

# Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

## Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

## Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

## Title 08

# DEPARTMENT OF NATURAL RESOURCES

## Subtitle 02 FISHERIES SERVICE

### 08.02.05 Fish

Authority: Natural Resources Article, §§4-215 and 4-219, Annotated Code of Maryland

#### Notice of Proposed Action

[21-051-P]

The Secretary of Natural Resources proposes to adopt new Regulation .03 under **COMAR 08.02.05 Fish**.

#### Statement of Purpose

The purpose of this action is to establish rules for spot. 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 Spanish Mackerel, Spot, and Spotted Seatrout 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 regulations.

For the recreational fishery, the proposed action establishes a creel and possession limit of 50 spot per person per day. There is no closed season for the recreational fishery. Addendum III requires a 1 percent reduction for the commercial fishery. Conversations with stakeholders indicated that size limits, daily vessel limits, or quotas would be difficult because of discard issues. Therefore, the Department decided to establish an open season for catching spot. The proposed action establishes the commercial season for catching spot as April 10 through November 24. Establishing a season will result in the required reduction.

Addendum III requires a limit based on the number of passengers for charter and head boats. To help everyone understand the limits for a charter, the proposed action establishes a definition for fishing party. "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. The proposed action establishes limits for each trip for licensees providing fishing guide services. The limits established are based on the license type and the number of passengers that the vessel may carry. They are worded slightly different because an individual licensed as a limited fishing guide operates differently than other guides. Limited fishing guides may guide individuals on up to three vessels where the other licensees are on a single vessel.

For each guided fishing trip the number of spot in possession of the guide may not exceed the product of 50 multiplied by the maximum number of passengers that the licensed guide may have on the vessel or by the number of individuals that a limited fishing guide may guide on one trip. Any spot in excess of the recreational angler limit of 50 multiplied by the number of anglers onboard: 1) shall be alive; 2) shall be in possession of the captain or licensed guide; and 3) may not exceed the vessel or fishing party limit. Guides may possess and use live spot as bait, but anglers on the guided fishing trip can only have 50 spot. This means that if a client catches spot and decides that they want to keep them, the guide 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. Guides may not have

the maximum number of spot in the live well in addition to fish kept in the cooler.

The proposed action establishes rules for establishing or modifying catch limits, size limits, and seasons for spot by public notice in order to implement the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Spot. This provision is consistent with other species managed by a fishery management plan. The proposed action allows publishing the notice on the Department’s website, notification at least 48 hours in advance, and dissemination of the notice in other manners (text, social media, email, hotline, and the Maryland Register).

These changes are necessary to keep Maryland in compliance with the Atlantic States Marine Fisheries Commission. These rules were developed after months of meetings with stakeholders up and down the coast. All states must implement the rules for the spot fishery.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The proposed action may have an impact on charter and commercial businesses.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:		
(1) Charter businesses	(-)	Indeterminable
(2) Commercial businesses	(-)	\$728
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.)

D(1). The average annual reported spot harvest on charter boat trips from 2010 to 2019 was 213,387 fish, and the average number of charter trips that reported catching spot over that time period was 17,075.

Since anglers will be limited to no more than 50 spot per angler, individuals who fish on charters for the purpose of catching spot for food may not hire a chartered trip. This impact is indeterminable because it is unknown how many anglers take chartered fishing trips solely for this purpose.

Some charter captains have indicated that they purchase spot in bulk from commercial licensees and maintain them on their vessel for fishing trips during the week. This will no longer be possible for some captains since they are limited in how many they can possess based on their vessel. The impact is indeterminable because it is

unknown how many captains purchase more spot than would be allowed under the proposed limits. The impact will vary based on vessel capacity.

D(2). The average annual reported commercial spot harvest from 2010 to 2019 was 220,238 pounds. Based on the average harvest, the proposed commercial season would reduce the average annual harvest by 2,208 pounds per year. The average dockside value is approximately 33 cents per pound. The 1 percent reduction results in a loss of income for the entire fishery of approximately \$728. The actual loss per licensee would be dependent on how many participate in the fishery. There have been as many as 237 licensees that reported harvest in a year during the 2010—2019 time period. If 200 licensees participate in the fishery they would experience a minimal impact. If only one licensee participates, then the impact would be more significant.

