

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	10/22/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 12/1/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

08 02 13 03, .05, .07, .08

3. Name of Promulgating Authority

Department of Natural Resources

4. Name of Regulations Coordinator

Eileen C Mosley

Telephone Number

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

Jacob Holtz

Telephone No.

410-260-8262

Email Address

jacob.holtz@maryland.gov

6. Check applicable items:

- New Regulations
 - Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: 6/30/2014.
 - 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 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 10/17/2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Eileen Mosley

Title

Regulations Coordinator

Telephone No.

410-260-8107

Date

10/22/2014

Title 08
DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.13 Fishing License - Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure

Authority: Natural Resources Article, §§4-220 and 4-701, Annotated Code of Maryland

Notice of Proposed Action

[]

The Secretary of Natural Resources proposes to amend Regulations .03, .05, .07, and .08 under COMAR 08.02.13 Fishing Licenses - Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure.

Statement of Purpose

The purpose of this action is to make annual changes to the commercial, recreational, and charter penalty schedules. These changes were made after consultation with the Sport Fisheries Advisory Commission (SFAC) and Tidal Fisheries Advisory Commission (TFAC) joint Penalty Workgroup and Department staff. The changes are intended to improve the current penalty system and provide adequate deterrence to prevent illegal activities.

For the commercial penalty schedule, this action removes a duplicated entry regarding clam dredging violations, adds violations of striped bass check-in requirements in Tier I, and reduces the number of nuisance or prohibited species required to trigger a Tier VI violation from ten to five.

For the recreational penalty schedule, this action adds 30 day suspensions for the use of crab pots without turtle reduction devices and failure to register recreational crab pots. This action adds 90 day suspensions for violations of crabbing trotline length, sale and possession of river herring (2-4 fish), possession of striped bass between midnight and 5am, and the use of illegal gear in both nontidal and tidal waters, excluding projectile gears. Also in the 90 day suspension category, the action reduces the number of undersized fish or number of fish over the daily creel limit for most fish species in tidal waters from 4-10 fish to 4-6 fish. The action adds 180 day suspensions for the possession or sale of river herring (5-10 fish), 7-10 fish over the daily creel limit or undersized fish for most tidal species, and targeting striped bass in a closed area. Also in the 180 day suspension category, the action corrects authority citations for nontidal violations and removes duplicative nontidal violations. Finally, the action adds 365 day suspensions for any Lacey Act violation, fishing or crabbing on a suspended or revoked license, harvesting oysters on closed areas, reserved areas, or sanctuaries, possession or sale of river herring (11 or more fish), and projectile gear violations in both nontidal

and tidal waters, in addition to reducing the number of nuisance or prohibited species that will incur a violation from 10 to 5.

For the charter penalty schedule, this action adds possession or sale of river herring to Tiers I (1 fish), II (2 fish), and III (3 or more fish). In Tier IV, this action adds violation of crabbing trotline length, possession of striped bass between midnight and 5am, and all gear violations in tidal and nontidal waters, excluding projectile gears. In Tier V, this action adds targeting striped bass in a closed area. In Tier VI, this action adds Lacey Act misdemeanors, failure to obtain a crabbing charter decal, and projectile gear violations in both tidal and nontidal waters, in addition to reducing the number of nuisance and prohibited species that will incur a violation from 10 to 5. The action also creates Tier VII, which would apply 35 points to a license holder, making them eligible for revocation, for Lacey Act felonies.

This action also makes grammatical, spelling, and citation corrections.

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 economic impact, although the extent of that impact is indeterminable.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
<hr style="border: 1px solid black;"/>		
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
<hr style="border: 1px solid black;"/>		
D. On regulated industries or trade groups:		
Licensees	(-)	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 proposed action may have a negative impact on licensees who are suspended or revoked based on committing one of the listed offenses. However, it is not possible to determine the number of individuals who may violate the listed laws, nor is it possible to determine to what extent the suspension or revocation would economically impact the individual or individuals.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

The proposed regulation may have a meaningful economic impact on small businesses which violate the law and are therefore suspended or revoked from their commercial fishing activities. It is not possible to predict how many businesses will violate the law and therefore receive suspensions or revocations, or to what extent such suspension or revocation would economically impact those 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 Penalty Regulations, Regulatory Staff, Department of Natural Resources, Fisheries Service B-2, 580 Taylor Avenue, 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 December 31, 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:

There are no funds necessary to implement these regulations. This action adds violations to various levels of suspension and/or revocation. Current staff already process suspensions and revocations and any increase in suspensions or revocations based on these regulations will be handled by the current staff.

