

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	05/20/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 6/26/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

08 02 15 07

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: 5/4/15.

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 May 13, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Mark J. Belton

Title

Secretary of Natural Resources

Telephone No.

410-260-8100

Date

May 19, 2015

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

[]

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 two 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 (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Season Extension - Commercial Harvesters	(+)	\$96,453
(2) Season Extension - Commercial Industry Tolerance	(+)	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). 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.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2016

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 funds are necessary to implement the regulations. Changing the season and adding a tolerance do not create more financial burden on the Department.

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 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