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SMALL BUSINESS COMPLIANCE GUIDE
Amendment to Subtitle 02 Fisheries Service
Regarding the Department's Regulations for Spot
COMAR 08.02.05.03
Released October 19, 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 is being considered?

The department needs to adopt rules for spot to be in compliance with the Atlantic States Marine Fisheries Commission (ASMFC).

The Atlantic States Marine Fisheries Commission (ASMFC) is responsible for managing spot (*Leiostomus xanthurus*) in state waters (0-3 miles from shore) under the authority of the Atlantic Coastal Fisheries Cooperative Management Act, and has done so through an interstate fishery management plan (FMP) since 1987. Spot are currently managed under the Omnibus Amendment to the Spot, Spotted Seatrout, and Spanish Mackerel FMPs, Addendum II, and Addendum III.

Addendum II established the Traffic Light Approach (TLA) as a precautionary management framework to evaluate fishery trends and develop management actions. The TLA was originally developed as a management tool for data-poor fisheries. Addendum III incorporates the use of a regional approach to better reflect localized fishery trends and changes the TLA to trigger management action if 2 of the 3 most recent years of characteristics exceed threshold levels. Addendum III also defines management responses for the recreational and commercial fisheries and a method for evaluating the population's response to TLA-triggered management measures. The recreational responses to differing threshold levels are bag limits while commercial responses are percent reductions to previous harvests through quantifiable measures such as seasons, trip limits, or size limits.

According to Addendum III management action has been triggered and states are required to implement the following coastwide regulations:

Recreational

You may not possess more than 50 spot per person per day.

Charter and Head Boats

Definitions

“Fishing party” means the combined total number of people on a guided fishing trip consisting of the licensed guide, the individuals under the guidance of the fishing guide, and their vessels.

“Guided fishing trip” includes the period of time in which a single fishing trip is conducted, beginning when the vessel or fishing party leaves port and ending when the vessel or fishing party returns to port.

Fishing Guides — All Guide Licenses Except Type L

(1) For each guided fishing trip:

(a) The number of spot on board the vessel may not exceed the product of 50 multiplied by the maximum number of individuals that the licensed guide may have on the vessel; and

(b) An individual under the guidance of a licensed fishing guide may not possess more than 50 spot.

- (2) Any spot on the vessel in excess of the individual limit specified in Section (1)(b):
 - (a) Shall be:
 - (i) Alive; and
 - (ii) In possession of the captain or licensed guide; and
 - (b) May not exceed the vessel limit specified in Section (1)(a).

Fishing Guides with a Type L Limited Fishing Guide License

- (1) For each guided fishing trip:
 - (a) The number of spot in possession by the fishing party during the trip may not exceed the product of 50 multiplied by the number of individuals that the licensed guide may guide on one trip; and
 - (b) An individual under the guidance of a licensed fishing guide may not possess more than 50 spot.
- (2) Any spot in excess of the individual limit specified in Section (1)(b):
 - (a) Shall be:
 - (i) Alive; and
 - (ii) In possession of the licensed guide; and
 - (b) May not exceed the fishing party limit specified in Section (1)(a).

What Does That Mean?

You may possess live spot for use as bait.

The maximum number of spot allowed to be held by the captain/licensed guide for a guided fishing trip will be the product of 50 multiplied by the number of customers allowed on the vessel. Of that product, anglers on the guided fishing trip can only have 50 spot. This means that if your clients catch spot and decide that they want to keep them, you may have to release one fish in the live well for each spot going to the cooler to maintain compliance with the total trip limit.

You may not have the maximum number of spot in the live well in addition to fish kept in the cooler. It is a cap per trip and the number of dead fish is dependent on the number of anglers present on the trip NOT on the number of allowable passengers. The total possession (fish in the live well plus those in the cooler/stringer) may not exceed 50 fish per allowable passenger.

Examples

1) A charter boat that allows 6 passengers may have 300 spot in the live well, regardless of the number of passengers. I am a captain with a 6-pack boat license. Today, I have 3 clients on board. I have 300 spot in the live-well as allowed. If my clients decide they want to start harvesting spot, I will have to release one fish in the live well for each harvested spot going to the cooler. I cannot have 300 in live well AND 150 in the cooler for my 3 clients. My cap is 300 fish and the number of dead fish is dependent on the number of anglers NOT on the number of allowable passengers.

2) A limited fishing guide (Type L) is allowed to guide up to 6 individuals on three vessels. The guide would be allowed to possess 300 live spot, regardless of the number of individuals being guided. I am a guide with a Type L license. Today, I have 3 clients in 3 different vessels. I have

300 spot in the live-well as allowed. If my clients decide they want to start harvesting spot, I will have to release one fish in the live well for each harvested spot going to the cooler/stringer. I cannot have 300 in live well AND 150 in the cooler for my 3 clients. My cap is 300 fish and the number of dead fish is dependent on the number of anglers NOT on the number of allowable passengers.

Commercial

A 1% reduction is required. Conversations with stakeholders have indicated that size limits, daily vessel limits, or quotas would be difficult because of discard issues. Therefore, we are scoping the idea of reduced seasons. The table below shows a series of options for reductions in the commercial fishery ranging from 1% to 5%.

% Reduction	If the reduction is taken from...		
	The <u>beginning</u> of the year, the season would be...	The <u>end</u> of the year, the season would be...	The <u>beginning and end</u> of the year, the season would be...
1	4/19—12/31	1/1—11/19	4/11—11/24
2	5/15—12/31	1/1—11/9	4/18—11/18
3	5/24—12/31	1/1—10/31	5/8—11/13
4	5/31—12/31	1/1—10/20	5/14—11/8
5	6/6—12/31	1/1—10/12	5/19—11/2

Why is this change necessary?

Addendum III of ASMFC’s interstate fishery management plan for spot requires action because a stock health analysis has triggered management concern. This change is necessary to be in compliance with ASMFC.

Who will this affect?

Commercial fishermen, recreational anglers, and charter captains in the Chesapeake Bay, its tidal tributaries and the Atlantic Ocean, its coastal bays and their tributaries.

Has this change been discussed with advisory commissions?

This has been discussed on multiple occasions with recreational, for hire and commercial stakeholders. The idea was discussed with the Sport Fisheries Advisory Commission and Tidal Fisheries Advisory Commission at their October 2020 meetings and at the September 2020 Recreational and Commercial Coastal Fisheries Forums.

What is the specific regulatory action?

Adopt Regulation .03 under COMAR 08.02.05 Fish.

II. RECORDKEEPING AND REPORTING REQUIREMENTS

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

III. IMPLEMENTATION DATE

The department expects this change to be effective in the spring of 2021, however the exact date cannot be determined. The department will follow our normal scoping and proposal procedures.

This idea is in the scoping process (October 19—November 3). 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.

If the action is necessary and appropriate, the rules will be 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.
- 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 III to the Omnibus Amendment to the Interstate Fishery Management Plans for Spanish Mackerel, Spot, and Spotted Seatrout](http://www.asmfc.org/uploads/file/5e5d82e7SpotAddendumIII_Feb2020.pdf)

http://www.asmfc.org/uploads/file/5e5d82e7SpotAddendumIII_Feb2020.pdf

ASMFC [Addendum II to the Omnibus Amendment to the Interstate Fishery Management Plans for Spanish Mackerel, Spot, and Spotted Seatrout](http://www.asmfc.org/uploads/file/5e5d824eSpotAddendumII_August2014.pdf)

http://www.asmfc.org/uploads/file/5e5d824eSpotAddendumII_August2014.pdf