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.

G. Small Business Worksheet:

Attached Document:

.03 Point Assignment Schedule.

A. For each conviction of a chargeable offense listed in §§C—[Iof] *I of* this regulation, the Department shall enter on the record of the person the number of points listed for that particular conviction.

B. The points associated with each conviction are described in §§C—[Iof] *I of* this regulation. All statutory references are to Natural Resources Article, Annotated Code of Maryland, unless otherwise noted.

C. Tier I. The following violations are Tier I violations. A person who receives a conviction for a Tier I violation receives 5 points.

	Statute or Regulation	Description
1—15	(text unchanged)	
[16]	4-1037(1)	Using a Hydraulic Clam Dredge to Catch Soft Shell Clams Within 150 Feet of a Natural Oyster Bar or Leased Oyster Area]
[17] 16—[24] 23		
[25]	4-1007, COMAR 08.02.02.12B, COMAR 08.02.07.03C	Harvesting clams within 150 feet of a (a) natural oyster bar, (b) leased area, (c) public shellfish fishery area, or (d) sanctuary]
[26] 24—[46] 44	(text unchanged)	
45	COMAR 08.02.15.05D	<i>Violating Requirements Pertaining to Striped Bass Check-In</i>
[47] 46—[69] 68	(text unchanged)	

D. Tier II. The following violations are Tier II violations. A person who receives a conviction for a Tier II violation receives 10 points.

	Statute or Regulation	Description
1—7	(text unchanged)	
8	4-1037(1), COMAR 08.02.02.12B, COMAR 08.02.07.03C	Harvesting clams within 150 feet of a (a) natural oyster bar, (b) leased area, (c) public shellfish fishery area, or (d) oyster sanctuary

26	9— (text unchanged)	
----	------------------------	--

E. Tier III. The following violations are Tier III violations. A person who receives a conviction for a Tier III violation receives 15 points.

	Statute or Regulation	Description
11	1— (text unchanged)	
12	4-1037(1), <i>COMAR 08.02.02.12B, COMAR 08.02.07.03C</i>	Using a Hydraulic Clam Dredge to Catch Soft Shell Clams on a: [Natural Oyster Bar or a Leased Oyster Area] (a) <i>natural oyster bar,</i> (b) <i>leased area,</i> (c) <i>public shellfish fishery area, or</i> (d) <i>oyster sanctuary.</i>
29	13— (text unchanged)	

F—G. (text unchanged)

H. Tier VI. The following violations are Tier VI violations. A person who receives a conviction for a Tier VI violation receives 30 points.

	Statute or Regulation	Description
1—10	(text unchanged)	
11	4-205.1, <i>COMAR 08.02.19</i>	Possession of Nuisance or Prohibited Species — [10] 5 or more

I. Tier [VII.The] *VII. The* following violations are Tier VII violations. A person who receives a conviction for a Tier [VI] *VII* violation receives 35 points.

1—2	(text unchanged)
-----	------------------

J. (text unchanged)

.05 Recreational Fishing Suspension and Revocation.

A.—C. (text unchanged)

D. A person who receives one of the following violations may be suspended for up to 30 days.

	STATUTE OR REGULATION	DESCRIPTION
(1)—(2)	(text unchanged)	
(3)	<i>COMAR 08.02.03.07B</i>	<i>Use of Crab Pot Without Turtle Reduction Device</i>
(4)	<i>COMAR 08.02.03.07D</i>	<i>Failure to Register Crab Pots</i>
[(3)] (5)	(text unchanged)	

E. A person who receives one of the following violations may be suspended for up to 90 days.

	STATUTE OR REGULATION	DESCRIPTION
(1)	<i>COMAR 08.02.03.03</i>	<i>Violation of Trotline Length Restrictions</i>
[(1)] (2)—[(7)] (8)	(text unchanged)	
(9)	<i>COMAR 08.02.05.09</i>	<i>Possession or sale of River Herring: 2—4 fish</i>
[(8)] (10)	<i>COMAR 08.02.05.10A</i>	<i>Size Limits — Bluefish: 4—[10] 6 fish</i>
[(9)] (11)	<i>COMAR 08.02.05.10B</i>	<i>Daily Catch Limits — Bluefish: 4—[10] 6 fish over daily catch limit</i>
[(10)] (12)	[<i>COMAR 08.02.05.12A(1)</i>] <i>COMAR 08.02.05.12A</i>	<i>Size Limits — Summer Flounder: 2—4 fish</i>
[(11)] (13)	[<i>COMAR 08.02.05.12A(2)</i>] <i>COMAR 08.02.05.12A</i>	<i>Daily Catch Limits — Summer Flounder: 2—4 fish over daily catch limit</i>

