

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Natural Resources**  
(DLS Control No. 14-309)

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

These regulations update the penalty schedules for commercial fishing, recreational fishing, and charter boat and fishing guide licenses. Existing penalties are modified, new penalties are added, and minor errors are corrected.

The regulations present 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: Fishing Licenses – Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure:  
COMAR 08.02.13.03, .05, .07, and .08

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## **Legal Analysis**

### **Background**

In its 2008 report to the General Assembly, the Task Force on Fisheries Management recommended updating the way the Department of Natural Resources handled violations of fisheries laws and regulations to provide for tougher penalties. The General Assembly responded by adopting Chapters 207 and 453 of 2009, which clarified and strengthened the department's authority to suspend or revoke fishing entitlements.

Following the passage of Chapters 207 and 453, the department worked closely with a penalty workgroup and with the State's fishery advisory commissions to develop regulations for the suspension and revocation of fishing licenses and authorizations. The commercial penalty system is based on point assignments, and a similar point-based system has been established for commercial charter boat and fishing guide licensees. By contrast, the recreational penalty schedule does not use points. Instead, an individual is subject to a certain suspension period ranging from 30 to 365 days based on the offense he or she has committed. The department may prohibit an individual who receives multiple suspensions in a two-year period from engaging in any recreational fishing activities for up to five years.

## **Summary of Regulation**

The regulations update the penalty schedules for commercial fishing, recreational fishing, and charter boat and fishing guide licenses. The major changes for each license category are summarized below.

### **Commercial licenses**

- Adds striped bass check-in requirements to the list of Tier I (least severe) violations;
- reduces the number of nuisance or prohibited species violations required to trigger a Tier VI (more severe) violation from ten to five; and
- repeals duplicative entry regarding clam dredging violations.

### **Recreational licenses**

- Adds a 30-day suspension for use of crab pots without turtle reduction devices and failure to register recreational crab pots;
- adds a 90-day suspension for violations of crabbing trotline length; sale and possession of river herring (two to four fish); possession of striped bass between midnight and 5 a.m.; and the use of illegal gear, other than projectile gear, in nontidal or tidal waters;
- for most species in tidal waters, reduces the number of undersized fish or number of fish over the daily creel limit triggering a 90-day suspension from 4-10 fish to 4-6 fish;
- adds a 180-day suspension for season violations; possession or sale of river herring (5-10 fish); possession of 7-10 undersized fish or fish over the daily creel limit for most species in tidal waters; and targeting striped bass in a closed area;
- adds a 365-day suspension for any Lacey Act (federal conservation/poaching law) violation; fishing or crabbing on a suspended or revoked license; harvesting oysters in closed areas, reserved areas, or sanctuaries; possession or sale of river herring (11 fish or more); and projectile gear violations in nontidal or tidal waters; and
- reduces the number of nuisance or prohibited species that will trigger a 365-day suspension from 10 to 5.

### **Commercial charter boat and fishing guide licenses**

- Adds possession or sale of river herring to Tiers I (one fish), II (two fish), and III (three or more fish);
- in Tier IV, adds violations of crabbing trotline length restrictions; possession of striped bass between midnight and 5 a.m.; and all gear violations in tidal and nontidal waters;
- in Tier V, adds targeting striped bass in a closed area;
- in Tier VI, adds Lacey Act misdemeanors; failure to obtain a crabbing charter decal; and projectile gear violations in tidal or nontidal waters;
- reduces the number of nuisance and prohibited species that will trigger a Tier VI violation from 10 to 5; and
- creates a Tier VII for Lacey Act felonies, which would apply 35 points to a license holder's record and make the license holder eligible for revocation.

## **Legal Issue**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The department cites §§ 4-220 and 4-701 of the Natural Resources Article as authority for the regulations. Section 4-220 provides the department's authority to suspend or revoke recreational fishing licenses. Subsection (b) of this section authorizes the department to adopt regulations listing criteria for suspensions. Section 4-701 provides the department's authority to suspend or revoke a person's entitlement to engage in commercial activities under a tidal fish license. Subsection (n) of this section requires the department to adopt regulations that include, among other things: a schedule of points assigned to various offenses; enhanced penalties for repeated violations; and enhance penalties for violations of laws and regulations that protect species the department considers to be in need of special protection.

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 may have a meaningful economic impact on small businesses in the State because the regulations update penalties for those that violate State law and/or regulations. The Department of Legislative Services disagrees that the regulations have a meaningful economic impact on small businesses because the updated penalties do not affect small businesses that comply with the law and regulations.

## **Contact Information**

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