

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Natural Resources**  
(DLS Control No. 20-098)

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## **Overview and Legal and Fiscal Impact**

The regulations prohibit the harvest of brook trout from (1) nontidal waters of the State that are designated as put-and-take areas, and (2) all waters of the State located east of Interstate 81. Anglers may still engage in the catch-and-release of brook trout in these areas. The regulations also make minor technical and conforming changes.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

## **Regulations of COMAR Affected**

### **Department of Natural Resources:**

Fisheries Service: Fishing in Nontidal Waters:  
COMAR 08.02.11.01, .03, and .04

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## **Legal Analysis**

### **Background**

The eastern brook trout, *Salvelinus fontinalis*, is a member of the salmonid family, which also includes brown and rainbow trout and various species of salmon. In Maryland, brook trout can be found from the Piedmont to the far western end of the state in Garrett County. According to the Department of Natural Resources, areas with high brook trout densities include the Gunpowder River watershed, the Catoctin Mountains between Hagerstown and Frederick, and on the Appalachian Plateau, west of Cumberland. Brook trout require pristine water conditions to survive, making them an important indicator species for the ecological health of a river system.

Maryland's brook trout population has drastically declined in recent decades. The department estimates that brook trout have been eliminated from 62% of their historic habitat in the State, with the majority of the current population occupying less than 10% of their historic range. Results from a five-year statewide brook trout survey (2014-2018) indicate a 27% additional loss in occupied brook trout watershed since 1987. This loss was greatest in the central part of the State (areas east of I-81). The department attributes the decline in brook trout primarily to habitat degradation brought on by population growth, urbanization, and climate change.

Brook trout are listed in Maryland’s State Wildlife Action Plan as a “Species of Greatest Conservation Need.” Additionally, the Chesapeake Bay Agreement, to which Maryland is a signatory partner, includes a commitment to increase occupied brook trout habitat by 8% by 2025. In accordance with the recognized need to protect and rebuild brook trout populations, the proposed regulations call for eliminating the harvest of brook trout from Maryland’s most pressured waters.

## **Summary of Regulations**

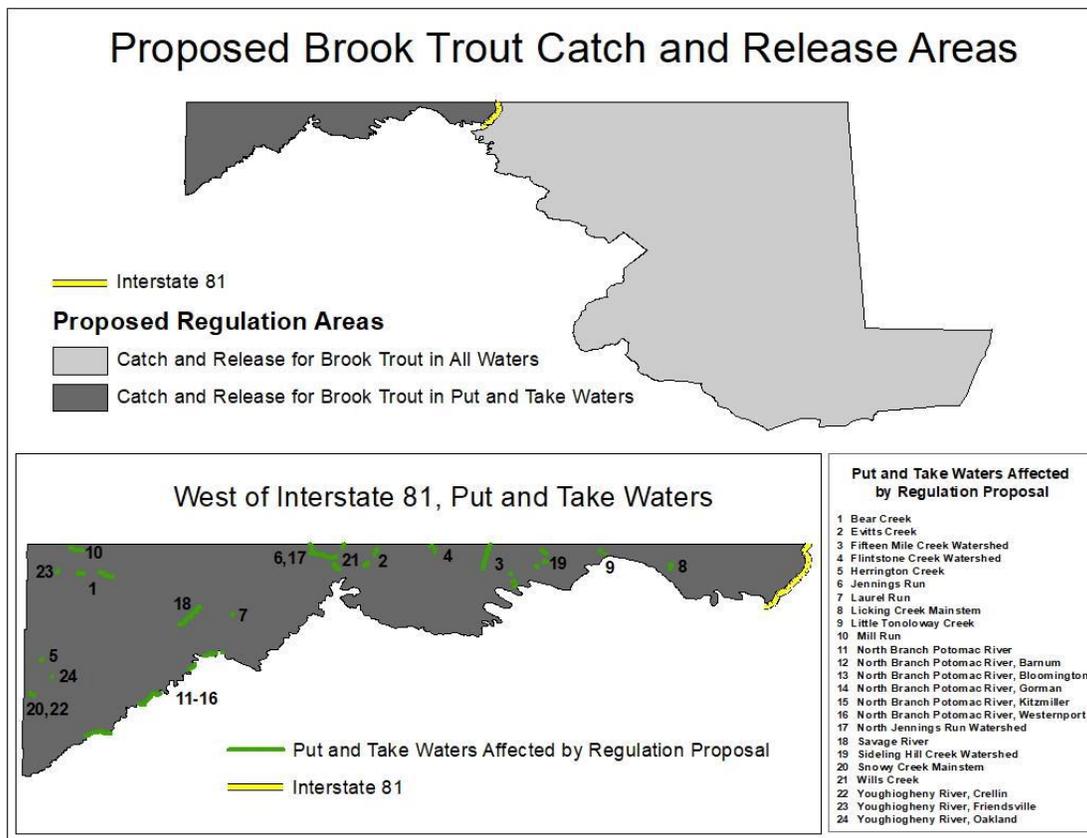
The regulations prohibit the possession of brook trout in all nontidal waters of the State that are designated as put-and-take areas. These are areas that the department periodically stocks with hatchery-raised trout (a distinct species from the native brook trout) in order to provide recreational opportunities for anglers. All brook trout caught from a put-and-take area must be released.

The regulations further prohibit the possession of brook trout in all nontidal waters of the State east of I-81. The department indicates that trout populations in these areas are particularly vulnerable to habitat degradation from urbanization and climate change. All brook trout caught from waters east of I-81 must be released. **Exhibit 1** depicts the areas affected by the regulations.

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### **Exhibit 1**

#### Areas Affected by Regulations



Source: The Department of Natural Resources

Finally, the regulations make minor organizational changes and corrections to cross-references in order to conform to the new brook trout catch-and-release requirements.

## Legal Issues

The regulations present no legal issues of concern.

## Statutory Authority and Legislative Intent

The department cites §§ 4-602, 4-603, and 4-616 of the Natural Resources Article as authority for the regulations. Section 4-602 provides the most relevant and expansive statement of the department’s authority for the regulations, authorizing the Secretary of Natural Resources to “adopt rules and regulations to extend, restrict, or prohibit catching, possessing, purchasing, transporting, or exporting fish from nontidal waters.” Regulations must be developed with “due regard for distribution, abundance, economic value, and breeding habits” of the species. Section 4-603 requires the department to establish open seasons for catching freshwater fish species. Section 4-616 requires the department to set daily creel, possession, and size limits for freshwater fish.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

### **Agency Estimate of Projected Fiscal Impact**

The department advises that the regulations have 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 advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

## **Contact Information**

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