

**Maryland General Assembly
Department of Legislative Services**

**Emergency Regulation
Department of Natural Resources**
(DLS Control No. 14-009)

Overview and Legal and Fiscal Impact

This emergency regulation repeals a recently adopted gear restriction limiting recreational fishers to the use of three rods in tidal waters. The three-rod limit is maintained for recreational fishers fishing in nontidal waters.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Natural Resources:

Fisheries Service: Gear: COMAR 08.02.25.02

Legal Analysis

Background

In the summer and fall of 2013, the Department of Natural Resources undertook a comprehensive overhaul of the State's recreational fishing gear regulations. Through regulations introduced as an emergency action in July (40:15 Md. R. 1221), which took effect on December 23, 2013, the department consolidated recreational gear regulations into a single chapter of COMAR, clarified existing gear restrictions, and introduced new rules regarding the use of recreational fishing gear.

Among the new rules was a statewide restriction on the number of active line fishing gears (hook and line, rod and reel, and handline) that a recreational fisher could use at one time. Recreational fishers had already been limited to the use of three rods in *nontidal* waters, but the new regulations extended this restriction to recreational fishers fishing in *tidal* waters where there had previously been no limit on active line fishing gear. The department states that the changes to the rod limits were not meant to reduce fishing, but rather to facilitate enforcement by making the rules for tidal and nontidal waters consistent. The department reports that it did not receive any public comments opposing the rod limits during scoping or the regulatory public comment period.

Following adoption of the new rod limits, the department began to receive negative feedback from the recreational fishing community. Specifically, fishers pointed out that it is common practice to actively use four or more rods at a time while surf fishing or trolling. Similarly, manufacturers and retailers raised concerns about the impact of the new restrictions on rod sales. The department brought the issue to the attention of the Sport Fisheries Advisory Commission at its January meeting, and the commission unanimously supported emergency action to remove the rod limit in tidal waters.

Summary of Regulation

The emergency action repeals language restricting a recreational fisher to the use of a maximum of three active line fishing gears in tidal waters.

Legal Issue

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites § 4-221 of the Natural Resources Article as authority for the regulation. This section grants the department broad authority, after consulting with the Tidal Fisheries and Sport Fisheries Advisory Commissions, to adopt regulations to define and govern the use of recreational fishing gear and certain types of commercial fishing gear.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Reason for Emergency Status

The department requests emergency status to begin March 1, or as soon as possible thereafter, and to expire 180 days after beginning, to cover the period until final adoption of a permanent nonemergency regulation. This period is within normal timeframes approved by the committee. The department indicates the emergency status is needed so that the three rod limit will be removed in time for the 2014 spring fishing season. The department states that advancing an emergency regulation at this time will give the department the opportunity to have further discussions with the Tidal Fisheries Advisory Commission, the Sport Fisheries Advisory Commissions, and the public over the next few months, before proposing final regulations.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The Department of Natural Resources advises that the regulation has no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The Department of Natural Resources advises that the regulation may have a meaningful positive impact on small businesses such as gear manufacturers and bait and tackle shops as a result of the removal of the recreational gear limit in tidal waters. The Department of Legislative Services concurs.

Contact Information

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