

08.02.15.02 (12-1-08)

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Authorization" means an endorsement, in addition to a tidal fish license, issued by the Department that entitles a licensee to engage in a particular fishing activity.

[(2)] (3) — [(3)] (4) (text unchanged)

[(4) "Exploitable" means striped bass which are subject to harvest due to individual size.]

(5) "Facility" means a building or any part of a building, including a tank, refrigerator, or freezer.

[(5)] (6) (text unchanged)

[(6)] (7) "Harvest" means to take, [fill] kill, trap, gather, catch, or in any manner reduce any fish to personal possession or to attempt to engage in this conduct.

[(7)] (8) — [(8)] (9) (text unchanged)

[(9)] (10) "Tag" means the device [or form] approved by the Department [and fixed to a fish or container of fish] that is used to identify the harvest year, harvest gear, and individual that commercially harvested a striped bass.

[(10)] (11) — [(13)] (14) (text unchanged)

08.02.15.04 (12-1-08)

.04 Tidal Fish Licensee Intent to Fish.

A. Registration.

(1) (text unchanged)

(2) Registration Schedule.

(a) — (d) (text unchanged)

(e) An individual that has registered to participate in a striped bass season in accordance with §A(2) of this regulation may change the authorized use of the allocation permit(s) described in §B of this regulation during the period April 1, 2009 through April 24, 2009.

(3) (text unchanged)

B. A tidal fish licensee shall only register under one of the following alternatives:

[(1) When registering intent to fish for striped bass in the tidal waters of the Chesapeake Bay and its tributaries, a commercial tidal fish licensee shall specify and be authorized to use one of the following alternatives:]

(1) For the Chesapeake Bay and its tidal tributaries, when registering for a striped bass allocation permit, a commercial tidal fish licensee shall specify and be authorized to use one of the following gear types:

(a) — (c) (text unchanged)

(d) Gill net and hook and line[.] ;

(2) For the Atlantic Ocean, its coastal bays and their tributaries,[:

(a) When] when registering for a striped bass allocation permit, a commercial tidal fish licensee shall specify and be authorized to use one of the following gear types:

[(i)] (a) (text unchanged)

[(ii)] (b) Gill net; or

[(b)] (3) A fishing guide licensee is not required to register to participate in the striped bass season.

C. Department-Issued Striped Bass Allocation Permit.

(1) — (2) (text unchanged)

(3) An individual who is authorized to commercially harvest striped bass in accordance with Natural Resources Article, §4-701, Annotated Code of Maryland and participated in at least one striped bass fishery during the past 2 years is allowed to register to participate for the next striped bass fishery.

(4) The Department shall accept an application for a striped bass allocation permit authorizing a commercial tidal fish licensee to participate in a commercial striped bass season from any person qualified under Natural Resources Article, §[4-210 or] 4-701, Annotated Code of Maryland, and maintain separate waiting lists of commercial tidal fish license candidates and fishing guide license candidates to fish for striped bass.

(5) — (7) (text unchanged)

D. A commercial tidal fish licensee who has not registered to catch striped bass in accordance with §A of this regulation or who has not received a transfer of a striped bass allocation permit in accordance with §F or G of this regulation may not catch striped bass for sale or participate during the commercial striped bass season.

E. Pound Net Registration Requirements to Participate in the Striped Bass Season.

(1) A commercial tidal fish licensee may not register or receive a transfer of a striped bass allocation permit to participate in the striped bass season with a pound net unless the licensee has at least one pound net registered with the Department and can document use of the site to the satisfaction of the Department. The pound net shall have:

(a) — (c) (text unchanged)

(2) (text unchanged)

(3) A licensee shall obtain certification from the Department for any nets used to harvest striped bass if[:

(a) (text unchanged)

(b) The] the licensee has not previously had pound nets certified in the commercial striped bass fishery.

(4) — (5) (text unchanged)

F. Annual Transfer of Allocation Permit.

(1) The striped bass allocation permit for each gear type listed in §B of this regulation may only be transferred or sold to a valid commercial tidal fish licensee.

(2) The striped bass allocation permit may only be transferred or sold within the registration time period established in §A(2) of this regulation or the transfer time period provided during the first three weeks in April at regional licensing centers.

(3) A commercial tidal fish licensee may transfer a striped bass allocation permit for the season if:

(a) The fee for the authorization has been paid;

(b) The transferor makes application to the Department requesting transfer in person or through a notarized transfer form; and

(c) The transferee is a valid commercial tidal fish licensee.

(4) Except as provided in §F(5) of this regulation, a commercial tidal fish licensee may not be assigned more than:

(a) One striped bass hook and line allocation permit;

(b) Four striped bass gill net allocation permits;

(c) Five striped bass pound net allocation permits;

(d) Four striped bass Atlantic otter and beam trawl allocation permits; and

(e) Four striped bass Atlantic gill net allocation permits.

