

# 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Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken.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an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.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 02

# OFFICE OF THE ATTORNEY GENERAL

## Subtitle 06 GENERAL REGULATIONS

### 02.06.03 “Instructions on Current Life-Sustaining Treatment Options” Form

Authority: Health-General Article, §5-608.1, Annotated Code of Maryland

#### Notice of Proposed Action

[15-154-P]

The Office of the Attorney General proposes to repeal in their entirety Regulations .01—.10 under COMAR 02.06.03 “Instructions on Current Life-Sustaining Treatment Options” Form.

#### Statement of Purpose

The purpose of this action is to implement that portion of Ch. 434, Acts of 2011, which repealed the provisions regarding an “Instructions on Current Life-Sustaining Treatment Options” form. In accordance with this statute, this form has been replaced with the “Medical Orders for Life-Sustaining Treatment” form contained in COMAR 10.01.21.

#### 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 Paul J. Ballard, Counsel for Health Decisions Policy and the Office of Health Care Quality, Department of Health and Mental Hygiene, 300 West Preston Street, Suite 302, Baltimore, MD 21201, or call 410-767-6518 (TTY 800-735-2258), or email to Paul.ballard@maryland.gov, or fax to 410-333-7894. Comments will be accepted through July 27, 2015. A public hearing has not been scheduled.

BRIAN E. FROSH  
Maryland Attorney General

## Title 08

# DEPARTMENT OF NATURAL RESOURCES

## Subtitle 02 FISHERIES SERVICE

### 08.02.15 Striped Bass

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

#### Notice of Proposed Action

[15-167-P]

The Secretary of Natural Resources proposes to amend Regulation .07 under COMAR 08.02.15 Striped Bass.

#### Statement of Purpose

The purpose of this action is to modify the season and tolerance limits of the Atlantic striped bass commercial fishery. The Atlantic striped bass commercial permit holders requested a review of their current tolerance limit of 50 pounds per individual. Tolerance limits in this fishery changed when the Atlantic permits were converted to an Individual Transferable Quota (ITQ) fishery in 2015. The proposed action changes the tolerance from 50 pounds to a tolerance of 4% with a 50 pound minimum. Since the Atlantic operates as an ITQ fishery (no daily creel limit), the tolerance would come into play

when the individual's allocation has been reached. The tolerance is not a 4% tolerance on the initial allocation. It is an allowance to prevent a harvester from receiving a citation for incorrectly estimating how many pounds of fish are on the vessel on the final harvest day. If the harvester exceeds their allocation by more than the tolerance, they may receive a citation. The proposed action makes it clear that anyone in an ITQ fishery (Chesapeake Bay and Atlantic) who exceeds their allocation may have the overage deducted the following quota year. The 'shall be deducted' was changed to 'may be deducted' to allow the Department and the industry some flexibility in determining how the overage is deducted.

The industry also asked the Department to consider a permanent expansion of the Atlantic season to allow striped bass harvest in May and October. Currently, the Atlantic fishery is open from January—April and November—December. Adding 2 months to the season would provide permit holders more opportunity to harvest their quota. Over the past 6 years, the Atlantic fishery has harvested an average of 64% of their available quota. The proposed action expands the season to allow striped bass harvest in May and October.

**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 impact the commercial fishing 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 (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:		
(1) Season Extension—Commercial Harvesters	(+)	\$96,453
(2) Season Extension—Commercial Industry	(+)	Indeterminable
(3) Tolerance	NONE	
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(1). Harvest of striped bass from state waters of the Atlantic Ocean have averaged 71,652 pounds from 2010-2014. The quota allocated to the Maryland Atlantic coast fishery through the Atlantic States Marine Fisheries Commission is currently 98,670 pounds. The average ex-vessel price (the price received by the fisherman at point of landing) per pound of striped bass in 2014 was \$3.57. Therefore, opening two additional months, May and October, may allow permitted harvesters to land the average unharvested quota (27,018

pounds), which is roughly equivalent to a value of \$96,453.

D(2). The value to the commercial industry increases from the ex-vessel price, calculated for the harvesters, when you factor in the added value to the fish dealers, packers, store fronts, and restaurants that buy and sell striped bass, but that total value is indeterminable.

D(3). The tolerance is not additional allocation. It is an allowance to prevent a harvester from receiving a citation for incorrectly estimating how many pounds of fish are on the vessel at one time. If the harvester exceeds their allocation by more than the tolerance, they may receive a citation. If a harvester exceeds their allocation, by any amount, they may have the overage deducted from the next quota allocation.

**Economic Impact on Small Businesses**

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

The extension of the commercial season may benefit commercial fishermen, fish dealers, packers, store fronts, and restaurants. Please see assumptions for details.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Atlantic Striped Bass Regulations, Regulatory Staff, DNR, 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 July 27, 2015. A public hearing has not been scheduled.