[(12)](14)	COMAR 08.02.05.13A(1)[—(2)]	Size Limits — [Weakfish and] Spotted [Seatrout] <i>Sea Trout</i> : 4—[10] 6 fish
[(13)] (15)	COMAR 08.02.05.13B	Daily Catch Limits — [Weakfish or] Spotted Sea Trout: 4—[10] 6 fish over daily catch limit
(16)	<i>COMAR 08.02.05.13A(2)</i>	<i>Size Limits — Weakfish: 4—6 fish</i>
(17)	<i>COMAR 08.02.05.13B</i>	<i>Daily Catch Limits — Weakfish: 4—6 fish over daily catch limit</i>
[(14)] (18)	COMAR 08.02.05.14A	Size Limits — Spanish Mackerel: 4—[10] 6 fish
[(15)] (19)	COMAR 08.02.05.14B	Daily Catch Limits — Spanish Mackerel: 4—[10] 6 fish over daily catch limit
[(16)] (20)— [(19)] (23)	(text unchanged)	
[(20)] (24)	COMAR 08.02.05.18A(1)	Size Limits — Croaker: 4—[10] 6 fish
[(21)] (25)	COMAR 08.02.05.18B	Daily Catch Limit — Croaker: 4—[10] 6 fish over daily catch limit
[(22)] (26)	4-734, 4-735, COMAR 08.02.05.19A	Size Limits — Black Bass (Largemouth and Smallmouth): 4—[10] 6 fish
[(23)] (27)	COMAR 08.02.05.19B	Daily Catch Limit — Black Bass (Largemouth and Smallmouth): 4—[10] 6 fish over daily catch limit
[(24)] (28)	COMAR 08.02.05.20A(1)	Size Limits — Tautog: 4—[10] 6 fish
[(25)] (29)	(text unchanged)	
[(26)] (30)	COMAR 08.02.05.20C	Possession Limit — Tautog: 4—[10] 6 fish over daily catch limit
[(27)] (31)	[COMAR 08.02.05.21A(1)] <i>COMAR 08.02.05.21A</i>	Size Limits — Black Sea Bass: 4—[10] 6 fish
[(28)] (32)	[COMAR 08.02.05.21A(2)] <i>COMAR 08.02.05.21A</i>	Catch Limits — Black Sea Bass: 4—[10] 6 fish over daily catch limit
[(29)] (33)	COMAR 08.02.05.22A(1)	Size Limits — Scup — Recreational: 4—[10] 6 fish
[(30)] (34)	COMAR 08.02.05.22C(3)	Catch Limit — Scup: 4—[10] 6 fish over limit
[(31)] (35)	COMAR 08.02.05.28A(1)	Size Limits — Walleye: 4—[10] 6 fish
[(32)] (36)	COMAR 08.02.05.28C(2)	Catch Limits — Walleye: 4—[10] 6 fish over daily catch limit
[(33)] (37)— [(42)] (46)	(text unchanged)	
(47)	<i>COMAR 08.02.15.12B</i>	<i>Possession of Striped Bass Between Midnight and 5 a.m.</i>
[(43)] (48)— [(44)] (49)	(text unchanged)	
[(45)] (50)	COMAR 08.02.21.02B	Size Limits — Yellow Perch: 4—[10] 6 fish
[(46)] (51)	(text unchanged)	
[(47)] (52)	COMAR 08.02.21.02C	Daily Catch Limit— Yellow Perch: 4—[10] 6 fish over daily catch limit

(53)	COMAR 08.02.25.02A—E and G	Use of Illegal Gear in Nontidal Waters
(54)	COMAR 08.02.25.03 A—E and G	Use of Illegal Gear in Tidal Waters

