

(ii) A statement that no law, regulation, rule, or decision in a contested case affects the validity of the private letter ruling.

(3) The Comptroller may deny a request for renewal of a private letter ruling:

(a) If the Comptroller, in its sole discretion, determines that:

(i) Material facts have changed; or

(ii) There has been a change in law, regulation, rule, or final decision in a contested case that affects the validity of the private letter ruling; or

(b) For any of the reasons listed in Regulation .05B of this chapter.

E. Expiration of Private Letter Ruling.

(1) Unless renewed, a private letter ruling automatically expires as to the petitioner 7 years from the date the private letter ruling is issued.

(2) An expired private letter ruling is not binding on the Comptroller.

(3) An expired private letter ruling may be used as evidence of petitioner’s knowledge or intent in a subsequent proceeding.

BROOKE E. LIERMAN
Comptroller

Title 08 DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.11 Fishing in Nontidal Waters

Authority: Natural Resources Article, §§4-221 and 4-602, Annotated Code of Maryland

Notice of Proposed Action [23-232-P]

The Secretary of Natural Resources proposes to amend Regulation .01 under **COMAR 08.02.11 Fishing in Nontidal Waters**.

Statement of Purpose

The purpose of this action is to modify trout management rules in nontidal waters by: 1) requiring anglers to use barbless hooks in all Catch-and-Return Trout Fishing Areas and Delayed Harvest Areas during the catch-and-return season; 2) adding new Put-and-Take Trout Fishing Areas in Howard and Harford counties; 3) removing a Put-and-Take Trout Fishing Area in Harford County; 4) Eliminating the 18-foot leader restriction in Fly Fishing-Only areas; and 5) prohibiting keeping brown trout in Beaver Creek in Washington County.

This action proposes to require the use of barbless hooks in all Catch-and-Return Trout Fishing Areas and Delayed Harvest Areas during the catch-and-return season. Independent and dependent fishery surveys conducted by the Freshwater Fisheries and Hatcheries Division (FFHD) on the North Branch Potomac River tailwater trout fishery have documented high angler use and catch and a significant proportion (> 20 percent) of adult trout showing evidence of hooking injuries within the Catch-and-Return Trout Fishing Areas. Data collected by FFHD also suggests that each adult trout in the Catch-and-Return, All-Tackle management area of the North Branch Potomac River is caught on average twice annually. Similar results can be expected in other Catch-and-Return Trout Fishing Areas, which are smaller, more accessible, and more effectively fished than the North Branch Potomac River. The scientific literature generally supports that using barbless hooks reduces physical injury and handling time to

unhook fish. Further, physiological stress and mortality of released fish generally increase with handling time and temperature. Survival of released fish is necessary to maintain a quality fishery and angling experience in pressured fisheries.

This action proposes to add new Put-and-Take Trout Fishing Areas in Howard and Harford counties and remove a Put-and-Take Trout Fishing Area in Harford County. In Harford County, Forest Hill/Friends Park Pond is being overtaken by emergent vegetation, and the Department has received complaints from anglers that the pond is difficult to fish. Bynum Pond provides better conditions for fishing and would replace Forest Hill/Friends Park Pond on the trout stocking schedule. In Howard County, Warfield Park Pond is approximately 3 acres and offers great access, a fishing pier, and a Howard County Youth Fishing Program site. Adding Warfield Park Pond to the Put and Take Trout Fishing Areas list would expand trout fishing opportunities in Howard County.

This action proposes to eliminate the 18-foot leader restriction in Fly Fishing-Only areas. The current leader length restriction limits certain specialized techniques (e.g., European nymphing, tight line nymphing, dry fly fishing) often employed by fly anglers. Restricting the leader length to no more than 18 feet is unnecessarily restrictive. Removing this restriction does not functionally change the definition of fly fishing. This change will not affect the fly-fishing requirement that the line cannot be cast directly from the reel or the types of reels that are legal to use.

Lastly, this action proposes to prohibit keeping brown trout in Beaver Creek in Washington County, from the confluence of Beaver Creek with Antietam Creek upstream to the Albert Powell State Trout Hatchery. A severe fish kill greatly reduced the brown trout population in Beaver Creek. The most productive spawning and juvenile nursery habitat occurs within the Put-and-Take Trout Fishing Area. Allowing the harvest of the few remaining or transplanted adult brown trout would limit the ability of the population to recover.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed regulation is expected to have no economic impact on the agency and a minor impact on anglers. The 2016 Maryland Angler Preference Survey estimated that trout fishing in Maryland has a \$56,000,000 economic benefit. The Catch and Return Trout Fishing Areas are among the most popular Maryland trout fishing destinations, some of which support several trout fishing guide businesses. Removing the restriction on leader length will allow additional fly fishing techniques and participation. Maintaining high quality fisheries is crucial to continuing this level of economic impact.