**.07 Commercial Fishery.**

- A. (text unchanged)
- B. Atlantic Ocean, its Coastal Bays and Their Tributaries.
  - (1)—(2) (text unchanged)
  - (3) Season. The commercial season for the taking of striped bass for all gears is [November 1 through April 30] *October 1 through May 31.*
  - (4)—(7) (text unchanged)
  - C.—E. (text unchanged)
  - F. General.
    - (1) (text unchanged)
    - [(2) A commercial tidal fish licensee in the Atlantic Ocean fishery may not catch more than the licensee's catch limit assigned to the striped bass permit except as provided by the tolerance allowance in pounds as follows:
      - (a) For a daily catch limit, there is a 50-pound tolerance allowance;
      - (b) For a weekly catch limit, there is a 50-pound tolerance allowance; and
      - (c) For a seasonal catch limit, there is a 50-pound tolerance allowance.]
      - (2) *Atlantic Tolerance.*
        - (a) *A commercial tidal fish licensee registered in the Atlantic fishery is not in violation of this chapter if their landings do not exceed their allocation by more than the tolerance described in §F(2)(b) of this regulation.*
        - (b) *The tolerance for the Atlantic fishery is the greater of either 50 pounds or 4 percent of the remaining allocation available to the permit holder on the final trip when the allocation is fully harvested.*
        - (3) (text unchanged)
        - (4) Overage Deductions.
          - (a) If a commercial tidal fish licensee registered in the Chesapeake Bay individual transferable quota or Atlantic fishery exceeds the licensee's allocation, that overage [shall] may be

deducted from the allocation the licensee receives in the next practicable quota year.

- (b) (text unchanged)
- (5)—(6) (text unchanged)

MARK J. BELTON  
Secretary of Natural Resources

### Subtitle 03 WILDLIFE

#### 08.03.03 Open Seasons, Bag Limits for Game Birds and Game Animals

Authority: Natural Resources Article, §10-410, Annotated Code of Maryland

##### Notice of Proposed Action

[15-161-P]

The Secretary of Natural Resources proposes to amend Regulation .01 under **COMAR 08.03.03 Open Seasons, Bag Limits for Game Birds and Game Animals**.

##### Statement of Purpose

The purpose of this action is to add additional Sunday hunting dates to the bow deer season in Allegany, Carroll, Frederick, Garrett and Washington counties. This action will also add the State forests in Allegany and Garrett counties to the list of designated public lands open to Sunday hunting in those counties. Language in Natural Resources Article, §10-410, Annotated Code of Maryland gives the Department the ability to select which Sundays and designated public lands are open for Sunday hunting in these five counties.

##### 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 Peter Jayne, Associate Director, Wildlife and Heritage Service, Department of Natural Resources, P.O. Box 68, Wye Mills, MD 21679, or call 410-827-8612, or email to peter.jayne@maryland.gov, or fax to 410-827-5186. Comments will be accepted through July 27, 2015. A public hearing has not been scheduled.

##### .01 Bag Limits and Possession Limits.

- A.—C. (text unchanged)
- D. Hunting on Sunday.
  - (1) (text unchanged)
  - (2) An individual may hunt on Sunday, if the individual is:
    - (a)—(c) (text unchanged)
    - (d) Hunting white-tailed or sika deer on private property as described in Regulations .07 and .08 of this chapter:
      - (i)—(iii) (text unchanged)
      - (iv) On [the last three] *all* Sundays in October and [the first two Sundays in] November during the deer bow season, all Sundays in December and January during the deer muzzleloader season, and all Sundays in the deer firearms season in Carroll County; and

(v) (text unchanged)

(e) 16 years of age or younger when participating in the Junior Deer Hunt on private property in Allegany, Frederick, Garrett and Washington counties or a designated Wildlife Management Area *or State Forest* listed in §G of this regulation;

(f) Hunting deer on private property or a designated Wildlife Management Area *or State Forest* listed in §G of this regulation on [the last three] *all* Sundays in October and [the first two Sundays in] November during the deer bow season, all Sundays in December and January during the deer muzzleloader season, and all Sundays in the deer firearms season in Allegany, Frederick, Garrett and Washington counties;

(g)—(h) (text unchanged)

(i) Hunting any game mammal or any game bird, except deer, migratory game birds or wetland game birds, in Allegany, Garrett and Washington counties on private property or a designated Wildlife Management Area *or State Forest* listed in §G of this regulation during the open seasons for those game animals.

E.—F. (text unchanged)

G. The Wildlife Management Areas *and State Forests* designated for Sunday hunting in accordance with §D of this regulation are as follows:

- (1)—(3) (text unchanged)
- (4) *Garrett State Forest*;
- (5) *Green Ridge State Forest*;
- [(4)](6)—[(5)] (7) (text unchanged)
- (8) *Potomac State Forest*;
- [(6)](9) (text unchanged)
- (10) *Savage River State Forest*;
- [(7)] (11)—[(8)] (12) (text unchanged)

MARK J. BELTON  
Secretary of Natural Resources

### Subtitle 03 WILDLIFE

#### 08.03.03 Open Seasons, Bag Limits for Game Birds and Game Animals

Authority: Natural Resources Article, §§10-205, 10-405, and 10-406, Annotated Code of Maryland

##### Notice of Proposed Action

[15-162-P]

The Secretary of Natural Resources proposes to amend Regulation .07 under **COMAR 08.03.03 Open Seasons, Bag Limits for Game Birds and Game Animals**.

##### Statement of Purpose

The purpose of this action is to clarify that junior hunters are exempt from the provisions of the antler point restrictions established in COMAR 08.03.03.07. Any person that possesses, or is eligible to possess a Resident or Nonresident Junior Hunting License will be exempt from the antler point restrictions.

##### 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.