

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 Gear—Projectile Gear in Fishery Management Public Fishing Areas Regulations, Regulatory Staff, Department of Natural Resources, 580 Taylor Ave., E-4, Annapolis, MD 21401, or call 410-260-8300, or email to Submit comment to https://dnr.maryland.gov/fisheries/pages/regulations/changes.aspx#pr oj_fma, no fax. . Comments will be accepted through November 6, 2023. A public hearing has not been scheduled.

.13 Fishery Management Areas.

A.—D. (text unchanged)

E. *Projectile fishing gears, as described in COMAR 08.02.25.02 and .03, are prohibited in all Fishery Management Areas.*

JOSH KURTZ

Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

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

Notice of Proposed Action

[23-209-P]

The Secretary of Natural Resources proposes to amend Regulation **.21** under **COMAR 08.02.05 Fish**.

Statement of Purpose

The purpose of this action is to update the commercial quota information to reflect recent changes made by the Atlantic States Marine Fishery Commission (ASMFC) and the Mid-Atlantic Fishery Management Council (MAFMC). The annual total allowable landings of black sea bass for the commercial fishery is set by the Atlantic States Marine Fisheries Commission and shall be published through a public notice. Due to changes made by ASMFC/MAFMC, the Maryland commercial black sea bass quota is no longer necessarily 11 percent of the coastal quota as currently written in COMAR. The Department will publish the quota as established by those agencies when it is available through a public notice on the Department’s website, as well as sending it out to the Department’s email listserv and social media accounts. More information about the ASMFC/MAFMC action is available here: <https://www.federalregister.gov/documents/2023/03/09/2023-04588/magnuson-stevens-fishery-conservation-and-management-act-provisions-fisheries-of-the-northeastern>.

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 Black Sea Bass Regulations, Regulatory Staff, Department of Natural Resources, 580 Taylor Ave, E4, Annapolis, MD 21401, or call 410-260-8300, or submit comments to <https://dnr.maryland.gov/fisheries/pages/regulations/changes.aspx#bsb>. Comments will be accepted through November 6, 2023. A public hearing has not been scheduled.

.21 Black Sea Bass.

A. (text unchanged)

B. Commercial.

(1) (text unchanged)

(2) Quotas.

[*(a)* The annual quota for Maryland is 11 percent of the annual Atlantic coast quota determined by the National Marine Fisheries Service.]

(a) Statewide Quota.

(i) The annual total allowable landings of black sea bass for the commercial fishery is set by the Atlantic States Marine Fisheries Commission and shall be published through a public notice issued in accordance with §F of this regulation.

(ii) Any annual overages of the quota will be deducted from the subsequent year’s quota.

(b) (text unchanged)

C.—F. (text unchanged)

JOSH KURTZ

Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

Notice of Proposed Action

[23-190-P]

The Secretary of Natural Resources proposes to:

- (1) Adopt new Regulation **.31** under **COMAR 08.02.05 Fish**;
- and
- (2) Amend Regulation **.03** under **COMAR 08.02.12 Endangered and Threatened Fish Species**.

Statement of Purpose

The purpose of this action is to declare longnose gar as “in need of conservation” and establish a creel limit for the species. Currently, there is no creel or size limit, or season for possession, established for longnose gar in Maryland. This action proposes a creel limit of one longnose gar per person from April 15 through June 30 and a creel limit of five longnose gar per person from July 1 through April 14. This creel limit would apply to both recreational anglers and commercial harvesters. These regulations would mirror the recreational creel limits in Virginia to provide consistency with adjacent jurisdictions and provide heightened protections during the spawning period when gar are more vulnerable to harvest due to their tendency to gather in large groups to spawn.

For a species to be designated as “in need of conservation” in the tidal waters of Maryland, the Department must conduct an investigation and develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data to determine conservation measures necessary for the species’ continued ability to sustain itself successfully. Near the northern edge of its Atlantic coast range, longnose gar is a native species to Maryland. It is one of seven species of an ancient family of fishes that pre-date the dinosaurs and are found only in North America. In Maryland, longnose gar has been reported from southerly tidal freshwaters of the Chesapeake Bay, including the Potomac, Pocomoke, Nanticoke, Wicomico, and Choptank Rivers. Its restricted distribution in Maryland and its life history aspects can make this

species particularly vulnerable to population declines and possibly extirpation if mortality rates increase. Because it is a native, top predator in Maryland's tidal freshwater, the species must be protected and managed sustainably.

