

	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

(2) Former common pool participants (-) 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. This action will result in lower administrative burdens for the Department. By only managing one type of commercial striped bass fishery in the Chesapeake Bay, managers will only have to order one type of tags and flags for the Chesapeake Bay. Additionally, managers will no longer have to evaluate daily catch levels when the common pool is open to determine if future openings are necessary. It is not possible to determine the ultimate expenditure reduction that will be realized by simplifying the Chesapeake Bay commercial striped bass management structure.

D(1). Some former participants in the common pool fishery may experience a positive economic benefit from switching to the individual transferrable quota fishery. Individuals in the individual transferrable quota fishery are able to time their fishing efforts to when market price is most advantageous; common pool participants are only able to fish when the Department opens the season, which is not timed to the market.

D(2). Some former participants in the common pool fishery may experience a negative economic impact. This is because the benefit of the common pool was that each individual contributed the totality of their yearly allocation to the collective quota. This led to some individuals over the course of the year being able to harvest more pounds of striped bass than they had contributed to the communal pot. Those individuals will now be limited only to their yearly allocation in the individual transferrable quota fishery. The only way they will be able to catch more striped bass in the future will be to obtain additional allocation or share through a transfer, which will likely cost some amount of money.

Economic Impact on Small Businesses

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

This action may have long-term positive impacts on small businesses that harvest, process, and deal in striped bass by allowing all commercial licensees to better time their fishing activities to market conditions.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

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

.04 Tidal Fish Licensee Intent to Fish.

- A. (text unchanged)
- B. Registration Procedures.
 - (1) (text unchanged)
 - (2) Registration Type.

(a) When registering for a striped bass permit, a commercial tidal fish licensee shall specify and may be authorized to fish in one of the following fisheries:

- [(i) Chesapeake Bay common pool;]
- [(ii) (i)—[(iii) (ii) (text unchanged)]

(b) (text unchanged)

[(c) A commercial tidal fish licensee may not possess striped bass permits registered in both the Chesapeake Bay common pool fishery and the Chesapeake Bay individual transferrable quota fishery.]

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

[(e) (d) A striped bass permit registered in [a] *the Chesapeake Bay individual transferrable quota fishery* as of May 10, 2013, may not be changed to a striped bass permit registered to the Atlantic Ocean fishery.

C. (text unchanged)

D. Commercial Fisheries.

[(1) Chesapeake Bay Common Pool Fishery.

(a) In the common pool fishery, the following gear types may be used to harvest striped bass in accordance with a tidal fish license authorization as described in Natural Resources Article, §4-701, Annotated Code of Maryland:

- (i) Drift gill net; and
- (ii) Hook and line.

(b) An individual may only register for the common pool fishery if the individual possesses a share of the Chesapeake Bay fisheries equal to at least 0.0185 percent of the commercial quota for the Chesapeake Bay.

(c) The quota for the common pool fishery shall be the combined allocations of all permittees who register for the common pool fishery.

(d) An individual who registers more than one permit in the common pool fishery may land fish under a permit only if that individual possesses a share of the Chesapeake Bay fisheries equal to at least 0.0185 percent of the commercial quota for the Chesapeake Bay for that permit.]

[(2) (1)—[(3) (2) (text unchanged)]

E. (text unchanged)

F. Temporary Transfers.

(1)—(3) (text unchanged)

[(4) Chesapeake Bay Common Pool Fishery. A striped bass permit registered in the common pool fishery may only be temporarily transferred:

(a) Prior to the start of the quota year, from July 15 through September 15, or the next business day if September 15 falls on a weekend; or

(b) During the quota year within the time period established by public notice in accordance with §H of this regulation.]

[(5) (4)—[(6) (5) (text unchanged)]

[(7) (6) Allocation may not be transferred between [either of] the Chesapeake Bay [fisheries] *individual transferrable quota fishery* and the Atlantic Ocean fishery.

[(8) Allocation may not be transferred between the Chesapeake Bay common pool and individual transferrable quota fisheries.]

[(9) (7)—[(10) (8) (text unchanged)]

G. Permanent Transfers.

(1)—(5) (text unchanged)

(6) A commercial tidal fish licensee registered in [either of] the Chesapeake Bay [fisheries] *individual transferrable quota fishery* may not receive a share in a permanent transfer that would result in the transferee possessing more than 1 percent of the total commercial quota for the Chesapeake Bay [fisheries].

(7) The transfer limit described in [§G(6)(b)] §G(6) of this regulation does not apply to a transaction where the transferee also receives the transferor’s commercial tidal fish license.

(8)—(9) (text unchanged)

(10) A transferee receiving a striped bass permit registered in [a] *the Chesapeake Bay individual transferrable quota fishery* through a permanent transfer may not have that authorization changed to a striped bass permit registered in the Atlantic Ocean fishery.