II. Types of Economic Impact.

| Impacted Entity | Revenue (R+/R-) | Expenditure (E+/E-) | Magnitude |
|---|-------------------------|------------------------|-----------|
| | Benefit (+) Cost (-) | | |
| A. On issuing agency: | NONE | | |
| B. On other State agencies: | NONE | | |
| C. On local governments: | NONE | | |
| D. On regulated industries or trade groups: | NONE | | |
| E. On other industries or trade groups: | NONE | | |

F. Direct and indirect effects on public:

- (1) Trout anglers (-) Indeterminable
- (2) Trout anglers (+) Indeterminable

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

F(1). Some participants not already using barbless hooks may incur new expenditures, although compliance may also be achieved by mashing the barbs of hooks down with pliers. Anglers who preferred to harvest brown trout in Beaver Creek will no longer have that opportunity, although many other opportunities to harvest brown trout continue to exist throughout the State.

F(2). Participants already using barbless hooks will not incur any additional expenditures. Due to the requirement to use barbless hooks the Department anticipates fewer fish will suffer hooking-related injuries, leading to lower fishing injury-related mortalities. This may lead to a long-term increase in fish populations in the affected areas which are popular with trout anglers. Similarly, prohibiting the possession of brown trout in Beaver Creek will help the population rebuild after a catastrophic die-off event, which will provide additional long-term fishing opportunities.

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 Fishing in Nontidal Waters — Trout, Regulatory Staff, Department of Natural Resources, Fishing and Boating Services, 580 Taylor Ave., 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#trout-fishing>. Comments will be accepted through December 4, 2023. A public hearing has not been scheduled.

.01 Trout Fishing and Management Areas.

- A. (text unchanged)
- B. Put-and-Take Trout Fishing Areas.
 - (1)—(4) (text unchanged)
 - (5) Except as provided in §C(1) of this regulation the following areas are designated as put-and-take trout fishing areas and are subject to the provisions in §B(1)—(3) of this regulation:

| | Closure Periods |
|---|-----------------|
| (a)—(i) (text unchanged) | |
| (j) Harford County: | |
| (i)—(ii) (text unchanged) | |
| (iii) [Forest Hill Pond] <i>Bynum Pond</i> | [2] 0 |
| (k) Howard County, Montgomery County, and Prince George's County: | |
| (i)—(xviii) (text unchanged) | |
| (xix) <i>Warfield Park Pond</i> | 0 |
| (l)—(n) (text unchanged) | |

- C. Catch-and-Return Trout Fishing Areas.
 - (1) Owens Creek.
 - (a) Special provisions in effect on this area:
 - (i) From June 1 through the last day of February, a person may not keep or have any trout in possession while fishing, *or fish with any barbed hook*; and
 - (ii) (text unchanged)
 - (b) (text unchanged)

(2) [Areas with No Special Tackle Restrictions.] *North Branch Potomac River.*

- (a) Special provisions in effect on this area:
 - (i)—(ii) (text unchanged)
 - (iii) [No special tackle restrictions.] *A person may not fish with any barbed hook.*
 - (b) (text unchanged)
- (3) Areas Limited to Use of Artificial Lures Only.
 - (a) Special Provisions in effect on these areas:
 - (i)—(iv) (text unchanged)
 - (v) *A person may not fish with any barbed hook.*
 - (b) (text unchanged)
 - (4) Areas Limited to Artificial Fly Fishing Only
 - (a) Special provisions in effect on these areas:
 - (i)—(ii) (text unchanged)
 - (iii) A person may fish only with conventional fly fishing tackle, including fly rods, fly reels, and fly line with a [maximum of 18 feet of] leader or monofilament line attached. Any method of angling when the fly is cast directly from the reel is prohibited. The use of spinning, spincast, and casting reels is prohibited.
 - (iv)—(v) (text unchanged)
 - (vi) *A person may not fish with any barbed hook.*
 - (b) (text unchanged)

D.—F. (text unchanged)

G. Delayed Harvest Trout Fishing Areas and Requirements.

- (1) Group I Delayed Harvest Trout Fishing Areas and Restrictions.
 - (a)—(b) (text unchanged)
 - (c) Bait Restrictions for Group I Fishing Areas.
 - (i) From June 1 through September 30, *inclusive*, no special bait, lure, or tackle restrictions are in effect.
 - (ii) From October 1 through May 31, *inclusive*, in these areas, a person may not possess or use any natural or live bait, or any device enhanced with a scent and capable of catching fish.
 - (d) *From October 1 through May 31, inclusive, in these areas, a person may not fish with any barbed hook.*
- (2) Group II Delayed Harvest Trout Fishing Areas and Restrictions.
 - (a)—(c) (text unchanged)
 - (d) *From October 1 through June 15, inclusive, in these areas, a person may not fish with any barbed hook.*
 - H.—I. (text unchanged)
 - J. *Special Restrictions for Beaver Creek. A person may not have any brown trout in possession while fishing in Beaver Creek, from the confluence with Antietam Creek upstream to the Albert Powell State Trout Hatchery.*

JOSH KURTZ
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.11 Fishing in Nontidal Waters

Authority: Natural Resources Article, §4-602, Annotated Code of Maryland

Notice of Proposed Action

[23-231-P]

The Secretary of Natural Resources proposes to amend Regulations **.04** and **.06** under **COMAR 08.02.11 Fishing in Nontidal Waters**.

Statement of Purpose

The purpose of this action is to establish a season and minimum size and creel limits for saugeye consistent with existing Statewide regulations for walleye, establish an 18 — 21-inch protected slot