

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Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken.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an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.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

08.02.11 Fishing in Nontidal Waters

Authority: Natural Resources Article, §4-602, Annotated Code of Maryland

Notice of Proposed Action

[15-374-P]

The Secretary of Natural Resources proposes to amend Regulations **.01** and **.04** and adopt new Regulation **.06** under **COMAR 08.02.11 Fishing in Nontidal Waters**.

Statement of Purpose

The purpose of this action is to update and clarify existing regulations for fishing in nontidal waters. Specifically, the proposed action amends Regulation **.01** by removing the #1 trout closure on both Herrington Creek and New Germany Lake; amends Regulation **.04** by removing the season for river herring and increasing the size of eels; and adopts new Regulation **.06** for rules that apply to the Youghiogheny River Lake.

Regional biologists have documented episodes of low pH in Herrington Creek and the creek has experienced fish kills due to acid deposition from a tributary in past years during the closure period. By removing the closure period, the area would not have any closures after stocking. Allowing fishing immediately after stocking will help to reduce the chances of the problems affecting fishing success. The park manager at New Germany Lake requested that the Department remove the closure period. The park manager and Fisheries Service staff have agreed that removing the closure will provide greater fishing opportunities in the area for all types of fish that are present in the lake. It will reduce the impacts of poaching and the need for increased enforcement during the closure period allowing the effort to be focused on the open fishing period.

There is still an open season for herring in nontidal waters. Code of Maryland Regulations (COMAR) 08.02.05.09 prohibits the possession of river herring statewide. A similar situation occurs for eels. The statewide minimum size for eels should be 9 inches. The nontidal regulation was overlooked at the time when the herring and eel regulations were put into place for the rest of the State. The proposed action updates the regulation with current information.

Regulations for the Youghiogheny River Lake were removed from COMAR in 2014. Removing them has created a lot of confusion from both anglers and enforcement. Pennsylvania and Maryland have an agreement that Pennsylvania will manage the river lake and all Pennsylvania fishing rules will be followed. In order to alleviate confusion, the proposed action adopts a new regulation to include the Pennsylvania rules for the Youghiogheny River Lake.

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 2016 Nontidal 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 December 14, 2015. A public hearing has not been scheduled.

.01 Trout Fishing and Management Areas.

- (text unchanged)
- Put-and-Take Trout Fishing Areas.
 - (1)—(5) (text unchanged)

(6) Except as provided in §C(1) of this regulation the following areas are subject to the provisions in §B(1)—(4) of this regulation:

	Closure Periods
(a)—(h) (text unchanged)	
(i) Garrett County:	
(i)—(vi) (text unchanged)	
(vii) New Germany Lake	[1] 0
(viii)—(xiii) (text unchanged)	
(xiv) Herrington Creek mainstem	[1] 0
(xv)—(xvii) (text unchanged)	
(j)—(n) (text unchanged)	

C.—H. (text unchanged)

.04 Statewide General Regulations.

A. Open Seasons, Creel, Possession, and Size Limits on Game and Fresh Water Fish in Nontidal Waters. Except as otherwise provided in this chapter for specific areas, the following apply Statewide:

(1) Open Seasons.

Species	Open Season
(a)—(h) (text unchanged)	
(i) Herring	[January 1 through June 5] No open season
(j)—(n) (text unchanged)	

(2) Creel and Possession Limits.

	Daily Creel	Possession
(a)—(i) (text unchanged)		
(j) Herring (Blueback and Alewife)	[No daily limit] Closed season — none permitted	
(k)—(t) (text unchanged)		

(3) Minimum Size from Tip of Nose to End of Caudal Fin or Tail.

(a)—(l) (text unchanged)	
[(m) Herring	No minimum size]
[(n)] (m) — [(q)] (p) (text unchanged)	
[(r)] (q) Eel	[6] 9 inches
[(s)] (r) (text unchanged)	

B.—Q. (text unchanged)

.06 Youghiogheny River Lake.