F. A person who receives one of the following violations may be suspended for up to 180 days.

	STATUTE OR REGULATION	DESCRIPTION
(1)—(6)	(text unchanged)	
(7)	COMAR 08.02.05	Season Violations — Finfish — Tidal Waters: 6—9 Fish
(8)	COMAR 08.02.05.05	Possession or sale of American Shad: 5—10 fish
(9)	COMAR 08.02.05.06	Possession or sale of Hickory Shad: 5—10 fish
(10)	COMAR 08.02.05.09	Possession or sale of River Herring: 5—10 fish
(11)	COMAR 08.02.05.10A	Size Limits — Bluefish: 7—10 fish
(12)	COMAR 08.02.05.10B	Daily Catch Limits — Bluefish: 7—10 fish over daily catch limit
(13)	COMAR 08.02.05.12A	Size Limits — Summer Flounder: 5—10 fish
(14)	COMAR 08.02.05.12A	Daily Catch Limits — Summer Flounder: 5—10 fish over daily catch limit
(15)	COMAR 08.02.05.13A(1)	Size Limits — Spotted Sea Trout: 7—10 fish
(16)	COMAR 08.02.05.13B	Daily Catch Limits — Spotted Sea Trout: 7—10 fish over daily catch limit
(17)	COMAR 08.02.05.13A(2)	Size Limits — Weakfish: 7—10 fish
(18)	COMAR 08.02.05.13B	Daily Catch Limits — Weakfish: 7—10 fish over daily catch limit
(19)	COMAR 08.02.05.14A	Size Limits — Spanish Mackerel: 7—10 fish
(20)	COMAR 08.02.05.14B	Daily Catch Limits — Spanish Mackerel: 7—10 fish over daily catch limit
(21)	COMAR 08.02.05.18A(1)	Size Limits — Croaker: 7—10 fish
(22)	COMAR 08.02.05.18B	Daily Catch Limit — Croaker: 7—10 fish over daily catch limit
(23)	COMAR 08.02.05.19A	Size Limits — Black Bass (Largemouth and Smallmouth): 7—10 fish
(24)	COMAR 08.02.05.19B	Daily Catch Limit — Black Bass (Largemouth and Smallmouth): 7—10 fish over daily catch limit
(25)	COMAR 08.02.05.20A(1)	Size Limits — Tautog: 7—10 fish
(26)	COMAR 08.02.05.20A(2)	Possessing Tautog in December: 5—10 fish
(27)	COMAR 08.02.05.20C	Possession Limit — Tautog: 7—10 fish over daily catch limit
(28)	COMAR 08.02.05.21A	Size Limits — Black Sea Bass: 7—10 fish
(29)	COMAR 08.02.05.21A	Catch Limits — Black Sea Bass: 7—10 fish over daily catch limit
(30)	COMAR 08.02.05.22A(1)	Size Limits — Scup — Recreational: 7—10 fish
(31)	COMAR 08.02.05.22C(3)	Catch Limit — Scup: 7—10 fish over limit
(32)	COMAR 08.02.05.28A(1)	Size Limits — Walleye: 7—10 fish
(33)	COMAR 08.02.05.28C(2)	Catch Limits — Walleye: 7—10 fish over daily catch limit

[(7)] (34)— [(10)] (37)	(text unchanged)	
[(11)] (38)	COMAR [08.02.11.03A(2)(a)(i)] 08.02.11.01C	Possession of Trout While Fishing in a Catch and Return Area
[(12)] (39)	COMAR [08.02.11.03F] 08.02.11.01G	Keeping/Possessing Trout in Delayed Harvest Areas During Prohibited Times
[(13)] (40)	COMAR [08.02.11.03K] 08.02.11.03B	<i>Possession of Bass in Catch-and-Return Bass Areas</i>
[(14)] (41)	COMAR [08.02.11.03L] 08.02.11.01H	<i>Creel Limit Violations in Zero Creel Limit for Brook Trout Fishing Areas</i>
[(15)]	COMAR 08.02.11.04C(1)(d) and (e)	Taking/Possessing Bass During Closed Season
(16)	COMAR 08.02.11.04C(2)(a)(i)	Exceeding Trout Creel Limits in Put and Take Areas
(17)	COMAR 08.02.11.04C(2)(a)(ii)	Exceeding Trout Creel Limits in Other Areas]
[(18)] (42)	COMAR [08.02.11.04C(1)(a)—(n)] 08.02.11.04A(1)	Season Violations — Nontidal Waters
[(19)] (43)	COMAR [08.02.11.04C(2)(a)—(t)] 08.02.11.04A(2)	Exceeding Daily Catch or Possession Limits — Nontidal
(44)	COMAR 08.02.15.03D	<i>Targeting Striped Bass in Closed Area</i>
[(20)] (45)— [(31)] (56)	(text unchanged)	
[(32)]	COMAR 08.02.05	Season Violations — Finfish — Tidal Waters: 6—9 Fish
(33)	COMAR 08.02.05.05	Possession or sale of American Shad: 5—10 fish
(34)	COMAR 08.02.05.06	Possession or sale of Hickory Shad: 5—10 fish
(35)	COMAR 08.02.05.12A(1)	Size Limits — Summer Flounder: 5—10 fish
(36)	COMAR 08.02.05.12A(2)	Daily Catch Limits — Summer Flounder: 5—10 fish over daily catch limit
(37)	COMAR 08.02.05.20A(2)	Possessing Tautog in December: 5—10 fish]

