

NOT EFFECTIVE YET — PENDING APPROVAL

INFORMATION FOR THE REGULATION PROPOSAL FOR RECREATIONAL FISHING REQUIREMENTS FROM MAY 16 — DECEMBER 15

REASON FOR EMERGENCY REQUEST

The department, in cooperation with stakeholder groups, has completed a process with the Atlantic States Marine Fisheries Commission that will allow us to implement regulations to reduce the dead discards of striped bass that occur throughout the summer/fall recreational and charter boat fisheries. The process, spelled out in the Commission's Conservation Equivalency Policy and Technical Guidance Document, did not allow the department to seek approval for these changes on a timeline for which new regulations would be in place prior to the start of the summer season through the standard regulatory process. In order to comply with the standards for state conservation equivalency proposals, we had to delay our request until the February 2018 meeting of the Atlantic Striped Bass Board. Our request was approved by the Board on February 7, 2018.

In order to implement the management measures in Maryland's conservation equivalency proposal which was approved by the Atlantic States Marine Fisheries Commission, an emergency action is necessary so that the regulations are in place prior to the start of the summer fishery on May 16, 2018. Having the regulation in place at the start of the season, rather than being effective in July, is better for the resource and anglers. Changing rules mid-season can be confusing and economically burdensome. Fishing with bait for striped bass is a common practice for anglers when the summer fishery begins in May. Failing to have these new rules in place by May 16 limits our intention to reduce the wastefulness of dead discards. Approving the emergency regulation as soon as possible will allow the department to educate anglers, allow charter captains to prepare their vessels with the appropriate gear and notify their customers, allow bait and tackle shops to prepare their inventory, and protect more striped bass. The department, along with the stakeholders that worked for this change, is committed to conserving the striped bass fishery and this regulation change is a step in that direction.

FULL STATEMENT OF PURPOSE

The purpose of this action is 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 proposed action makes changes in several chapters to accomplish the purpose including changes to the season, gear and use of bait. All changes apply to recreational anglers and charter boats. Changes for striped bass sizes and seasons are specific to 2018 and 2019 and do not apply to other years.

The Department, in cooperation with stakeholder groups, has completed a process with the Atlantic States Marine Fisheries Commission that will allow us 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 Department's intention is to reduce dead discards of striped bass that occur throughout the summer/fall when anglers are using bait.

In 2015, the Atlantic States Marine Fisheries Commission required that all states implement management measures to reduce commercial and recreational striped bass harvest coastwide. This action was taken due to concerns about the size of the adult/migratory female portion of the population. In Maryland, we increased our minimum size for recreational anglers from 18 to 20

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inches. At the same time, the 2011 year class of striped bass in the Chesapeake Bay was about to reach an 18-20 inch size. Because of this, we expected to see a large number of sublegal fish caught and released that first year. As expected, our estimated number of released fish increased in 2015 and this trend continued in 2016 and 2017. Concerned recreational anglers reported to the Department that large numbers of sublegal fish caught and released were dying as a result of a combination of factors including high water temperatures and ‘deep hooking’ while chumming and live-lining. In the summer of 2017, the Department held a meeting with stakeholders to talk about their concerns. Stakeholder groups represented included the Coastal Conservation Association, Maryland Charter Boat Association, Maryland Watermen’s Association, Maryland Sportsmen’s Foundation, and the Delmarva Fisheries Association. When concerns over the number of dead discards were raised the Department committed to working with the Atlantic States Marine Fisheries Commission to develop a plan to address the issue. The Department considered a number of management alternatives to address the issue and presented options to the Atlantic States Marine Fisheries Commission’s Technical Committee for approval. Based on feedback received from the groups mentioned above the Department presented the 19 inch/circle hook option to the Atlantic States Marine Fisheries Commission for approval.

