

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
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		Document Number
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1. Desired date of publication in Maryland Register: 5/8/2020

2. COMAR Codification

Title Subtitle Chapter Regulation

08 02 05 22

3. Name of Promulgating Authority

Department of Natural Resources

4. Name of Regulations Coordinator Telephone Number
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6. Check applicable items:

- New Regulations
- Amendments to Existing Regulations
Date when existing text was downloaded from COMAR online: 12/5/19.
- Repeal of Existing Regulations
- Recodification

Notice of Proposed Action

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The Secretary of Natural Resources proposes to amend Regulation .22 under COMAR 08.02.05 Fish.

Statement of Purpose

The purpose of this action is to update requirements for gear used to catch scup. Scup is managed jointly by the Atlantic States Marine Fisheries Commission and the Mid-Atlantic Fishery Management Council under Amendment 13 to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan (August 2002) and its subsequent addenda (Addenda XII-XXXII).

The fishery management plan for scup specifies the threshold that governs trawl mesh size. The mesh size of a net determines what size fish are captured by a net. The larger the mesh size, the larger the size of the fish that are retained by the net. Mesh size regulations are used to decrease retention of fish smaller than the legal size. The goal is to retain only legal size fish. Trawl catch mesh thresholds are put into place to decrease bycatch of sub-legal fish. Only a small incidental catch of the target species is allowed to be retained before a required mesh size is regulated to be used. The threshold is that amount of fish that may be retained before the required mesh size or larger must be used. Maryland is required to comply with the provisions of the fishery management plan. The proposed action updates the thresholds that require a certain mesh size in a trawl. This change will keep Maryland in compliance with the Atlantic States Marine Fisheries Commission Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan and consistent with federal waters.

The department has a specific format for how public notices are issued when rules are established or changed to implement a fishery management plan. This includes publishing the notice on the department's website, notification at least 48 hours in advance, and dissemination of the notice in other manners (text, social media, email, and the Maryland Register) so that user groups can be aware of the change. The proposed action updates the format for public notices issued to implement the Atlantic States Marine Fisheries Commission's Fishery Management Plan for Scup. This change makes scup consistent with other species managed by a fishery management plan.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

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 Scup Regulations, Regulatory Staff, Department of Natural Resources Fishing and Boating Services, 580 Taylor Avenue, B-2, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through June 8, 2020. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2021

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:

This action updates requirements for fishing gear so no funds are necessary to implement the regulations.

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

This action updates requirements for harvesters using trawls. It does not create additional work for officers or staff. The department has not issued any public notices for scup during the last five years so there will not be an economic benefit to the Department from not having to publish notices in newspapers.

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

Scup are caught in federal waters, not state waters; therefore, there will not be an economic impact because fishermen are already following these rules. The department has not issued any public notices for scup during the last five years so there will not be an impact to newspapers.

G. Small Business Worksheet:

Attached Document:

.22 Scup.

A. (text unchanged)

B. Commercial Gear Restrictions.

[(1) Trawls.

(a) Except for a person landing less than a total of 500 pounds of scup from November 1 through April 30 or 100 pounds of scup from May 1 through October 31, a person may not use a trawl with:

(i) Mesh less than 5 inch stretched mesh size;

(ii) More than 25 meshes in the codend with more than 100 continuous meshes of 5 inch mesh forward of the codend; or

(iii) Mesh size less than 5 inches throughout the trawl net for trawl nets with codends less than 125 meshes.

(b) A person may not use a roller rig trawl with a roller diameter in excess of 18 inches to catch scup.]

(1) *Except as provided in §B(2) of this regulation, a person may not use a trawl with mesh less than 5 inch diamond mesh applied throughout the:*

(a) *Codend for at least 75 continuous meshes forward of the end of the net; or*

(b) *Entire net for codends with less than 75 meshes.*

(2) *A trawl shall meet the requirements specified in §B(1) of this regulation unless the individual:*

(a) *Possesses less than:*

(i) *1,000 pounds of scup per trip during the period October 1 through April 14;*

(ii) *2,000 pounds of scup per trip during the period April 15 through June 15; or*

(iii) *200 pounds of scup per trip during the period June 16 through September 30; and*

(b) *Stores the scup separately from all other species.*

(3) *A person may not use a roller rig trawl with a roller diameter in excess of 18 inches to catch scup.*

[(2)] (4) Pots and Traps. (text unchanged)

C. (text unchanged)

D. General.

(1) The Secretary may *establish or modify* [or set] a season, *size limit*, or catch limit [by publishing notice in a daily newspaper of general circulation at least 48 hours in advance of the modification, stating the effective hour and date] *in order to implement the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Scup, by issuing a public notice on the Department's website.*

(2) *The public notice shall state its effective hour and date and shall be published on the Department's website at least 48 hours in advance of the effective hour and date.*

[(2)] (3) (text unchanged)

(4) *A violation of the restrictions set by the Secretary in accordance with §D of this regulation is a violation of this regulation.*

JEANNIE HADDAWAY-RICCIO
Secretary of Natural Resources