G. A person who receives one of the following violations may be suspended for up to 365 days.

	STATUTE OR REGULATION	DESCRIPTION
(1)—(2)	(text unchanged)	
(3)	4-205.1, COMAR 08.02.19	Possession of a Nuisance or Prohibited Species — [10] 5 or More
(4)—(5)	(text unchanged)	
(6)	4-220, COMAR 08.02.13.05A	<i>Fishing or Crabbing While Suspended or Revoked</i>
[(6)] (7)— [(12)] (13)	(text unchanged)	
(14)	4-1009.1, 4-1014, 4-1014.1, 4-1014.2, 4-1014.3, 4-1105, COMAR 08.02.04.13, COMAR 08.02.04.14, COMAR 08.02.04.15	<i>Harvesting Oysters on Closed Areas, Reserved Areas, or Sanctuaries</i>
[(13)] (15)—[(15)] (17)	(text unchanged)	

[(16)] (18)—[(18)] (20)	(text unchanged)	
[(19)] (21)	COMAR 08.02.03.14	Possession of Undersized Hard [Crabs:21] <i>Crabs: 21</i> or more per bushel
[(20)]	COMAR 08.02.05.01A	Unlawfully Fishing with a Spear Gun
(21)	COMAR 08.02.05.01B	Unlawfully Fishing with a Bow and Arrow
(22)	COMAR 08.02.05.01C	Fish Snagging — Tidal Waters]
(23)	COMAR 08.02.05.05	[Possessing] <i>Possession or Sale of American Shad: 11 or more fish</i>
(24)	COMAR 08.02.05.06	[Possessing] <i>Possession or Sale of Hickory Shad: 11 or more fish</i>
(22)	<i>COMAR 08.02.05.09</i>	<i>Possession or Sale of River Herring: 11 or more fish</i>
[(25)] (23)—[(37)] (35)	(text unchanged)	
[(38)] (36)	COMAR 08.02.05.16A(2)	Daily Catch [Limt] <i>Limit</i> — Red Drum: 3 or more fish over daily catch limit
[(39)] (37)—[(77)] (75)	(text unchanged)	
[(78)] (76)	COMAR [08.02.11.03F] <i>08.02.11.01G</i>	Using or Possessing Illegal Gear in Delayed Harvest Areas
[(79)] (77)—[(106)] (104)	(text unchanged)	
(105)	<i>COMAR 08.02.25.02F</i>	<i>Projectile Gear Violation in Nontidal Waters</i>
(106)	<i>COMAR 08.02.25.03F</i>	<i>Projectile Gear Violation in Tidal Waters</i>
(107)	<i>16 U.S.C. § 3371-3378</i>	<i>Any Lacey Act Violation</i>

H.—L. (text unchanged)

.07 Commercial Charter Boat and Fishing Guide License Suspension Schedule.

A. A person guiding fishing parties in Maryland in any capacity shall be notified that their tidal fish license, authorization, or entitlement to guide fishing parties may be subject to suspension or revocation whenever that fishing guide has been convicted for violating any of the provisions described in Regulation [.08D—G] .08D—J of this chapter.

B.—D. (text unchanged)

E. Suspension and Revocation Schedule.

(1) The suspension and revocation schedule in §C(3) of this regulation establishes the maximum number of days that a fishing guide's tidal fish license, authorization, or entitlement to guide fishing parties may be suspended or revoked through the accumulation of points. A lesser penalty may be imposed at the Department's discretion if the circumstances warrant it, to include consideration of the fishing guide's disciplinary record and the fishing guide's agreement to comply with any conditions that the Department may reasonably require.