On February 7, 2018, the Atlantic States Marine Fisheries Commission’s Atlantic Striped Bass Board approved a request from the State of Maryland to reduce the recreational striped bass minimum size limit from 20 inches to 19 inches from May 16 through December 15 this year. Making this change also requires the Department to shorten the season and require the use of circle hooks when chumming and/or live-lining. The proposal to the Atlantic States Marine Fisheries Commission was presented as a ‘conservation equivalency’ plan, meaning that the same overall fishing mortality (both kept/harvested fish and fish that die after being released – dead discards) is expected to occur with the smaller size limit. The Department anticipates less dead discards and more harvest in 2018. It has been proven that circle hooks reduce discard mortality. The configuration of the hook makes it less likely to fatally hook or ‘deep hook’ a fish when using bait compared with the standard ‘J’ hook. The Board approved the proposal and gave the Department permission to proceed with implementing these measures. The Department is required to submit a follow up report to the Atlantic States Marine Fisheries Commission next year focused on compliance and enforcement of the new regulations.

Proposed Changes to Chapter 5 Fish

Currently, there are special rules for using bait in the Susquehanna Flats and Northeast River. The regulatory text is somewhat confusing since the section referenced has two time periods, but only one applies to the bait rules. The proposed action clarifies the regulatory text by specifying that the period for special bait regulations for the Susquehanna Flats and Northeast River is March 1 through May 3. The term “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. Therefore, the proposed action clarifies the regulatory text by removing the term “non-offset” from this chapter.

The proposed action specifies the hook requirements for a person who is using bait while recreationally fishing in the Chesapeake Bay and its tidal tributaries during the period from May 16 through December 15. Circle hooks are required from May 16 through December 15 when chumming or live-lining, regardless of which species is being targeted. If a person is not chumming or live-lining, but is fishing with bait (fish, crabs, worms or processed bait), they must

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use a “J” hook or a circle hook. Allowing the use of “J” hooks will allow anglers who pursue other fish (catfish, cobia, spot, croaker, white perch, etc.) to continue to do so. No other hooks are allowed to be used during that time period. By specifying the type of hooks that may be used, the regulation eliminates the use of treble hooks when bait fishing. Treble hooks are known to increase the chances of deep hooking when used while bait fishing.

Proposed Changes to Chapter 15 Striped Bass

The proposed action changes the end of the recreational and charter boat summer and fall season for taking striped bass from December 20 to December 15 in the Chesapeake Bay and its tidal tributaries, except for the tributaries of the Potomac River. 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. The proposed action changes the minimum size of striped bass for the summer and fall fishery in the Chesapeake Bay and its tidal tributaries from 20 inches to 19 inches.

Proposed Changes to Chapter 25 Gear

The proposed action adds definitions for chumming and live-lining. The term “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. 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. 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. The proposed action also clarifies the areas in COMAR where additional rules for active line fishing gear are located.

REGULATION TEXT — [bracketed] text is being deleted and text in *italics* is new text

Title 08 DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

Chapter 05 Fish

Authority: Natural Resources Article, §§4-215 and 4-221, Annotated Code of Maryland

.02 General Fishing Prohibitions.

A.—E. (text unchanged)

F. Bait.

(1) When using fish, crabs, or worms as bait, or processed bait, a person recreationally angling in the Susquehanna Flats and Northeast River during the period [set forth in §E of this regulation] *March 1 through May 3* shall *only* use *a*:

(a) [Non-offset circle hooks] *Circle hook*; or

(b) "J" [hooks] *hook* with a gap of less than *or equal to* 1/2 inch between the point and the shank.

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(2) *Except for chumming or live-lining, when using fish, crabs, or worms as bait, or processed bait, a person recreationally angling in the Chesapeake Bay and its tidal tributaries during the periods May 16, 2018 through December 15, 2018 and May 16, 2019 through December 15, 2019 shall only use a:*

- (a) *Circle hook; or*
- (b) *"J" hook.*

(3) *When chumming or live-lining, a person recreationally angling in the Chesapeake Bay and its tidal tributaries during the periods May 16, 2018 through December 15, 2018 and May 16, 2019 through December 15, 2019 shall only use a circle hook.*

[(2)] (4) (text unchanged)

G.—P. (text unchanged)

Chapter 15 Striped Bass

Authority: Natural Resources Article, §§4-215, 4-2A-03, 4-732, Annotated Code of Maryland

.03 Spawning Rivers, Areas, and Reaches.

