Resources

Subtitle 18 BOATING — SPEED LIMITS AND OPERATION OF VESSELS

08.18.13 Magothy River

Authority: Natural Resources Article, §§8-703 and 8-704, Annotated Code of Maryland

Notice of Proposed Action

[13-234-P]

The Secretary of the Maryland Department of Natural Resources proposes to amend Regulations .01—.05 under **COMAR 08.18.13 Magothy River**.

Statement of Purpose

The purpose of this action is to update and clarify existing boating laws and coordinates of certain boundaries and to ensure safe boating on Maryland's waterways.

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 Donna Morrow, Acting Division Director, Boating Facilities and Access Planning, Maryland Department of Natural Resources, Boating Services Unit, 580 Taylor Avenue, E/4, Annapolis, Maryland 21401, or call 410-260-8773, or email to dmorrow@dnr.state.md.us, or fax to 410-260-8453. Comments will be accepted through September 23, 2013. A public hearing has not been scheduled.

.01 Magothy River.

The Magothy River encompasses all the waters of the Magothy River and its tributaries northwesterly of a line [from Lat. 39°03'33.67"N., Long. 76°25'58.75"W. (Mountain Point), running 168° True to the opposite shore, Lat. 39°02'46.56"N., Long. 76°25'45.69"W. (east side Little Magothy River).] beginning at Mountain Point, at or near Lat. 39° 3.567' N., Long. 76° 25.983' W., then running 168° (True) to a point at the east side of the Little Magothy River, at or near Lat. 39° 2.783' N., Long. 76° 25.767' W.

.02 Magothy River Entrance Channel.

The Magothy River entrance channel encompasses the area [bounded by the following coordinates: Lat. 39°03'22.80"N., Long. 76°25'46.36"W. (Flashing Red No. 2), Lat. 39°03'27.91"N., Long.