(11) A transferee receiving a striped bass permit registered in the Atlantic Ocean fishery through a permanent transfer may not have that authorization changed to a striped bass permit registered in [a] *the Chesapeake Bay individual transferrable quota* fishery.

(12) A transferee receiving a share of [a] *the Chesapeake Bay individual transferrable quota* fishery through a permanent transfer may not transfer that share to the Atlantic Ocean fishery.

(13) A transferee receiving a share of the Atlantic Ocean fishery through a permanent transfer may not transfer that share to [a] *the Chesapeake Bay individual transferrable quota* fishery.

H. (text unchanged)

.05 Disposition of Catch.

A. Permits and Tags.

(1) (text unchanged)

(2) A commercial tidal fish licensee who catches striped bass for sale shall:

(a) (text unchanged)

(b) In the [Chesapeake Bay common pool and] Atlantic [fisheries] *fishery*, securely affix a tag issued by the Department to the licensee, as provided in §A(1) of this regulation, or a tag received through a transfer, through the mouth and one gill opening:

(i)—(iii) (text unchanged)

(c)—(d) (text unchanged)

(3)—(8) (text unchanged)

B.—C. (text unchanged)

D. Check-In.

(1) Time Requirements — [Chesapeake Bay Common Pool and] Atlantic [Fisheries] *Fishery*.

[a] Except as provided in §D(1)(b) of this regulation, within] *Within* 3 hours of completing a fishing trip and returning to dock, and not later than 9 p.m. on the day of harvest, a commercial tidal fish licensee registered in the [Chesapeake Bay common pool fishery or the] Atlantic fishery shall have [his] *their* striped bass harvest counted and weighed by a Department representative at a check station.

[b] Not later than 9 p.m. on the day of harvest or 9 a.m. on the day immediately following harvest, a commercial tidal fish licensee registered in the Chesapeake Bay common pool fishery and harvesting striped bass with a hook and line shall have his striped bass harvest counted and weighed by a Department representative at a check station.]

(2)—(3) (text unchanged)

(4) At check-in, the Department representative shall:

(a)—(c) (text unchanged)

(d) [If the commercial tidal fish licensee is registered in the Chesapeake Bay Individual Transferable Quota fishery or the Atlantic Ocean fishery, adjust] *Adjust* the remaining annual allocation by subtracting the total daily harvest.

.07 Commercial Fishery.

A. Chesapeake Bay and Its Tidal Tributaries.

(1)—(2) (text unchanged)

(3) Seasons.

[a] The commercial seasons for taking striped bass for permittees registered in the Chesapeake Bay common pool fishery are as follows:

(i) The hook and line season is June 1 through November 30; and

(ii) The drift gill net season is December 1 through the last day of February.

(b) The commercial seasons for taking striped bass for permittees registered in the Chesapeake Bay individual transferrable quota fishery are as follows:

[(i)] (a)—[(iv)] (d) (text unchanged)

(4) The Secretary shall allocate the annual target harvest for the following fisheries:

[(a) Chesapeake Bay Common Pool;]

[(b)] (a)—[(c)] (b) (text unchanged)

[(5) For the common pool fishery, the Secretary may allocate the number of pounds for each month based on the:

(a) Historical distributions of quota by month; or

(b) Recommendations from the Striped Bass Ad Hoc Advisory Group.]

[(6)] (5)—[(7)] (6) (text unchanged)

[(8)] (7) A flag specified by the Department shall be displayed on the vessel at least 3 feet above the surface on which it is mounted and clearly visible to approaching vessels if the individuals on board are engaged in commercial striped bass fishing to denote whether the individuals on board are participating in the [common pool or the] *Chesapeake Bay individual transferrable quota* [fisheries] *fishery*.

B. (text unchanged)

C. Drift Gill Net Fishery Limitations.

(1) (text unchanged)

(2) In the tidal waters of the Chesapeake Bay and its tributaries:

(a) (text unchanged)

(b) The total length of drift gill net aboard a boat may not exceed 3,500 yards and may not be contained in more than ten containers; *and*

[(c) The amount of striped bass on board a vessel participating in the Chesapeake Bay common pool fishery may not exceed 2,000 pounds on any day, regardless of the number of licensees with a striped bass permit for gill net on board the vessel; and]

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

(3)—(4) (text unchanged)

[(5) Except for the last Saturday and Sunday of the month of February, only a permittee registered in the Chesapeake Bay Individual Transferable Quota Fishery may set a drift gill net on Saturday or Sunday.]

[(6)] (5)—[(8)] (7) (text unchanged)

D. Commercial Hook and Line Fishery Limitations.

[(1) Except as provided in §D(4) of this regulation, a total of two crew members may assist a commercial tidal fish licensee registered in the Chesapeake Bay common pool fishery to catch striped bass with hook and line.

(2) Except as provided in §D(4) of this regulation, a maximum of 4 individuals, including crew members, may be present on a vessel which is engaged in commercial hook and line fishing in the Chesapeake Bay common pool fishery.