Longnose gar is a member of Lepisosteidae and an endemic component of North American fish faunal assemblages. The small family of primitive fishes has existed for over 100 million years in North America, remaining nearly indistinct evolutionarily from extinct ancestors. Some evolutionarily derived characteristics, such as a special scale type called ganoid, are found only within the family and nowhere else within the over 25,000 species of bony fishes. Additionally, juveniles possess a heterocercal tail filament, which is an extension of the vertebral column, that further develops to an abbreviated heterocercal tail as it matures, making it relatively unique among all bony fishes except sturgeon and paddlefish.

The species can be characterized with a periodic life history strategist that has effectively evolved to take advantage of predictable, large-scale changes in the environment (e.g., seasons, tide) and highly variable juvenile mortality. In the Chesapeake Bay watershed, adults can be large (up to 5 feet), relatively old (up to 27 years), and reach sexual maturity after 3 (male) or 6 (female) years, with females producing a lot of eggs (average — 33,971 eggs) during a limited time span. During the spring spawning season (May — June), adults will congregate in shallow, freshwater bays for spawning. Groups of adults can lie motionless near the water's surface in slow water, bays, or coves and in waters with submerged aquatic vegetation or submerged wood to which their eggs adhere. According to research published for York River (Chesapeake Bay), longnose gar may remain in spawning areas for 1 month. Longnose gar tend to occupy mid-channel or riverside habitats for the rest of the year. These characteristics make adults highly vulnerable during a short period (May — June) and, because of their life history strategy, highly vulnerable as a species to increases in adult mortality rates and threats to environmental stability.

Anecdotally considered a "rough fish" by recreational anglers, gar has been maligned as a competitor to the game and sport fish that damages fishing gear, resulting in gar being thrown to shore to die rather than harvested as table fare. The field guide of Fishes of the Chesapeake Bay noted that longnose gar is considered to have "no food or recreational value...[and] when caught, longnose gar are often thrown on the shore to die." Gar is also a popular bowfishing target in Maryland and across the southeastern United States and can be harvested in high numbers. While the species was listed as a "species of greatest conservation need" in 2005 by the Maryland Department of Natural Resources, no regulations were adopted to prevent or limit the harvest of longnose gar in tidal waters. Because interest in longnose gar and bowfishing has not historically been widely popular in Maryland, regulations were not adopted to help protect the species.

However, the recent rise in popularity of bowfishing over the past 10 years has increased because of growing interest in shooting northern snakehead and blue catfish. Recently, the Virginia Department of Wildlife Resources reduced its creel limit of longnose gar from five fish per person during their spawning season to one fish per person. In Maryland, more anglers and archers may encounter longnose gar, and unregulated harvest of the species may seriously threaten its conservation in Maryland waters.

Often called "living fossils," gars possess characteristics that are now uncommon among fishes, making longnose gar a unique feature of the Bay's ecosystem. The species includes:

- A special tail type (i.e., abbreviate heterocercal).
- Unique scales (i.e., ganoid scales).
- A unique, highly vascularized lung-like gas bladder that enables it to "breathe air" when experiencing low dissolved oxygen.

In spite of its unique features and value to biodiversity and ecological health in North American rivers, longnose gar has historically been a target of eradication and control by both fishery managers and fishers nationwide because of its unfounded reputation as a "trash fish." Today, the species and its family of fishes have widespread conservation interest among fishery managers but may still be called a "trash fish" by the general public. Partly, this is owed to limited commercial interest for the species. The meat is palatable but rarely consumed today. In 2022, commercial landings of longnose gar amounted to just over 1,900 pounds and only from the Nanticoke River (primarily October through December). Additive mortality owed to commercial harvest and potentially increasing recreational harvest, coupled with a restricted range of longnose gar and a lack of information on stock structure, could significantly compromise its conservation in Maryland waters.

During the spring spawning season, which can include April but mainly in May and June, adults will congregate in shallow, freshwater bays for spawning. Groups of adults can lie motionless near the water's surface in slow water, bays, or coves and in waters with submerged aquatic vegetation or submerged wood to which their eggs adhere. Because of these behaviors, many spawning longnose gar can be harvested quickly. Unfortunately, the specialized spawning season and habitat (i.e., lentic-like embayments or coves) of longnose gar are shared with invasive fishes, northern snakehead and blue catfish specifically, both of which are popular bowfishing targets. The Department continues to encourage bowfishing for those invasive fishes but believes, based on their life history and restricted range, that longnose gar require additional protection by implementing a creel limit. Similar restrictions have long been used to manage other species of conservation interest, such as largemouth bass and striped bass, to significant positive effects.