(5) A commercial tidal fish licensee may not possess or be assigned both a striped bass hook and line allocation permit and a striped bass pound net allocation permit.

(6) For purposes of the license suspension criteria, if a licensee transfers the striped bass authorization to another licensee, the transferee that committed the violation shall be held responsible.

G. Permanent Transfer of Striped Bass Authorization.

(1) A commercial tidal fish licensee may permanently transfer a striped bass authorization if:

(a) The commercial tidal fish licensee makes application to the Department requesting transfer;

(b) The transferor was authorized to harvest striped bass in each of the three immediately preceding years;

(c) The transferee is a valid commercial tidal fish licensee;

(d) The fee for the authorization has been paid; and

(e) All striped bass allocation permits and associated tags are returned to the Department.

(2) An authorized representative of a deceased licensee may permanently transfer a striped bass authorization regardless of the number of years the deceased licensee held the striped bass authorization.

08.02.15.05 (12-1-08)

.05 Disposition of Catch.

A. Permits and Tags.

(1) Prior to the start of a striped bass season the [The] Department shall provide tamper-evident locking tags to each commercial tidal fish licensee who is authorized to participate in a commercial striped bass fishery.

(2) The Department will only issue additional tags 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.

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

(a) Have in possession:

(i) (text unchanged)

(ii) An allocation permit; and

(iii) Unused tamper-evident tags issued by the Department; [and

(iv) License transfer paperwork if applicable;]

(b) [Except as provided in §A(2)(c) of this regulation, before removing a striped bass from a boat or removing a boat from the water, affix a tag as provided in §A(1) of this regulation through the mouth and one gill opening;

(c) Affix a tag] Securely affix a tag, as provided in §A(1) of this regulation, through the mouth and one gill opening:

(i) Immediately to a striped bass harvested by hook and line; [or]

(ii) Within 200 yards of the pound net to a striped bass harvested from a pound net; or

(iii) Before removing a striped bass from a boat or removing a boat from the water, securely affix a tag as provided in §A(1) of this regulation to a striped bass harvested by any other gear; and

[(d) Within 10 days immediately following the end of the season, return the assigned allocation permit to the Department.]

(c) Except as required by Regulation .04 F and G of this chapter, return the assigned allocation permit(s) and any unused tags to the Department within 14 days immediately following the end of the quota year.

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

(a) May not be transferred [only in accordance with a Department-approved license transfer pursuant to Natural Resources Article, §4-701, Annotated Code of Maryland.] reused, defaced, modified, or counterfeited;

(b) Shall reflect the gear used to harvest the striped bass;

(c) Shall be securely affixed to a whole striped bass or accompany fillets until sale to the final consumer; and

(d) Shall only be used by the commercial tidal fish licensee to whom they were assigned.

(5) The Department may not provide replacement tags for tags that are lost.

(6) A commercial tidal fish licensee registered with pound net, Atlantic otter and beam trawl, or Atlantic gill net shall receive a fixed number of tags.

(7) Only striped bass tags issued by the Department may be on board a vessel while engaged in fishing for striped bass in State waters.

[(4)] (8) An allocation permit [card] and striped bass tags for only one fishing-gear type may be on board a vessel at any one time.

B. Importation.

(1) (text unchanged)

(2) Commercially harvested whole striped bass, [including those] imported to Maryland, shall be:

(a) (text unchanged)

(b) Individually tagged with a tamper-evident sealed tag which:

(i) — (ii) (text unchanged)

(iii) Is securely affixed through the mouth and one gill opening.

(3) Striped bass fillets are not subject to tagging requirements if the fillets are imported to Maryland and in a marked container as specified in §B(2)(a) of this regulation.

C. Check Stations. The Secretary shall:

(1) — (3) (text unchanged)

D. Check-In.

(1) Time Requirements.

(a) [As] Except as provided in §D(1)[(a)] (b) of this regulation, within 3 hours of completing a fishing trip and returning to dock and not later than 9 p.m., a commercial

tidal fish licensee shall have his striped bass harvest counted and weighed by a Department representative at a check station.

(b) (text unchanged)

(2) (text unchanged)

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

(a) — (b) (text unchanged)

(c) Notify a Natural Resources Police Officer of a harvest which exceeds a licensee's catch limit plus 50 pounds; and

(d) (text unchanged)

[E. A commercially harvested whole striped bass shall have a sealed tamper-evident tag until sale to the consumer. Striped bass fillets are not subject to the tagging requirement.]

08.02.15.06 (12-1-08)

.06 Monitoring.