(3) While using commercial hook and line, a person may not catch or attempt to catch striped bass:

[(a) In the Chesapeake Bay common pool fishery:

(i) Between 1 hour before sunset and 1 hour before sunrise;

or

(ii) At any time on a Friday, Saturday, or Sunday; or

(b) In the Chesapeake Bay individual transferable quota fishery:]

[(i)] (1) Between [one] 1 hour after sunset and 1 hour before sunrise; or

[(ii)] (2) (text unchanged)

[(4) Children 12 years old or younger may be on board a vessel engaged in commercial hook and line fishing in addition to any crew members and licensees as described in §D(1) and (2) of this regulation.]

E. (text unchanged)

F. General.

(1)—(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 may be deducted from the allocation the licensee receives in the next practicable quota year.

[(b) If the participants in the Chesapeake Bay common pool fishery exceed the common pool allocation in a quota year, the total overage shall be averaged among the licensees who reported catch in the Chesapeake Bay common pool fishery and deducted from those licensees in the next practicable quota year.]

(5)—(6) (text unchanged)

JOSH KURTZ
Secretary of Natural Resources

Title 10 MARYLAND DEPARTMENT OF HEALTH

Subtitle 27 BOARD OF NURSING

10.27.01 Examination and Licensure

Authority: Health Occupations Article, §§8-205, 8-206, 8-302, 8-304, and 8-308, Annotated Code of Maryland

Notice of Proposed Action

[23-216-P]

The Secretary of Health proposes to amend Regulation .05 under **COMAR 10.27.01 Examination and Licensure**. At this time, the Secretary of Health also withdraws the amendments to Regulation .05 under **COMAR 10.27.01 Examination and Licensure** that were proposed in 50:13 Md. R. 532—533 (June 30, 2023).

Statement of Purpose

The purpose of this action is to revise the English language proficiency examinations accepted by the Maryland Board of Nursing and to outline overall and minimum passing section scores.

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 Jourdan Green, Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov. Comments will be accepted through November 6, 2023. A public hearing has not been scheduled.

.05 Qualifications of Applicants for Examination.

A.—B. (text unchanged)

C. Applicants who are unable to prove written and oral competency in the English language in accordance with Health Occupation Article, §8-302(e)(2) or (4), Annotated Code of Maryland, shall submit evidence of proficiency in listening, reading, speaking, and writing the English language by obtaining a minimum passing score on one of the following Board-approved English language competency examinations:

(1) Test of English as a Foreign Language Internet Based Test (TOEFL iBT) with minimum passing scores of:

- (a) Listening — [22] 21;
- (b) Reading — [22] 19;

- (c) Speaking — 26; [and]
- (d) Writing — [24; or] 19; and
- (e) Overall score of at least 84;

(2) International English Language Testing System (IELTS) with minimum passing scores of:

- (a)—(b) (text unchanged)
- (c) Speaking — [7] 6;
- (d) (text unchanged)
- (e) Overall score of at least 6.5[.];

(3) *Michigan English Test (MET)* with minimum passing scores of:

- (a) *Listening* — 53;
- (b) *Reading* — 53;
- (c) *Speaking* — 53; and
- (d) *Writing* — 53;

(4) *Pearson Test of English (PTE) Academic* with minimum passing scores of:

- (a) *Listening* — 50;
- (b) *Reading* — 50;
- (c) *Speaking* — 50;
- (d) *Writing* — 50; and
- (e) Overall score of at least 55; or

(5) *Occupational English Test (OET)* with minimum passing scores of:

- (a) *Listening* — 300;
- (b) *Reading* — 300;
- (c) *Speaking* — 300; and
- (d) *Writing* — 300.

D. (text unchanged)

LAURA HERRERA SCOTT
Secretary of Health

Subtitle 29 BOARD OF MORTICIANS AND FUNERAL DIRECTORS

Notice of Proposed Action

[23-222-P]

The Secretary of Health proposes to amend:

- (1) Regulation .03 under **COMAR 10.29.02 Examination;**
- (2) Regulation .03 under **COMAR 10.29.03 Inspection of Funeral Establishments;** and
- (3) Regulation .03 under **COMAR 10.29.04 Fee Schedule.**

This action was considered by the Board of Morticians and Funeral Directors at a public meeting held on October 12, 2022, notice of which was given by publication on the Board's website at <https://health.maryland.gov/bom/Pages/home.aspx> pursuant to General Provisions Article, §3–302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

- (1) Remove the incorrect examination fee from COMAR 10.29.02.03C;
- (2) Add language that the requirements for a funeral establishment license must be completed within 6 months of application submission;
- (3) Add a provision for application extension requests;
- (4) Correct the inaccurate cross references in COMAR 10.29.04.03; and
- (5) Add a provision that application fees are non-refundable.

Estimate of Economic Impact

The proposed action has no economic impact.