

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	09/11/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 10/17/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

08 02 21 03

3. Name of Promulgating Authority

Department of Natural Resources

4. Name of Regulations Coordinator

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5. Name of Person to Call About this Document

Tamara O'Connell

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6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: 4/3/14.

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Shara Mervis Alpert, Assistant Attorney General, (telephone #410-260-8358) on 9/11/2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Eileen C. Mosley

Title

Regulations Coordinator

Telephone No.

410-260-8107

Date

9/11/2014

Title 08
DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.21 Yellow Perch

Authority: Natural Resources Article, §§4-215, 4-215.2 and 4-701, Annotated Code of Maryland

Notice of Proposed Action

[]

The Secretary of Natural Resources proposes to amend Regulation .03 under COMAR 08.02.21.

Statement of Purpose

The purpose of this action is to amend yellow perch regulations. The proposed action creates a new declaration period of August 1 through October 31 for yellow perch permits. The new period will allow licensees to declare at the same time that they renew or purchase their tidal fishing license. The proposed action makes minor changes to the coordinates in the Elk River and Northeast River. The corrections were determined when the areas were mapped and compared with points on land.

An industry meeting was requested by the permit holders at the April 2014 Tidal Fisheries Advisory Commission meeting. Fisheries Service staff met with the commercial yellow perch permit holders on July 8, 2014 to discuss potential changes to the management of the commercial fishery. At that meeting the industry requested a change to the season end date that would provide more opportunity to harvest the annual commercial quota. In 2013 and 2014, 32% and 27% of the commercial quota was not harvested. The proposed action changes the commercial season end from March 10 to March 31. Minimal user conflicts are expected with this change due to existing upriver fyke net exclusionary areas.

Live market tagging requirements were also discussed at the July 8 meeting. Under the current system, individuals marketing live yellow perch must purchase tags from the Department and then return the unused tags when fish are harvested. Live market catch must be validated by DNR employees upon landing (DNR staff provide documentation to the harvester at landing), so purchasing and then immediately returning tags without use seems superfluous. The proposed action removes the tagging requirement for the live market and will not result in the loss of accountability.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

There is little to no economic impact for the Department or the commercial harvesters; however, the expansion of the season may provide business flexibility.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
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A. On issuing agency:		
Tags	NONE	NONE
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
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D. On regulated industries or trade groups:		
(1) Declaration Period	NONE	NONE
(2) Season Extension	(+)	Indeterminable
(3) Tags	(+)	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.)

A. Since it is not known how many harvesters will harvest yellow perch for the live market or how much of the quota will be harvested, the Department will still purchase the same number of tags as previous years.

D(1). This change will allow yellow perch harvesters the ability to declare their intent to fish for yellow perch when they renew their tidal fish license. It provides business flexibility.

D(2). The season extension may benefit harvesters, but the extent is indeterminable. It will provide business flexibility and provide more opportunity for harvesters to fill their quota.

D(3). Not requiring tags for live market fish will have a minimal economic impact. During the last 2 years there was an average of 4,000 yellow perch landed that went into the live market. The Department charges the harvesters \$0.02 for each tag, which amounts to a total of \$80 per year. At the current harvest rates and available market the

savings for the harvesters would be \$80 per year, however, the actual impact cannot be determined since the number of harvesters and the actual harvest changes each year. Given the season change, harvesters will likely purchase the same number of tags from the Department.

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 Yellow Perch Regulations, Regulatory Staff, Fisheries Service, B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8260, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through November 17, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

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:

No additional costs are necessary. Yellow perch regulations are already being enforced and registrations are already being accepted and processed; therefore, this action does not create additional work or costs.

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

There are no costs associated with extending the registration period and correcting coordinates.

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

The action is extending the registration period and correcting coordinates. There are no costs associated with the changes.

G. Small Business Worksheet:

Attached Document:

.03 Commercial.

A. Season.

(1) The commercial season for harvesting yellow perch is January 1 through [March 10] *March 31*, inclusive.

(2) (text unchanged)

B.—E. (text unchanged)

F. [Registration] *Declaration*.

(1) During the period [October] *August 1* through October 31, unless otherwise directed by public notice, a commercial tidal fish licensee shall [submit an application for a yellow perch harvest permit to the Department on a form provided by the Department] *declare their intent to fish for yellow perch by paying the fee as established in Natural Resources Article, §4-701(f)(1)(ii), Annotated Code of Maryland.*

(2) A commercial tidal fish licensee who has not [applied to catch yellow perch] *declared* by October 31 of the current year or the close of business the next business day when October 31 occurs on a weekend or holiday, may not catch yellow perch for sale or participate during the subsequent commercial yellow perch season.

(3) An exception to the October 31 deadline may be considered by the Department only for an individual who can provide satisfactory documentation of a physical or mental incapacity that prevented that individual from meeting the [registration] *declaration* time period established in §F(1) of this regulation.

G.—H. (text unchanged)

I. (text unchanged)

(1) (text unchanged)

(a) (text unchanged)

(b) Wait until the Department representative is present before loading the live untagged yellow perch into a container in which it will be transported; *and*

[(c) Submit yellow perch tags at the time of loading to the Department representative equivalent to the number of yellow perch harvested for live sale; and]

[(d)] *(c)* (text unchanged)

(2) (text unchanged)

J. Reporting. (text unchanged)

K. (text unchanged)

(1)—(6) (text unchanged)

(7) Elk River upstream of a line beginning at a point at or near Old Frenchtown Wharf defined by [Lat. 39°34.28'N and Long. 75°50.91'W] *Lat. 39°34.56'N and Long. 75°50.55'W*; then running approximately [270°] *279° True* to a point at or near Scotland Point defined by [Lat. 39°34.57'N and Long. 75°50.55'W] *Lat. 39°34.60'N and Long. 75°50.90'W*;

(8)—(10) (text unchanged)

(11) Northeast River upstream of a line beginning at a point defined by Lat. 39°35.25'N and Long. 75°57.72'W; then running approximately [90°] *110° True* to a point defined by Lat. 39°35.05'N and Long. 75°56.99'W;

(12)—(15) (text unchanged)

JOSEPH P. GILL

Secretary of Natural Resources