Some charter captains have indicated that they purchase spot in bulk from commercial licensees and maintain them on their vessel for fishing trips during the week. This will no longer be possible for some captains since they are limited in how many they can possess based on their vessel. This limitation may affect market demand for the commercial industry either by reducing the number of spot purchased by charter captains or by charter captains changing business operation strategies to have customers catch their own bait. It is unknown how many captains purchase more than the allowable limit or if the limit will change market demand. Therefore, the actual impact is indeterminable.

**Economic Impact on Small Businesses**

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

The proposed action may affect charter or commercial businesses, which are generally considered small businesses in Maryland. Please see the assumptions for details.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Spot Regulations, Regulatory Staff, Maryland Department of Natural Resources Fishing and Boating Services, 580 Taylor Avenue, E-4, Annapolis, MD 21401, or call 410-260-8300, or complete the comment form at <https://dnr.maryland.gov/fisheries/Pages/regulations/changes.aspx#spot>. Comments will be accepted through May 10, 2021. A public hearing has not been scheduled.

**.03 Spot.**

**A. Definitions.**

(1) *In this regulation, the following term has the meaning indicated.*

(2) *Term Defined. “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.*

**B. Recreational Fishery.** *Except as provided in §§C and D of this regulation, an individual may not catch or possess more than 50 spot per person per day.*

**C. Fishing Guide — Limited (Type L).**

(1) *This section only applies to an individual who is licensed as a limited fishing guide in accordance with Natural Resources Article, §4-210, Annotated Code of Maryland.*

(2) *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.

(3) Any spot in excess of the individual limit specified in §C(2)(b) of this regulation:

(a) Shall be:

(i) Alive; and

(ii) In possession of the licensed guide; and

(b) May not exceed the fishing party limit specified in §C(2)(a) of this regulation.

D. Fishing Guide — Guides Other than Limited Fishing Guides (Type L).

(1) This section only applies to an individual who is:

(a) Licensed to provide fishing guide services in accordance with Natural Resources Article, §§4-210.1 or 4-701, Annotated Code of Maryland; or

(b) Permitted in accordance with Natural Resources Article §4-210.2, Annotated Code of Maryland.

(2) 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.

(3) Any spot on the vessel in excess of the individual limit specified in §D(2)(b) of this regulation:

(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 §D(2)(a) of this regulation.

E. Commercial Season. The commercial season for catching spot is April 10 through November 24.

F. Public Notice.

(1) The Secretary may establish or modify catch limits, size limits, and seasons for spot in order to implement the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Spot, by issuing a public notice on the Department's website.

(2) The public notice shall state its effective hour and date and shall be published on the Department's website at least 48 hours in advance of the effective hour and date.

(3) The Secretary shall make a reasonable effort to disseminate a public notice issued under this section through various other media so that an affected individual has a reasonable opportunity to be informed.

(4) A violation of the restrictions set by the Secretary in accordance with this section is a violation of this regulation.

JEANNIE HADDAWAY-RICCIO  
Secretary of Natural Resources

# Title 09 MARYLAND DEPARTMENT OF LABOR

## Subtitle 19 COMMISSION OF REAL ESTATE APPRAISERS, APPRAISAL MANAGEMENT COMPANIES, AND HOME INSPECTORS — REAL ESTATE APPRAISERS

### 09.19.05 Code of Ethics

Authority: Business Occupations and Professions Article, §§16-208(a)(1) and (b), 16-216, and 16-220, Annotated Code of Maryland

#### Notice of Proposed Action

[21-048-P]

The Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors proposes to repeal existing Regulation .01 and adopt new Regulation .01 under **COMAR 09.19.05 Code of Ethics**. This action was considered at a public meeting of the Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors held on February 9, 2021, notice of which was given by posting on the Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors website, pursuant to General Provisions Article, §3-302(c)(3)(ii), Annotated Code of Maryland.

#### Statement of Purpose

The purpose of this action is to establish by regulation the Commission's adoption of the Uniform Standards of Appraisal Practice, which are the generally recognized ethical and performance standards for the appraisal profession in the United States, created by The Appraisal Foundation.

#### Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

#### 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 Todd Blackistone, Executive Director, Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors, Maryland Department of Labor, 500 N. Calvert Street, Baltimore, MD 21202, or call 410-230-6165, or email to todd.blackistone@maryland.gov, or fax to 410-333-6314. Comments will be accepted through May 10, 2021. A public hearing has not been scheduled.

#### Open Meeting

Final action on the proposal will be considered by the Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors during a public meeting to be held on April 13, 2021, at 500 North Calvert Street, Third Floor, Baltimore, MD 21202.