

MARYLAND REGISTER

**Emergency Action on Regulations**

<b>TO BE COMPLETED BY AELR COMMITTEE</b>	<b>EMERGENCY Transmittal Sheet</b>	<b>TO BE COMPLETED BY DSD</b>
Date Received by AELR Committee		Date Filed with Division of State Documents
04/09/2018		05/03/2018
Emergency Status Approved		Document Number
<input checked="" type="checkbox"/> -Yes <input type="checkbox"/> -No		Date of Publication in MD Register
Emergency Status Begins On		
5/3/2018		
Emergency Status Ends On		
10/12/2018		
Name of AELR Committee Counsel		
Crystal L. Lemieux		

**1. COMAR Codification**

Title	Subtitle	Chapter	Regulation
08	02	05	02
08	02	15	03, .09, .10
08	02	25	01, .03

**2. Name of Promulgating Authority**

Department of Natural Resources

**3. Name of Regulations Coordinator**      **Telephone Number**  
 Lisa A Eutsler      410-260-8107

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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.

#### **11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Shara Mervis Alpert, Assistant Attorney General, (telephone #410-260-8358) on April 6, 2018. A signed copy of the approval is on file at this agency.

#### **Name of Authorized Officer**

Mark J. Belton

#### **Title**

Secretary of Natural Resources

#### **Telephone No.**

410-260-8100

#### **Date**

April 9, 2018

## **Title 08**

# **DEPARTMENT OF NATURAL RESOURCES**

### **Subtitle 02 FISHERIES SERVICE**

#### **08.02.05 Fish**

### **Subtitle 02 FISHERIES SERVICE**

#### **08.02.15 Striped Bass**

### **Subtitle 02 FISHERIES SERVICE**

#### **08.02.25 Gear**

Authority: See authority within text of regulation.

#### **Notice of Emergency Action**

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The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amend:

1) Regulation .02 under COMAR 08.02.05 Fish;

- 2) Regulations .03, .09 and .10 under COMAR 08.02.15 Striped Bass; and
- 3) Regulations .01 and .03 under COMAR 08.02.25 Gear.

**Emergency status began: 5/3/2018**

**Emergency status expires: 10/12/2018**

### **Comparison to Federal Standards**

There is no corresponding federal standard to this emergency action.

### **Estimate of Economic Impact**

#### **I. Summary of Economic Impact.**

The proposed action may have an economic impact on recreational anglers, charter boat operations and tackle stores from May through December 2018 and May through December 2019.

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
<hr/>		
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
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D. On regulated industries or trade groups:		
(1) Type of Hook - Anglers/Charters (-)		Indeterminable
(2) Shortened Season - Charters (-)		Indeterminable
(3) Minimum Size - Anglers/Charters (+)		Indeterminable
E. On other industries or trade groups:		
(1) Type of Hook - Tackle Shops (-)		Indeterminable
(2) Shortened Season - Tackle Shops	NONE	NONE
F. Direct and indirect effects on public:	NONE	

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

D(1). NOAA Fisheries Marine Recreational Information Program (MRIP) data from 2012-2016 shows that approximately 760,000 anglers make 2.5 million fishing trips annually in Maryland waters. Some anglers and charter captains will have to purchase new hooks, but some already have the hooks available to them so we cannot determine the actual impact.

D(2). Decreasing the season by five days means that the charter industry could be negatively impacted if customers stop scheduling trips. However, if the customer has a better experience because they are witness to less overall mortality when using circle hooks, they may schedule more trips earlier in the season. The charter industry may change their business model at the end of the season. Instead of harvesting striped bass they could plan trips for catch and release or switch to other species in December. We are not able to predict the actions of anglers or businesses so the actual impact cannot be determined.

D(3). Changing the minimum size will give anglers an increased probability of success because a greater proportion of the striped bass in the Chesapeake bay and its tidal tributaries will be harvestable. Increasing harvest can be considered by some as a more successful trip and this could enhance their fishing experience. This could increase charter businesses by having satisfied and return customers. This impact is indeterminable because we are not able to predict angler activity.

E(1). Some tackle stores may be negatively impacted because they may not sell as many J hooks that they normally do and will have excess inventory. However, they may be positively impacted because they will sell circle hooks. It is unknown how many hooks of each type tackle shops sell in a year so the actual impact is indeterminable.

E(2). People can still go fishing, so they can still purchase gear and bait, they just can't keep striped bass.

### **Economic Impact on Small Businesses**

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

The proposed action may have an economic impact on charter boat operations and tackle stores. Both of those types of businesses are generally considered small businesses.

Please see the Assumptions in the Estimate of Economic Impact for how it could impact the businesses.

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2018

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these

regulations:

Additional funding is not necessary for these regulations. There is no action required by staff and the Natural Resources Police will enforce the changes during the normal course of their day while enforcing all regulations. No additional effort is required.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Response to small business worksheet:

## Attached Document:

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### 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.

(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)
    - (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)

(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)

MARK J. BELTON

Secretary of Natural Resources