(2) (text unchanged)

(3) A fishing guide who in any 2-year period accumulates the number of points provided below shall be penalized in accordance with the following schedule:

Number of Points Accumulated in Any 2-Year Period	Maximum Period of Suspension or Revocation
10	30-day suspension
15	60-day suspension

20	90-day suspension
25	180-day suspension
30	365-day suspension
35	Revocation

(4)—(5) (text unchanged)

F.—G. (text unchanged)

.08 Charter Boat/Fishing Guide Point Assignment Schedule.

A. For each conviction of a chargeable violation listed in §§D—[Iof] *J* of this regulation, the Department shall enter on the record of a fishing guide the number of points listed for that particular offence. Points accumulated under this regulation only apply to the entitlement to guide fishing parties or suspension or revocation of a tidal fish license or authorization to guide fishing parties.

B. The number of points specified in §§D—[Iof] *J* of this regulation shall be assessed against a fishing guide for each conviction.

C. (text unchanged)

D. Tier I. The following violations are Tier I violations. A fishing guide who receives a conviction for a Tier I violation receives 5 points.

	STATUTE OR REGULATION	DESCRIPTION
(1)—(7)	(text unchanged)	
(8)	COMAR 08.02.05.09	<i>Possession or Sale of River Herring: 1 fish</i>
[(8)] (9)—[(42)] 43	(text unchanged)	

E. Tier II. The following violations are Tier II violations. A fishing guide who receives a conviction for a Tier II violation receives 10 points.

	STATUTE OR REGULATION	DESCRIPTION
(1)—(21)	(text unchanged)	
(22)	COMAR 08.02.05.09	<i>Possession or Sale of River Herring: 2 fish</i>
[(22)] (23)—[(48)] (49)	(text unchanged)	

F. Tier III. The following violations are Tier III violations. A fishing guide who receives a conviction for a Tier III violation receives 15 points.

	STATUTE OR REGULATION	DESCRIPTION
(1)—(12)	(text unchanged)	
(13)	COMAR 08.02.05.05	[Possessing] <i>Possession or Sale of American Shad: 3 or more fish</i>
(14)	COMAR 08.02.05.06	[Possessing] <i>Possession or Sale of Hickory Shad: 3 or more fish</i>
(15)	COMAR 08.02.05.09	<i>Possession or Sale of River Herring: 3 or more fish</i>
[(15)] (16)—[(87)] (88)	(text unchanged)	

G. Tier IV. The following violations are Tier IV violations. A fishing guide who receives a conviction for a Tier IV violation receives 20 points.

(1)	COMAR 08.02.03.03	<i>Violation of Tropline Length Restrictions</i>
[(1)] (2)	(text unchanged)	
(3)	COMAR 08.02.15.12B	<i>Possession of Striped Bass Between Midnight and 5 a.m.</i>
(4)	COMAR 08.02.25.02A—E and G	<i>Gear Violation in Nontidal Waters</i>
(5)	COMAR 08.02.25.03 A—E and G	<i>Gear Violation in Tidal Waters</i>

H. Tier V. The following violations are Tier V violations. A fishing guide who receives a conviction for a Tier V violation receives 25 points.

(1)	(text unchanged)	
(2)	<i>COMAR 08.02.15.03D</i>	<i>Targeting Striped Bass in Closed Area</i>

I. Tier VI. The following violations are Tier VI violations. A fishing guide who receives a conviction for a Tier VI violation receives 30 points.

	STATUTE OR REGULATION	DESCRIPTION
(1)	(text unchanged)	
(2)	4-205.1, COMAR 08.02.19	Possession of a Nuisance or Prohibited Species — [10] 5 or More
(3)—(11)	(text unchanged)	
(12)	<i>COMAR 08.02.03.15D</i>	<i>Failure to Obtain Crabbing Charter Decal</i>
[(12)] (13)—[(48)] (49)	(text unchanged)	
(50)	<i>COMAR 08.02.25.02F</i>	<i>Projectile Gear Violation in Nontidal Waters</i>
(51)	<i>COMAR 08.02.25.03F</i>	<i>Projectile Gear Violation in Tidal Waters</i>
(52)	<i>16 U.S.C. § 3371-3378</i>	<i>Lacey Act Violation (Misdemeanor)</i>

J. Tier VII. The following violations are Tier VII violations. A fishing guide who receives a conviction for a Tier VII violation receives 35 points.

	STATUTE OR REGULATION	DESCRIPTION
(1)	<i>16 U.S.C. § 3371-3378</i>	<i>Lacey Act Violation (Felony)</i>

JOSEPH P. GILL

Secretary of Natural Resources