



Larry Hogan, Governor
Boyd Rutherford, Lt. Governor
Jeannie Haddaway-Riccio, Secretary
Charles Glass, Deputy Secretary

DNR-FS-2019-04

SMALL BUSINESS COMPLIANCE GUIDE

Amendment to Subtitle 02 Fisheries Service

Regarding the Department's Regulations for Striped Bass

COMAR 08.02.05.02; COMAR 08.02.15.01, .03, .08, .09, .10, and .12; COMAR 08.02.25.03

Released October 25, 2019

Updated December 20, 2019

Updated February 28, 2020

This Guide is prepared in accordance with the requirements of State Government Article, §10-110, Annotated Code of Maryland. It is intended to help small businesses comply with the revised rules adopted in the above-referenced sections of the Code of Maryland Regulations. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small businesses, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply.

The Department will clarify or update the text of the Guide as an idea moves through the regulatory process. Direct your comments and recommendations, or calls for further assistance, to Fishing and Boating Services Regulatory Division:

410-260-8300

410-260-8DNR; toll free in Maryland 877-620-8DNR; TTY Users Call via the Maryland Relay

Fax: 410-260-8310

I. SUMMARY & FAQs

What was proposed?

The department proposed:

- 1) Putting the rules (hook requirements, sizes, and seasons) for the recreational fishery that were in place only for 2018 and 2019 into place for future years.
 - a) Recreational and Charter Boat Summer and Fall Fishery in the Chesapeake Bay and Its Tidal Tributaries:
 - 19" minimum size
 - May 16 through December 15
 - b) Recreational and Charter Boat Summer and Fall Fishery for Maryland Tributaries of the Potomac River:
 - 19" minimum size
 - May 16 through December 31
 - c) Hook Requirements for the Chesapeake Bay and its Tidal Tributaries:
 - Hook requirements apply to fishing for all species, not just striped bass.
 - Circle hooks required when chumming or live-lining.
 - J hooks (no size restriction) or circle hooks are required when using fish, crabs, or worms as bait, or processed bait.
 - Restrictions apply May 16 through December 15.
 - No other hooks are allowed to be used during that time period.
- 2) Changing the start of the recreational and charter boat spring season (trophy season) to May 1. The current start date is the third Saturday in April.
- 3) Prohibiting catch and release or targeting striped bass from March 1 through April 30.
 - a) This would be in effect for all areas in the Chesapeake Bay and its tidal tributaries.
 - b) Trolling would be prohibited during this time period.

NOTE: See page 4 for changes to this section that were adopted after the public comment period.

Why is this change necessary?

Measures were put in place in 2018 to reduce the minimum size of striped bass for the recreational and charter boat summer and fall fishery in the Chesapeake Bay and its tidal tributaries from 20 inches to 19 inches. The intention was to reduce dead discards of striped bass that occur throughout the summer/fall when anglers are using bait. The measures were put in place for two seasons to allow the department to assess if the measures were working. The department, in cooperation with stakeholders, has determined that these measures need to be in place for the future.

The department, in cooperation with stakeholders, has also determined that additional action needs to be taken to reduce the mortality of striped bass and allow more migratory fish to make it to the spawning grounds successfully. Shortening the trophy season along with prohibiting the catch and release or targeting of striped bass during the period March 1 through April 30 will help increase the spawning stock biomass by reducing the overall harvest and dead discards associated with the pre-season catch and release fishery. In addition, preventing the interception of fish when they are normally heading to spawn will increase the chance that more striped bass

have an opportunity to spawn. A successful spawn is the first step in increasing the numbers of striped bass.

The department is committed to conserving the striped bass fishery and these changes are a step in that direction. The Atlantic States Marine Fisheries Commission will be taking final action to determine to what extent states need to reduce fishing mortality at their annual meeting at the end of October.

Who will this affect?

The changes apply to recreational anglers, charter boats, and tackle shops.

Where do the rules apply?

They apply in the Chesapeake Bay and its tidal tributaries. The season is not changing in the tidal tributaries of the Potomac River to maintain consistency with Potomac River Fisheries Commission’s management of striped bass in the mainstem of the Potomac River.

