

(77)	COMAR 08.02.11.01	Possession of Trout in Catch-and-Release Area
[(75)] (78)— [(76)] (79)	(text unchanged)	
(80)	COMAR 08.02.11.04L	Culling Trout
[(77)] (81)— [(108)] (112)	(text unchanged)	

G.—N. (text unchanged)

.10 Seafood Dealer Penalties.

A.—E. (text unchanged)

F. Tier II. The following violations are Tier II violations. A person who receives a conviction for a Tier II violation receives 10 points and a 30-day suspension.

	Statute or Regulation	Description
(1)—(2)	(text unchanged)	
(3)	COMAR 08.02.04.16	Failure of Oyster Buyer to Fill Out Buy Ticket — Second or Subsequent Offense
[(3)] (4)— [(4)] (5)	(text unchanged)	

G.—L. (text unchanged)

JOSH KURTZ
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.20 Bait

Authority: Natural Resources Article, §§4-219 and 4-602, Annotated Code of Maryland

Notice of Proposed Action

[23-035-P]

The Secretary of Natural Resources proposes to amend Regulation .01 and adopt new Regulation .03 under **COMAR 08.02.20 Bait**.

Statement of Purpose

The purpose of this action is to prohibit the use of largemouth bass, muskellunge, northern pike, pickerel, smallmouth bass, striped bass, striped bass hybrids, tiger muskellunge, walleye, and all species of trout as bait.

The proposed restrictions on species which may not be used as bait are necessary in part because large, piscivorous, invasive flathead catfish (*Pylodictis olivaris*) have become established in the nontidal waters of the Potomac and Susquehanna Rivers. Because of their large size and fighting ability, flathead catfish have become popular with the catfishing tournament community. The largest specimens are typically caught using large, live fish as bait. Some anglers have begun using large and smallmouth bass as bait. Current regulations allow the use of largemouth and smallmouth bass and all other sportfish as bait as long as they are caught using legal gear and within the size and creel limits established for that species.

Additionally, Maryland spends considerable resources to protect and enhance largemouth bass, muskellunge, northern pike, pickerel, smallmouth bass, striped bass, striped bass hybrids, tiger muskellunge, trout, and walleye, as well as control invasive species such as flathead catfish. Annually, significant financial investments are made by the Department by 1) monitoring and assessing sportfish populations to determine status and trends to identify needed management actions, 2) conducting all aspects of successful fish production in our warmwater and coldwater hatchery facilities, and 3) safely stocking the various species produced in waters throughout the State. Allowing intensively managed sportfish species to be used as bait is counter to the Department’s goals and objectives of enhancing recreational fisheries and creates conflict among our angling groups.

Estimate of Economic Impact

I. Summary of Economic Impact. This action may have an indeterminable impact on fishermen who currently use a species for bait which will be prohibited under this action, or dealers who sell those species for bait.

II. Types of Economic Impact.

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

D. On regulated industries or trade groups:		NONE
E. On other industries or trade groups:		
(1) Dealers of nonprohibited species	(+)	Indeterminable
(2) Dealers of prohibited species	(-)	Indeterminable
F. Direct and indirect effects on public:		
(1) Recreational anglers — use of bait	(-)	Indeterminable
(2) Recreational anglers — fish availability	(+)	Indeterminable

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

E(1). Bait dealers who sell nonprohibited species may see an indeterminable positive impact from this action. If anglers still seek live bait and cannot purchase any of the prohibited species for bait, they may seek legal alternatives. Dealers who sell those legal alternatives would benefit.

(2). Dealers who sell species which will be prohibited as bait may see a minor, indeterminable impact if those species are prohibited as bait. It is not believed that there are significant numbers of these fish being sold as bait, but anecdotally there is some amount of these species currently being sold as bait.

F(1). Recreational anglers who currently use a species as bait which will be prohibited by this action will need to find alternative baits. This may result in a negative impact because an alternative bait may be more expensive. It is also possible an alternative bait is not more expensive, but the actual impact of this action on individuals who purchase these species for bait is indeterminable. Individuals who currently use fish they have caught themselves as bait may be negatively impacted if they can no longer use those species as bait, as they will have to either target different species or purchase bait.

(2). By prohibiting certain species as bait there may be less harvest of those species most recreational anglers see as desirable target species such as largemouth and smallmouth bass. Less harvest of those species may increase availability, leading to greater angler satisfaction. Smallmouth and largemouth bass fishing trips generate an estimated economic impact of 150 million dollars per year in the State of Maryland.

Economic Impact on Small Businesses

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

This action may have an indeterminable impact on fishermen who currently use a species for bait which will be prohibited under this action, or dealers who sell those species for bait.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Bait Regulations, Regulatory Staff, Department of Natural Resources, 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#bait>. Comments will be accepted through May 22, 2023. A public hearing has not been scheduled.

.01 Purpose.

The purpose of this chapter is to *control the use of bait in State waters* and implement Natural Resources Article, §4-702, Annotated Code of Maryland, which requires licensure of persons dealing in finfish or shellfish and provides an exception for those persons who catch and sell certain species of finfish or shellfish as bait.

.03 Prohibited Species.

A. *The species listed in this regulation may not be used as bait in State waters.*

B. *Prohibited species:*

- (1) *Largemouth bass;*
- (2) *Muskellunge;*
- (3) *Northern pike;*
- (4) *Pickrel;*
- (5) *Smallmouth bass;*
- (6) *Striped bass;*
- (7) *Striped bass hybrids;*
- (8) *Tiger muskellunge;*
- (9) *All species of trout; and*
- (10) *Walleye.*

JOSH KURTZ
Secretary of Natural Resources