A. All species of Trout and Salmon.

(1) The following apply from 8 a.m. the first Saturday after April 11 through Labor Day:

- (a) The minimum size is 7 inches; and
- (b) The daily catch limit is 5 (combined species).

(2) The following apply from 12:01 a.m. the day after Labor Day through the last day of February:

- (a) The minimum size is 7 inches; and
- (b) The daily catch limit is 3 (combined species).

(3) The season is closed from March 1 through 8 a.m. the first Saturday after April 11.

B. Bass — Largemouth, Smallmouth, and Spotted.

(1) The following apply from January 1 through the day before the first Saturday after April 11 and from November 1 through December 31:

- (a) The minimum size is 15 inches; and
- (b) The daily catch limit is 4 (combined species).

(2) The season is closed from 12:01 a.m. the first Saturday after April 11 through 12:01 a.m. the first Saturday after June 11.

(3) The following apply from 12:01 a.m. the first Saturday after June 11 through October 31:

- (a) The minimum size is 12 inches; and
- (b) The daily catch limit is 6 (combined species).

C. Muskellunge and Muskellunge Hybrids.

- (1) There is no closed season.
- (2) The minimum size is 40 inches.
- (3) The daily catch limit is 1 (combined species).

D. Pickerel.

- (1) There is no closed season.
- (2) The minimum size is 18 inches.
- (3) The daily catch limit is 4.

E. Northern Pike.

- (1) There is no closed season.
- (2) The minimum size is 24 inches.
- (3) The daily catch limit is 2.

F. Walleye and Walleye Hybrids.

- (1) The season is open only from:
 - (a) January 1 through March 14; and
 - (b) The first Saturday in May through December 31.
- (2) The minimum size is 15 inches.
- (3) The daily catch limit is 6.

G. Sauger.

- (1) The season is open only from:
 - (a) January 1 through March 14; and
 - (b) The first Saturday in May through December 31.
- (2) The minimum size is 12 inches.
- (3) The daily catch limit is 6.

H. American Shad.

- (1) There is no closed season.
- (2) There is no minimum size.
- (3) The daily catch limit is 3.

I. River Herring (Alewife and Blueback Herring).

- (1) There is no closed season.
- (2) There is no minimum size.
- (3) The daily catch limit is 50 (combined species).

J. Gizzard Shad.

- (1) There is no closed season.
- (2) There is no minimum size.
- (3) The daily catch limit is 50.

K. Striped Bass and Striped Bass Hybrids.

- (1) There is no closed season.
- (2) The minimum size is 20 inches.
- (3) The daily catch limit is 2 (combined species).

L. Sunfish, Yellow Perch, White Perch, Crappies, Catfish, Rock Bass, Suckers, Carp, and White Bass.

- (1) There is no closed season.
- (2) There is no minimum size.
- (3) The daily catch limit is 50 (combined species).

M. Bait Fish and Fish Bait.

- (1) Except as closed in §Q of this regulation:
 - (a) Bait fish includes:
 - (i) All forms of the minnow family (Cyprinidae) except carp and goldfish;
 - (ii) Suckers, chubs, fallfish, and lampreys measuring less than 8 inches in length; and

(iii) All forms of darters, killifishes, and madtoms (stonecats); and

(b) Fish bait includes the nymphs, larvae, and pupae of all insects spending any part of their life cycle in the water.

(2) There is no closed season.

(3) There is no minimum size.

(4) The daily catch limit is 50 (combined species).

N. Mud Bugs (Dragonfly Nymphs).

(1) There is no closed season.

(2) There is no minimum size.

(3) There is no daily catch limit.

O. American Eel.

(1) There is no closed season.

(2) The minimum size is 9 inches.

(3) The daily catch limit is 25.

P. Crayfish.

(1) There is no closed season.

(2) There is no minimum size.