Has this change been discussed with advisory commissions?

Meetings were held with user groups throughout the summer in all regions of the Chesapeake Bay. Formal discussions occurred with the Sport Fisheries Advisory Commission (September 24, 2019) and at the Coastal Recreational Fisheries Forum (September 27, 2019). This idea was also discussed with the Sport Fisheries Advisory Commission and Tidal Fisheries Advisory Commission at their October 2019 meetings.

Regulatory Hearing to Discuss This Proposal

A public hearing was held January 9, 2019, at 6 p.m., at Calvary United Methodist Church, 301 Rowe Boulevard, Annapolis, MD 21401. Interested persons were invited to attend and express their views. Approximately 55 individuals attended the hearing.

What is the specific regulatory action?

- 1) Amend Regulation .02 under COMAR 08.02.05 Fish;
- 2) Amend Regulations .01, .03, .08, .09, .10, and .12 under COMAR 08.02.15 Striped Bass; and
- 3) Amend Regulation .03 under COMAR 08.02.25 Gear.

II. DEFINITIONS

“Chumming” is defined in regulation (COMAR 08.02.25.01) as placing fish, parts of fish, or other natural or manmade attractants upon which fish might feed, in the water, not attached to a hook, for the purpose of attracting fish to a particular area so that they might be caught. Chumming includes all fish and other attractants upon which fish might feed. Chumming is specific to putting those items into the water without a hook for the purpose of attracting finfish. Chumming includes chunking.

“Circle hook” is defined in regulation (COMAR 08.02.25.01) as a non-offset hook with the point turned perpendicularly back to the shank.

“Fish” is defined in Natural Resources Article, §4-101, Annotated Code of Maryland and means finfish, crustaceans, mollusks, and amphibians and reptiles which spend the majority of their life cycle in water and any part, egg, offspring, or dead body of any of these species.

“Live-lining” is defined in regulation (COMAR 08.02.25.01) as using a live finfish on a hook for the purpose of catching other fish with (a) hook and line; (b) rod and reel; or (c) handlines. Live-lining is specific to using live finfish with active line fishing gear (hook and line, rod and reel, or handlines). Finfish include species like minnows, spot, eels, perch, menhaden, fallfish, and chubs. It does not include species like crabs, shrimp, worms, or processed bait.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

This action does not create new permit, recordkeeping or reporting requirements.

IV. REGULATORY PROCESS

The department followed our normal scoping and proposal procedures.

During the scoping process, the Department gathers suggestions and ideas from stakeholders and others about how to solve a fishery problem or address a need. The goal of scoping is to identify issues, potential impacts, and reasonable alternatives associated with the issues so that management actions can be developed. After the public has had an opportunity to comment on possible management actions during the scoping process, the department considers these comments and develops an appropriate management strategy. The ideas for this proposal were scoped from October 25 through November 10, 2019.

At the conclusion of the scoping process, the department determined that the action is necessary and appropriate. The rules were promulgated following the Administrative Procedures Act described in Title 10, Subtitle 1 of the State Government Article Annotated Code of Maryland.

- The General Assembly’s Administrative, Executive, and Legislative Review Committee reviewed the regulatory proposal for fiscal and legal sufficiency.
- The proposal was printed by the Division of State Documents in the Maryland Register on December 20, 2019.
- A 30 day public comment period began on the day of publication. The comment period closed at 11:59 p.m. January 21, 2020.

At the conclusion of the comment period:

- The department decided to adopt all changes except the March closure period. The period of the spring closure period was changed to the month of April, rather than both March and April.
- March will remain open to catch and release.
- The Department reduced the length of the spring closure based on comments received during the public comment period and further analysis of the data presented to the

Atlantic States Marine Fisheries Commission. It was determined that it is not necessary to close the fishery until April 1. This change will benefit anglers and local businesses.

- The final action adopting regulations was published in the Maryland Register on February 28, 2020.

V. IMPLEMENTATION DATE

These regulations are effective March 9, 2020.

VI. INTERNET LINKS & ADDITIONAL RESOURCES

- [Atlantic States Marine Fisheries Commission's Atlantic Striped Bass Information](#)