

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
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		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 4/18/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

08 02 05 07

3. Name of Promulgating Authority

Department of Natural Resources

4. Name of Regulations Coordinator Telephone Number
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6. Check applicable items:
 New Regulations

DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

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

Notice of Proposed Action

□

The Secretary of Natural Resources proposes to amend Regulation .07 under COMAR 08.02.05 Fish

Statement of Purpose

The purpose of this action is to provide for increased flexibilities for the harvest of Atlantic menhaden from pound nets. This action will allow the holder of an Atlantic menhaden bycatch allowance landing permit to use an “operator”. The only person a permittee may use as their operator is the individual the permittee has named as the authorized user of their license. An authorized user must be in possession of the licensee’s license and permit, and must be on the vessel named on the license. The purpose of this change is to allow the operator to harvest Atlantic menhaden when the permittee is unable to do so, thereby increasing business flexibility.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

This action will have a positive economic impact on the regulated industry, but the magnitude of that impact is indeterminable.

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:		

Increased Business Flexibility (+) 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. The operator provision will allow Atlantic menhaden bycatch allowance permittees to use an operator of their permit who will be able to land menhaden in the absence of the permittee themselves. The operator must be the authorized user of the permittee's license and must have the permit in their possession during any activities under the permit. If a permittee is unable to fish their nets, the operator will still be able to fish the nets and land menhaden under the permit. Previously, the permittee themselves had to be present for menhaden to be legally landed under the permit. It is not known at this time how many permittees will choose to use an operator, or what economic benefit those permittees will realize from this provision.

Economic Impact on Small Businesses

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

Please see Part A.II.D for impact to the regulated community, which is made up of commercial fishermen who are generally 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 Atlantic Menhaden Regulations, Fisheries 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.state.md.us, or fax to 410-260-8310. Comments will be accepted through May 19, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 14

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

There are no funds necessary to implement these regulations, as these regulations allow an Atlantic menhaden bycatch landing permittee to name an operator of the permittee.

Any required paperwork will be handled by existing staff.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

Attached Document:

.07 Atlantic Menhaden.

A.—C. (text unchanged)

D. Atlantic Menhaden Bycatch Allowance Landing Permits.

(1)—(3) (text unchanged)

(4) *Operators.*

(a) *An operator means an individual who is not a permittee and acts as an agent of a permittee.*

(b) *The only person a permittee may use as the operator of their Atlantic menhaden bycatch allowance landing permit is the individual the permittee has designated as the authorized user of the permittee's commercial fishing license in accordance with Natural Resources Article, §4-701(k)(7), Annotated Code of Maryland.*

(c) *An operator may only fish the pound nets that the permittee has:*

(i) *Registered in the permittee's name; and*

(ii) *Notified the Department as being active in accordance with COMAR 08.02.05.01C.*

(d) *When engaged in permitted activities, an operator shall be:*

(i) *In possession of the permittee's tidal fish license and Atlantic menhaden bycatch allowance landing permit; and*

(ii) *On the vessel named on the permittee's tidal fish license.*

[(4)] (5) Atlantic menhaden bycatch allowance landing permits may not be transferred and are valid only for the named individual on the permit card *or their operator as described in §D(4) of this regulation.*

[(5)] (6) A permittee *or a permittee's operator* shall be on board any boat harvesting Atlantic menhaden under an Atlantic menhaden bycatch allowance landing permit.

E. Reporting.

(1) Reporting Requirements. In addition to the requirements of Natural Resources Article, §4-206, Annotated Code of Maryland:

(a) (text unchanged)

(b) [An individual in possession of an] *An Atlantic menhaden bycatch allowance landing [permit] permittee* shall report in the manner specified by the Department.

(2) Reporting Penalties.

(a) The Department may suspend the holder of an Atlantic menhaden *bycatch allowance* landing permit from participation in the menhaden fishery for up to 90 days per violation for failing to comply with §E(1)(b) of this regulation.

(b) In addition to any other penalty, the Department may deny an application for an Atlantic menhaden *bycatch allowance* landing permit for failing to comply with §E(1) of this regulation during the previous season.

(c) (text unchanged)

F. (text unchanged)

JOSEPH P. GILL

Secretary of Natural Resources