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SMALL BUSINESS COMPLIANCE GUIDE
Amendment to Subtitle 02 Fisheries Service
Regarding the Department's Regulations for Striped Bass
COMAR 08.02.15.09, .10, and .12
Released March 3, 2020
Updated May 8, 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 measures to reduce total removals of striped bass during the recreational summer and fall fishery. The measures proposed were approved by the Atlantic States Marine Fisheries Commission's management board in February 2020.

Measures for the recreational and charter boat summer and fall season include:

- Catch/possession limit is one fish per person per day.
- 19 inch minimum size.
- The season is closed from August 16 through August 31.
- Targeting is not allowed during the closure.
- Eliminates the "boat fish" for charters. The captain and mate may not keep a striped bass during a charter trip.
- Optional pilot program for charter captains.
- End the season on December 10.

Closure Period

A closure period has been proposed in an effort to reduce dead discards during the summer when water quality conditions in the Bay increase this mortality. Striped bass require cool, well-oxygenated water to thrive. During the summer months, as water temperatures increase and oxygen conditions worsen, striped bass become more stressed. Over the last ten years (2010-2019), Bay water conditions in Maryland have been especially poor during the months of July and August. Stressful conditions have worsened in recent years with both hotter than average water temperatures and worse than average oxygen conditions occurring over 55% of the time in July and 45% of the time in August.

During a closure period, anglers are not be allowed to target striped bass. "Target" means that a person may not catch, harass, harm, pursue, hunt, shoot, wound, or attempt to catch striped bass or striped bass hybrids. Anglers would still be allowed to fish for other species, but all efforts must be made to avoid interacting with striped bass during the closure period.

If the season is closed, you may transport and land striped bass in Maryland as long as you are not actively fishing in Maryland waters. If you possess striped bass in Maryland waters during the closure, you must have all of your gear stowed and must be underway.

All dates for the closure are inclusive. This means that both August 16 and August 31 are closed.

Size Limits

The minimum size proposed for the summer and fall seasons is 19-inches. Except for the Susquehanna Flats and Northeast River (described below), there is no maximum size. For charter boats participating in the pilot program that have a 2 fish per person possession limit, only 1 of those 2 fish may be greater than 28 inches.

When fishing in Maryland waters, all striped bass in your possession must meet the size and possession limits set forth for that area. If you are fishing in a jurisdiction (PRFC, VA) with different rules (creel, size, or season) than Maryland, you must have all your gear, catch, etc.

stowed as you are transiting Maryland waters. You may not actively fish in Maryland waters if you possess striped bass that do not meet Maryland limits.

Potomac River Tributaries

Anglers that fish the mainstem and tributaries of the Potomac River need to be aware of the rules for where they are fishing. Season and limits can be, and sometimes are, quite different in the mainstem and tributaries.

Susquehanna Flats and Northeast River

Rules for these areas during May are not changing. From May 16 through May 31 these areas have had more conservative rules to protect any lingering breeding striped bass in these areas. In this area, the possession limit has been maintained at 1 fish per person per day, the minimum size remains 19 inches, and the maximum size remains 26 inches. These areas would be excluded from the pilot program for charter boats.

Pilot Program

Part of the department's conservation equivalency plan allows charter captains licensed under Natural Resources Article, §4-701, Annotated Code of Maryland to voluntarily participate in a pilot program. A pilot program is a way for the department to try new methods for managing a fishery. The program is not available for the Susquehanna Flats & Northeast River from May 16 through May 31. Participating captains will be required to use FACTS and will be allowed to keep 2 fish per person per day, only 1 of those 2 fish may be greater than 28 inches. Anglers on board charter boats whose charter captains who do not participate in the electronic reporting pilot program would still be held to the one fish per person limit.

Fishing guides with the following license types will be able to participate in the pilot program: Unlimited Tidal Fish License (UTFL), Fishing Guide – Resident (FGR), Fishing Guide – Nonresident (FGN), and Fishing Guide – Master (FGM).

FACTS is an e-Reporting system that will provide real-time data on harvest, discards, and fishing activity. Electronic reporting in Maryland requires that participants send a Trip Start Hail before they leave the dock and a Trip End Hail before they return to the dock.

The pilot program will be implemented in accordance with the Code of Maryland Regulations 08.02.01.10.

Why is this change necessary?

