

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Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken.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an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.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

08.02.15 Striped Bass

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

Notice of Proposed Action

[15-422-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 allow a commercial licensee to harvest striped bass from another licensee’s gill net or pound net. Natural Resources Article, §4-505, Annotated Code of Maryland prohibits a person from catching and carrying away fish from another person’s net. The law clearly says you have to fish your own gear, and that fishing another person’s gear is prohibited. By regulation, gill nets used for striped bass have to have “Each marker, cork, or float marked with the licensee’s commercial tidal fish number; or a float line with a marker permanently affixed every 50 feet bearing the licensee’s commercial tidal fish number” (COMAR 08.02.15.07C(1)(d)). During the 2014/2015 gill net season, there was a request to allow a person with striped bass quota to get on another licensee’s boat and use the other licensee’s marked gill net to catch his quota. During discussions with industry workgroups and advisory commissions the Department received additional requests to consider allowing a licensee to be on a different boat, but harvesting from the same gill net and to include the same provision for harvest from pound nets.

The proposed action allows harvest of striped bass from another licensee’s gill net or pound net if the owner of the gear, whose commercial ID is on the gear, is present when someone else is using

their gear. Loaning gear to another licensee is not authorized by this action.

By adopting this change, licensees on the same or different boats may harvest fish from the same gear, the number of dead discards could be reduced because a licensee that has more striped bass in the net than available quota can call another licensee to harvest the fish, and more of the striped bass quota may be caught. This change is consistent with the Striped Bass Fishery Management Plan and was discussed and supported by the Striped Bass Industry Workgroup, Tidal Fisheries Advisory Commission and Sport Fisheries Advisory Commission.

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 economic impact for the striped bass 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) Commercial harvesters	(+)	Indeterminable
(2) Commercial industry	(+)	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(1). Approximately 98,000 lbs. of striped bass (5 percent of the quota) remained unharvested in 2014. 114 permit holders didn't harvest any of their quota. 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. If those pounds had been landed, it would have meant an additional income of \$349,900 to the harvesters. There is no way to predict if the entire quota will be caught by adding this flexibility; therefore, the actual impact is indeterminable.

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.

Economic Impact on Small Businesses

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

This action 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 Striped Bass Gear, 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 January 27, 2016. A public hearing has not been scheduled.

.07 Commercial Fishery.

A.—B. (text unchanged)

C. Drift Gill Net Fishery Limitations.

(1) (text unchanged)

(2) In the tidal waters of the Chesapeake Bay and its tributaries:

(a) Only attended drift gill nets, as defined in COMAR [08.02.25.01B(15)] 08.02.25.01B, with a stretched mesh size of not less than 5 inches or greater than 7 inches are permitted for the taking of striped bass;

(b)—(d) (text unchanged)

(3)—(8) (text unchanged)

D.—E. (text unchanged)

F. General.

(1)—(6) (text unchanged)

(7) *Notwithstanding Natural Resources Article, §4-505, Annotated Code of Maryland, a tidal fish licensee may harvest striped bass from a gill net or pound net belonging to another licensee if:*

(a) *The licensee has permission of the gear owner;*

(b) *The gear owner is present at the net while the harvest occurs; and*

(c) *Both licensees are in possession of their tidal fish license.*

MARK J. BELTON
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.25 Gear

Authority: Natural Resources Article, §4-221, Annotated Code of Maryland

Notice of Proposed Action

[15-424-P]

The Secretary of Natural Resources proposes to amend Regulations .02 and .03 under **COMAR 08.02.25 Gear**.

Statement of Purpose

The purpose of this action is to expand the use of traps. Currently, minnow traps are only allowed to be used if tied off on your private property, or the private property of someone who has given you permission. Someone who does not own riparian property, or know someone that does own property, cannot catch their own minnows. The Department has heard from a number of people who have been frustrated by their inability to catch their own bait because of the land-ownership requirement. The proposed action allows the use of a trap on public property as long as the owner of the trap is present in the area and is attending the trap. The requirement for attending the trap is necessary because it is public property. Unattended gear on public property is not authorized. The proposed action also clarifies that the gear used for harvesting clams, crabs and oysters recreationally is specified elsewhere in statute and regulation. This chapter does not apply to those species.

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 a positive economic impact on the regulated industry.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
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:
Recreational licensees (+) Indeterminable

E. On other industries or trade groups:
Tackle shops/manufacturers (+) Indeterminable

F. Direct and indirect effects on public: NONE

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

D. Recreational users will now be able to use a small trap for bait purposes on public property.

E. By allowing the use of traps on public property, tackle shops and gear manufacturers may see a slight increase in their revenues as they are now able to sell more traps for use in the recreational fishery in Maryland. The amount of the impact is indeterminable and will depend on user demand.