A.—D. (text unchanged)

E. Fishing Restrictions for the Period March 1 [Through] *through* the third Friday in April. The restrictions in this section apply to the waters of the Chesapeake Bay and its tidal tributaries that are not closed in accordance with §D(1) of this regulation. During the period from March 1 through the third Friday in April:

(1) A person recreationally angling:

(a) When using fish, crabs, or worms as bait, or processed bait, shall *only* use a:

(i) Circle [hooks] *hook*; or

(ii) "J" [hooks] *hook* with a gap of less than *or equal to* 1/2 inch between the point and the shank;

(b) (text unchanged)

(c) Shall *only* use barbless hooks while trolling; and

(2) (text unchanged)

.09 Recreational and Charter Boat Summer and Fall Fishery in the Chesapeake Bay and Its Tidal Tributaries.

A. Early Season.

(1) (text unchanged)

(2) Chesapeake Bay and Its Tidal Tributaries.

(a) (text unchanged)

(b) Catch Restrictions.

(i) (text unchanged)

(ii) [A] *Except as provided in §A(2)(b)(iii), a person may catch and possess two striped bass at least 20 inches total length, only one of which may be greater than 28 inches total length.*

(iii) *During the periods May 16, 2018 through May 31, 2018 and May 16, 2019 through May 31, 2019, a person may catch and possess two striped bass at least 19 inches total length, only one of which may be greater than 28 inches total length.*

(3) Susquehanna Flats and Northeast River.

(a) (text unchanged)

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(b) Catch Restrictions.

(i) (text unchanged)

(ii) [A] *Except as provided in §A(3)(b)(iv), a person may catch and possess one striped bass between 20 and 26 inches, inclusive, total length.*

(iii) (text unchanged)

(iv) *During the periods May 16, 2018 through May 31, 2018 and May 16, 2019 through May 31, 2019, a person may catch and possess one striped bass between 19 and 26 inches, inclusive, total length.*

B. Summer and Fall Season.

(1) The recreational and charter boat summer and fall season for taking striped bass is [June 1 through December 20.]:

(a) *June 1 through December 15 for the years 2018 and 2019; and*

(b) *June 1 through December 20 for all other years.*

(2) (text unchanged)

(3) Catch Restrictions.

(a) (text unchanged)

(b) [A] *Except as provided in §B(3)(c), a person may catch and possess two striped bass at least 20 inches total length, only one of which may be greater than 28 inches total length.*

(c) *During the periods June 1, 2018 through December 15, 2018 and June 1, 2019 through December 15, 2019, a person may catch and possess two striped bass at least 19 inches total length, only one of which may be greater than 28 inches total length.*

C. (text unchanged)

.10 Recreational and Charter Boat Summer and Fall Fishery for Maryland Tributaries of the Potomac River.

A.—B. (text unchanged)

C. Size Limit.

(1) [A] *Except as provided in §C(2), a person may catch and possess two striped bass at least 20 inches total length, only one of which may be greater than 28 inches total length.*

(2) *During the periods May 16, 2018 through December 31, 2018 and May 16, 2019 through December 31, 2019, a person may catch and possess two striped bass at least 19 inches total length, only one of which may be greater than 28 inches total length.*

Chapter 25 Gear

Authority: Natural Resources Article, §§4-215 and 4-221, Annotated Code of Maryland

.01 Gear Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(4) (text unchanged)

(5) *“Chumming” means 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.*

[(5)] (6) — [(25)] (26) (text unchanged)

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(27) *“Live-lining” means 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.*

[(26)] (28) — [(43)] (45) (text unchanged)

.03 Recreational Gear — Tidal Waters.

A.—B. (text unchanged)

C. Active Line Fishing Gear.

(1)—(4) (text unchanged)

(5) Additional restrictions on active line fishing gear [used to catch striped bass] may be found at *COMAR 08.02.05.02 and COMAR 08.02.15.03.*

D.—G. (text unchanged)

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