The 2018 benchmark stock assessment for striped bass indicated the striped bass stock is overfished and experiencing overfishing. Based on these findings, the Atlantic States Marine Fisheries Commission (ASMFC) has determined that conservation measures are needed for the 2020 fishing season. ASMFC is a management entity comprising 15 member states on the East Coast, including Maryland.

The conservation goal set by ASMFC is to reduce the total number of striped bass that are killed by fishing activities. This means reducing the number of fish that are harvested and the number of fish that die after being caught and returned to the water, known as dead discards. Maryland sees the required management change as an opportunity to reduce discard mortality and to expand protection for large migratory fish as they pass through the Maryland portion of the Bay to the spawning grounds. For more details regarding the actions required by ASMFC, see

Addendum VI to Amendment 6 to the Interstate Fishery Management Plan for Atlantic Striped Bass.

The department has implemented reductions in the commercial fishery and changes for the spring season. We are now proposing changes for the summer and fall striped bass season.

Who will this affect?

The changes apply to recreational anglers, charter boats, tackle stores, bait stores, and marinas.

Where do the rules apply?

The rules apply to the Chesapeake Bay and its tidal tributaries, including the tributaries of the Potomac River.

Has this change been discussed with advisory commissions?

The idea was discussed with the Sport Fisheries Advisory Commission and Tidal Fisheries Advisory Commission at their January 2020 meetings.

What is the specific regulatory action?

Amend Regulations .09, .10, and .12 under COMAR 08.02.15 Striped Bass.

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.

"Target" means that a person may not catch, harass, harm, pursue, hunt, shoot, wound, or attempt to catch striped bass or striped bass hybrids.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

Except for charter captains participating in a voluntary program, this action does not create new permit, recordkeeping, or reporting requirements.

The pilot program will require the use of FACTS and captains will have to report real-time data on harvest, discards, and fishing activity. Participants will also be required to send a Trip Start Hail before they leave the dock and a Trip End Hail before they return to the dock.

IV. IMPLEMENTATION DATE

The department expects this change to be effective by July 16, 2020, however the exact date cannot be determined. The department is following our normal procedures.

During the scoping process, the department gathers opinions and comments from stakeholders and others. 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 March 3 through March 18, 2020.

At the conclusion of the scoping process, the department determined that the action is necessary and appropriate.

Due to the timing of the ASMFC Management Board approval and implementation date, the Department will manage the size, creel, and season for the fishery by public notice until a regulation is effective for all parameters. Except for the prohibition on targeting in August, all rules will be implemented by a public notice. The public notice will be issued in accordance with the Code of Maryland Regulations 08.02.15.12.

The rules are being 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 reviews the regulatory proposal for fiscal and legal analysis.
- The proposal is printed by the Division of State Documents in the Maryland Register.
- A 30 day public comment period begins on the day of publication. The proposed action was printed in the Maryland Register on May 8, 2020. The comment period will close at 11:59 p.m. June 8, 2020.
- A public hearing will be held via webinar at 6 p.m. on May 11, 2020. See webinar details in Section IV (page 6).
- After review of the comments, the department may adopt the changes.
- If the department adopts the changes, they become effective after a notice is published in the Maryland Register that announces approval and the effective date.

IV. ADDITIONAL INFORMATION AND LINKS

ASMFC [Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan](#)

(http://www.asmfc.org/uploads/file/5dd447baStripedBassAddendumVI_Amend6_Oct2019.pdf)

More information about charters using [FACTS](#) can be found on the department's website
<https://dnr.maryland.gov/fisheries/Pages/e-reporting/charter.aspx>

Regulations for pilot programs can be found in the [Code of Maryland Regulations 08.02.01.10](#)
<http://www.dsd.state.md.us/comar/comarhtml/08/08.02.01.10.htm>

Regulations for striped bass can be found in the Code of Maryland Regulations [Chapter 15](#)
http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=08.02.15.*

[Public Notices](#) can be found on the department's website
https://dnr.maryland.gov/Fisheries/Pages/Pub_Notices.aspx

Potomac River Fisheries Commission [Recreational Fishing Rules](#)
http://prfc.us/fishing_potomac.html

Public Hearing to Discuss the Proposal — [Agenda and Webinar Details](#)

Public Comment Form — [Striped Bass Proposed Changes](#)

The form will accept comments May 8, 2020 through June 8, 2020.

https://docs.google.com/forms/d/e/1FAIpQLSdr-czfxNnjepH2Hnlt6cEhZ_qU9otgHfqVpGSe5AR_fxViw/viewform?usp=sf_link