(3) The daily catch limit is 50.

(4) The head of the crayfish must be immediately removed behind the eyes upon capture unless used as bait in the water from which taken.

Q. There is no open season for:

(1) Species listed as endangered, threatened, or in need of conservation in COMAR 08.03.08;

(2) Any species of mussel;

(3) Any species of clam;

(4) Paddlefish (*Polyodon spathula*);

(5) Northern brook lamprey (*Ichthyomyzon fossor*);

(6) Mountain brook lamprey (*Ichthyomyzon greeleyi*);

(7) Lake sturgeon (*Acipenser fulvescens*);

(8) Atlantic sturgeon (*Acipenser oxyrinchus*);

(9) Spotted gar (*Lepisosteus oculatus*);

(10) Hickory shad (*Alosa mediocris*);

(11) Cisco (*Coregonus artedii*);

(12) Northern redbelly dace (*Phoxinus eos*);

(13) Gravel chub (*Erimystax x-punctatus*);

(14) River shiner (*Notropis blennioides*);

(15) Ghost shiner (*Notropis burchanani*);

(16) Blackchin shiner (*Notropis heterodon*);

(17) Redfin shiner (*Lythrurus umbratilis*);

(18) Bigmouth buffalo (*Ictiobus cyprinellus*);

(19) Black bullhead (*Amerius melas*);

(20) Mountain madtom (*Noturus eleutherus*);

(21) Tadpole madtom (*Noturus gyrinus*);

(22) Northern madtom (*Noturus stigmosus*);

(23) Burbot (*Lota lota*);

(24) Threespine stickleback (*Gasterosteus aculeatus*);

(25) Banded sunfish (*Enneacanthus obesus*);

(26) Warmouth (*Lepomis gulosus*);

(27) Longear sunfish (*Lepomis megalotis*);

(28) Iowa darter (*Etheostoma exile*);

(29) Eastern sand darter (*Etheostoma pellucidum*);

(30) Bigmouth shiner (*Notropis dorsalis*);

(31) Southern redbelly dace (*Phoxinus erythrogaster*);

(32) Spotted sucker (*Minytrema melanops*);

(33) Brindled madtom (*Noturus miurus*);

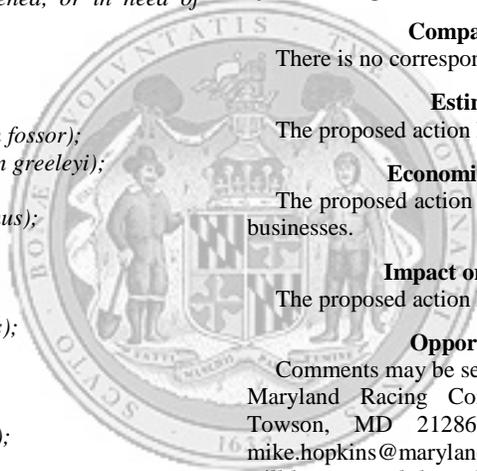
(34) Bluebreasted darter (*Etheostoma camurum*);

(35) Spotted darter (*Etheostoma maculatum*);

(36) Tippecanoe darter (*Etheostoma tippecanoe*);

(37) Gilt darter (*Percina evides*); and

(38) Chesapeake logperch (*Percina bimaculata*).



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

[15-362-P]

The Maryland Racing Commission proposes to amend Regulation **09.10.03 Prohibited Acts**.

Statement of Purpose

The purpose of this action is to provide for a maximum permitted threshold of gamma aminobutyric acid 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 Blvd., 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 January 15, 2016. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by Maryland Racing Commission during a public meeting to be held on January 19, 2016, at Laurel Park.

09.10.03 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.— M. (text unchanged)

M-I. Gamma aminobutyric acid quantitated at not more than 110 nanograms per milliliter of blood plasma or serum;

N. — CC. (text unchanged)

J. MICHAEL HOPKINS
Executive Director