

MARYLAND REGISTER

## Proposed Action on Regulations

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	04/25/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 5/30/2014

2. COMAR Codification

**Title Subtitle Chapter Regulation**

08 02 15 05

3. Name of Promulgating Authority

Department of Natural Resources

**4. Name of Regulations Coordinator Telephone Number**  
Eileen C Mosley 410-260-8107

**Mailing Address**

Tawes State Office Building, 580 Taylor Avenue, C-4

**City State Zip Code**  
Annapolis MD 21401

**Email**  
emosley@dnr.state.md.us

**5. Name of Person to Call About this Document Telephone No.**  
Jacob Holtz 410-260-8262

**Email Address**  
jholtz@dnr.state.md.us

6. Check applicable items:  
 New Regulations

**X- Amendments to Existing Regulations**

Date when existing text was downloaded from COMAR online: 3/21/2014.

- Repeal of Existing Regulations
- Recodification
- Incorporation by Reference of Documents Requiring DSD Approval
- Reproposal of Substantively Different Text:

: Md. R  
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

**7. Is there emergency text which is identical to this proposal:**

Yes **X-** No

**8. Incorporation by Reference**

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**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 4/24/14. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Tamara L. O'Connell

**Title**

Regulations Administrator

**Date**

4/25/14

**Telephone No.**

410-260-8271

**Title 08**

# **DEPARTMENT OF NATURAL RESOURCES**

## **Subtitle 02 FISHERIES SERVICE**

### **08.02.15 Striped Bass**

Authority: Natural Resources Article, §§4-215 and 4-701, Annotated Code of Maryland

#### **Notice of Proposed Action**

□

The Secretary of Natural Resources proposes to amend Regulation .05 under COMAR 08.02.15 Striped Bass

#### **Statement of Purpose**

The purpose of this action is to clarify tagging requirements in the commercial striped bass fishery, as well as make corrections to remain in line with Atlantic States Marine Fisheries Commission (ASMFC) tagging requirements and to make a change in terminology.

The action makes it clear that a licensee who is actively fishing must either use a tag issued to them by the Department or received through a transfer when tagging striped bass that they harvested. Currently, the regulation may be interpreted to allow a person, who was not on the vessel while the fish were harvested, to tag the striped bass caught by the licensee and check the fish in under the second person's name. This presents problems for enforcement. Natural Resources Police would not know who caught the striped bass as the person they saw harvesting striped bass would not necessarily have reported harvest. The regulations currently allow for licensees in the Chesapeake Bay Individual Transferrable Quota fishery to receive a transfer of allocation from other licensees holding a striped bass permit. They do not need to have fish tagged by other watermen in order to get more allocation.

The action removes a section of regulatory text that conflicts with the ASMFC requirement that states issue a fixed number of striped bass tags. If the Department has issued all of the striped bass tags allotted to the State, the Department will be unable to issue more tags to licensees.

Lastly, the action makes a change in terminology with regards to requirements for check stations.

#### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

#### **Estimate of Economic Impact**

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

The proposed action may have an indeterminable impact on the regulated industry.

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
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:		
Tagging requirements	(-)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

D. The clarification that a licensee actively fishing must tag a commercially caught striped bass with either a tag issued to them by the Department or received through a transfer may have an indeterminable negative impact on the regulated industry. There may have been some members of the industry who planned on using the tags of other industry members to tag their striped bass, in which case those people will have to readjust their business plans. However, current regulations allow for the transfer of allocation between members of the Chesapeake Bay Individual Transferrable Quota fishery, so the Department anticipates that any economic impacts will be minimal.

**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 Striped Bass Tagging Regulations, Regulatory Staff, Maryland Department of Natural Resources, Fisheries Service B-2, 580 Taylor Avenue, Annapolis MD 21401, or call 410-260-8300, or email to [fisheriespubliccomment@dnr.state.md.us](mailto:fisheriespubliccomment@dnr.state.md.us), or fax to 410-260-8310. Comments will be accepted through June 30, 2014. A public hearing has not been scheduled.

**Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 15

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:

No funds are necessary to implement these regulations as these regulations clarify tagging requirements. There is no economic impact to the Department.

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.

Current regulations allow for the transfer of allocation between members of the Chesapeake Bay Individual Transferrable Quota fishery. Any licensees whose business plan involved having another licensee use their own tags and allocation to check in part of the catch may still acquire tags and allocation from other licensees - they just must go through the formal transfer process. The transfer process does not have any associated fees, so the action should have a minimal impact on the regulated industry.

G. Small Business Worksheet:

## Attached Document:

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### .05 Disposition of Catch.

#### A. Permits and Tags.

(1) (text unchanged)

[(2) The Department shall issue additional tags only if the harvest report submitted by the tidal fish licensee:

(a) Indicates that the quantity of tags issued by the Department is insufficient to complete the season; and

(b) Does not report exceeding the number of tags issued to the tidal fish licensee.]

[(3)] (2) A commercial tidal fish licensee who catches striped bass for sale shall:

(a) Have in possession:

(i)—(ii) (text unchanged)

(iii) Unused tamper-evident tags issued by the Department *to the licensee*;

(b) In the Chesapeake Bay common pool and Atlantic fisheries, securely affix a tag *issued by the Department to the licensee*, as provided in §A(1) of this regulation, *or a tag received through a transfer*, through the mouth and one gill opening:

(i)—(iii) (text unchanged)

(c) In the Chesapeake Bay individual transferable quota fishery, securely affix a tag *issued by the Department to the licensee*, as provided in §A(1) of this regulation, *or a tag received through a transfer*, through the mouth and one gill opening before removing a striped bass from a boat or removing a boat from the water; and

(d) (text unchanged)

[(4)] (3) Striped bass tags:

(a)—(c) (text unchanged)

(d) Shall only be used by the commercial tidal fish licensee to whom they were assigned, except as described in [§A(4)(e)] §A(3)(e) of this regulation; and

(e) (text unchanged)

[(5)] (4) — [(8)] (7) (text unchanged)

[(9)] (8) A packer or dealer may only be in possession of striped bass tagged in accordance with [§A(4)] §A(3) of this regulation.

B.—C. (text unchanged)

D. Check-In.

(1)—(3) (text unchanged)

(4) At check-in, the Department representative shall:

(a) (text unchanged)

(b) Complete a daily logsheet issued by the Department, mail a copy to the Department by Tuesday of the following week, and maintain a copy; [and]

(c) [Validate] *Record the number of pounds checked in on the licensee's striped bass permit; and*

(d) *If the commercial tidal fish licensee is registered in the Chesapeake Bay Individual Transferrable Quota fishery or the Atlantic Ocean fishery, adjust the remaining [seasonal allowable harvest] annual allocation by subtracting the total daily harvest[, including all overage].*

JOSEPH P. GILL

Secretary of Natural Resources