

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: 1/8/2016**

2. **COMAR Codification**

Title Subtitle Chapter Regulation

08 02 05 08

3. **Name of Promulgating Authority**

Department of Natural Resources

4. Name of Regulations Coordinator Telephone Number
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Title 08
DEPARTMENT OF NATURAL RESOURCES
Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

Authority: Natural Resources Article, §§4-215 and 4-736, Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of Natural Resources proposes to amend Regulation .08 under COMAR 08.02.05 Fish.

Statement of Purpose

The purpose of this action is to implement Addendum IV to the Interstate Fishery Management Plan for American Eel. The 2012 American Eel Benchmark Stock Assessment indicated the American eel population in U.S. waters is depleted. The ASMFC American Eel Management Board approved Draft Addendum IV to the Interstate Fishery Management Plan (FMP) for American Eel with a goal to reduce overall mortality and increase conservation of American eel stocks. Addendum IV established a coast wide catch cap for the commercial yellow eel fishery starting in 2015. The following two management triggers were established: if the harvest cap is exceeded by more than 10% in any one year or if the harvest cap is exceeded for two consecutive years, then an individual state quota is allocated and required to be managed in the following year. Therefore, if the coast wide American eel harvest exceeds the coast wide cap by more than 10% in 2015, Maryland must have the ability to manage their quota (pre-determined in Addendum IV) starting in 2016.

The proposed action establishes an eel harvester permit that will be required for all commercial eel harvesters, this includes commercial finfish and crab license holders. Crab license holders are included because they are allowed to harvest eels for bait. If a state quota is implemented, all eel permit holders will be subject to daily reporting requirements. These reporting requirements will comply with Addendum IV. In order to effectively manage the eel quota, the proposed action includes a provision to allow the Department to modify, open or close the season or modify catch limits by public notice.

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 American Eel 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 February 8, 2016. 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:

The permit will be a line item in the electronic licensing system and does not cost more to implement. Natural Resources police are already enforcing eel regulations and this change will not be an additional burden.

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

There is no cost to the Department to implement the permit.

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

There is no cost for the permit.

G. Small Business Worksheet:

Attached Document:

.08 Eels.

A. Commercial.

(1) Except as permitted under COMAR 08.02.14, a person may not catch, possess, land, or sell eels for commercial purposes which are less than 9 inches total length.

(2) *The annual quota for the commercial fishery is set by the Atlantic States Marine Fisheries Commission.*

(3) *American Eel Harvest Permit.*

- (a) An individual who is authorized to commercially catch finfish or crabs shall:
 - (i) Obtain an American eel harvest permit prior to catching eels; and
 - (ii) Have the American eel harvest permit in possession while harvesting or transporting American eels.
- (b) American eel harvest permits shall be issued to all licensees who have met all reporting requirements as required by Natural Resources Article, §4-206, Annotated Code of Maryland, and this regulation.
- (c) An individual may be issued only one American eel harvest permit.
- (d) American eel harvest permits may not be transferred.

(4) Reporting and Penalties.

(a) In addition to the requirements of Natural Resources Article, §4-206, Annotated Code of Maryland, an American eel harvest permittee shall report in the manner specified by the Department.

(b) In addition to any other penalty established in COMAR 08.02.13, failure to comply with this regulation may result in the suspension of the current permit or the denial of a subsequent permit.

(c) Prior to suspending a permit under this regulation or denying an application for a permit, the Department shall give the licensee notice of its intended action and an opportunity to appear at a hearing conducted in accordance with the contested case procedures set forth in State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 08.01.04.

B.—G. (text unchanged)

[H. A person may not sell or attempt to sell eels without an appropriate license issued by the Department, unless the person is:

- (1) Licensed by the Department to catch finfish for sale;
- (2) A retail market, restaurant, or other establishment where finfish are sold or served to ultimate consumers, and not for resale; or
- (3) Buying finfish for personal use or consumption.]

H. General.

(1) The Secretary may establish or modify catch limits, size limits, and seasons for American eel in order to implement the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for American Eel, by issuing a public notice on the Fisheries Service website.

(2) The public notice shall state its effective hour and date and shall be published on the Fisheries Service website at least 48 hours in advance of the effective hour and date.

(3) The Secretary shall make a reasonable effort to disseminate a public notice issued under this section through various other media so that an affected individual has a reasonable opportunity to be informed.

(4) A violation of the restrictions set by the Secretary in accordance with section is a violation of this regulation.

MARK J. BELTON
Secretary of Natural Resources