A. (text unchanged)

B. Inspection.

(1) A tidal fish licensee, check station, or dealer shall make available daily information, landing tickets, allocation permits, and tags for immediate inspection on [verbal] request of a Department representative.

(2) A Department representative may at reasonable times conduct an administrative inspection of the contents of any facility or vehicle where striped bass may reasonably be stored if the facility or vehicle is owned or operated by a seafood dealer licensed under Natural Resources Article, §4-702, Annotated Code of Maryland.

(3) Failure to comply with the inspection may result in suspension or revocation of a seafood dealer's license as follows:

(a) For a first offense the suspension shall be 15 days;

(b) For a second offense the suspension shall be 30 days; and

(c) For a third offense, the suspension shall be license revocation.

(4) Before the suspension or revocation of a seafood dealer's license, the Department shall provide a contested case hearing in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland and COMAR 08.01.04.

C. (text unchanged)

08.02.15.07 (12-1-08)

.07 Commercial Fishery.

A. Chesapeake Bay and its Tidal Tributaries.

(1) — (4) (text unchanged)

(5) The Secretary may allocate the number of pounds for each season based on the:

(a) Number of commercial tidal fish licensees declared under the specified gear types in accordance with Regulation .04 of this chapter [the previous year];

(b) — (c) (text unchanged)

(6) The Secretary may:

(a) Reassign a commercial tidal fish licensee's seasonal allocation if the licensee has not used the allocation; and

(b) Proportionally increase the seasonal, weekly, or daily allocation of all commercial tidal fish licensees during the season.

B. (text unchanged)

C. [Intent to Fish.

(1) A commercial tidal fish licensee shall register intent to fish with the Department to take striped bass in a user group season as required by the Department.

(2) The Department shall notify a licensee of the licensee's daily and seasonal allocation at least 10 days before the season begins.] Vacant.

D. Drift Gill Net Fishery Limitations.

(1) (text unchanged)

(2) In the tidal waters of the Chesapeake Bay and its tributaries:

(a) (text unchanged)

(b) [A commercial tidal fish licensee may not fish or maintain on a boat more than 600 linear yards, measured along the top line from one end of mesh to the other end, of drift gill net;

(c)] The total length of drift gill net aboard a boat may not exceed 2,400 yards; and

[(d) For each 600-yard increment of drift gill net, up to the 2,400-yard maximum, a licensee with his or her license shall be on board when the boat is not at dockside;

(e) Not more than four licensees with individual permits may harvest striped bass on a boat on any day.]

(c) Regardless of the number of licensees with a striped bass allocation permit for gill net on board a vessel, not more than 2000 pounds of striped bass may be on board the vessel on any day.

(3) — (7) (text unchanged)

E. Commercial Hook and Line Fishery Limitations.

(1) A total of 2 crew members may assist a commercial tidal fish licensee with the appropriate striped bass allocation permit to catch striped bass with hook and line.

(2) — (4) (text unchanged)

F. [Allocation Transfer.

(1) The Secretary may:

(a) Reassign a commercial tidal fish licensee's seasonal allocation if the licensee has not used the allocation; and

(b) Proportionally increase the seasonal, weekly, or daily allocation of all commercial tidal fish licensees during the season.

(2) A commercial tidal fish licensee may not:

(a) Catch striped bass, using another licensee's permit, until the licensee's own season allocation has been harvested; and

(b) Catch more than one permit's allocation, except as permitted by a valid tidal fish license transfer in accordance with Natural Resources Article, §4-701, Annotated Code of Maryland.

(3) A striped bass allocation permit shall be assigned to the permittee's tidal fish license and may only be transferred with the tidal fish license and assigned tamper-evident tags in accordance with Natural Resources Article, §4-701, Annotated Code of Maryland.]

Pound Net Fishery Limitations.

(1) A commercial tidal fish licensee may not harvest striped bass from a pound net between 6:00 p.m. and 12:00 a.m.

(2) A commercial tidal fish licensee may not harvest striped bass from a pound net on Sunday.

G. General.

(1) A commercial tidal fish licensee may not catch striped bass between 6 p.m. Friday and 5 a.m. Monday, except as provided in §§D, E, and F of this regulation.[:

(a) As provided in §§D and E of this regulation; and

(b) From pound nets on Saturdays.]

(2) A commercial tidal fish licensee may not catch more than the licensee's catch limit assigned to the allocation permit except as provided by [and] the tolerance allowance in pounds as follows:

(a) — (c) (text unchanged)

(3) A commercial tidal fish licensee may only catch striped bass using the striped bass allocation permit assigned to the licensee.

(4) The Department shall notify a licensee of the licensee's daily, weekly, and seasonal allocation at least 10 days before the season begins.

JOHN R. GRIFFIN

Secretary of Natural Resources