The lack of authority for the Department to promulgate regulations to protect longnose gar in tidal waters complicates management flexibility. Legislative changes for fish management are usually more difficult, can occur only once a year and do not allow the same degree of public involvement as would a regulated management change. Regulated changes can be debated within the Department advisory commissions and ad hoc work groups as data become available and necessary midcourse corrections can be made as often as necessary. The public process required for regulations also provides an open forum for discussion of proposed fish management options. The present regulatory structure is inadequate to deal with the problems of longnose gar management in Maryland. Declaring the species "in need of conservation" under Natural Resources Article, §4-2A-03, Annotated Code of Maryland, will allow the Secretary of Natural Resources to engage the fishing public in discussion about the need to "adopt limitations relating to taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment necessary to conserve fish."

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action may have a minor indeterminable negative economic impact on commercial harvesters by resulting in the harvesting of less longnose gar.

II. Types of Economic Impact.

Impacted Entity	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
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:		
Commercial licensees	(-)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
Recreational anglers and the general public	(+)	Indeterminable

B. (text unchanged)

JOSH KURTZ
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.15 Striped Bass

Authority: Natural Resources Article, §§4-215, 4-2A-03, and 4-701, Annotated Code of Maryland

Notice of Proposed Action
[23-193-P]

The Secretary of Natural Resources proposes to amend Regulations **.04, .05, and .07** under **COMAR 08.02.15 Striped Bass**.

Statement of Purpose

The purpose of this action is to eliminate the Chesapeake Bay common pool commercial striped bass fishery. Doing this will mean that all individuals participating in the commercial striped bass fishery in the Chesapeake Bay would then participate in the individual transferrable quota (ITQ) fishery. The Chesapeake Bay common pool fishery represents a small fraction of the striped bass commercial industry overall. This derby style fishery depends on timely harvest reporting to adhere to quotas. As the common pool has continued to get smaller over time due to fewer individuals electing this option, it has become increasingly difficult to manage the shrinking quota. The common pool fishery is a holdover for those permit holders who were extremely reluctant to join the ITQ in 2014. In 2023, the common pool fishery functions more like a “bonus fishery” for families that harvest in the ITQ fishery to add a little extra to their annual harvest. However, the smaller derby-fishery quota also increases the risk of overharvesting because there is less room for error. Eliminating the Chesapeake Bay common pool fishery will increase the Department’s ability to accurately manage the overall commercial harvest of striped bass in the Chesapeake Bay while lowering the Department’s administrative responsibilities.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action may have an indeterminable positive or negative economic impact on individuals who have previously elected to participate in the Chesapeake Bay common pool commercial striped bass fishery. The proposed action will have an indeterminable positive impact on the Department due to less administrative responsibilities.

II. Types of Economic Impact.

Impacted Entity	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:		
Department of Natural Resources	(E-)	Indeterminable
B. On other State agencies:	NONE	
C. On local governments:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D. Since 2019, commercial licensees have reported harvesting 3 pounds (2019), 3 pounds (2020), 120 pounds (2021), and 1,922 pounds (2022) respectively. Licensees will still be allowed to harvest five gar per day from July 1 through April 1 (which covers the period when harvest was reported). It is not clear how much the catch limit will reduce commercial harvest, but the reduction is likely to be minor, especially given that commercial harvest was already very low.

F. Placing a catch limit on gar will ensure their continued ability to sustain themselves successfully in Maryland’s tidal waters. Recreational anglers will benefit by being able to pursue the species and the general public will benefit by continuing to have a native species as part of the ecosystem. There is no way to put a specific economic value on the presence of a species, but the general public has repeatedly expressed an interest in maintaining biodiversity.

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 Longnose Gar Regulations, Regulatory Staff, Department of Natural Resources, 580 Taylor Avenue, E-4, Annapolis, MD 21401, or call 410-260-8300, or submit comments to <https://dnr.maryland.gov/fisheries/pages/regulations/changes.aspx#gar>. Comments will be accepted through November 6, 2023. A public hearing has not been scheduled.

08.02.05 Fish

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

.31 Longnose Gar.

- A person may not catch or possess more than:
 - A. One longnose gar per day from April 15 through June 30; or
 - B. Five longnose gar per day from July 1 through April 14.

08.02.12 Endangered and Threatened Fish Species

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

.03 Listing of Species.

- A. The following species are listed as in need of conservation:
 - (1)—(18) (text unchanged)
 - (19) Jonah crab (*Cancer borealis*); [and]
 - (20) Cobia (*Rachycentron canadum*)[.]; and
 - (21) Longnose gar (*Lepisosteus osseus*).

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Former common pool participants	(+)	Indeterminable