

(4) *If one licensee is present on the vessel, only one bulk tag may be used.*

(5) *If a bulk tag is used, the vessel may only harvest from one bar on that day.*

D. Tagging Provisions for Both Tagging of Individual Containers and Bulk Tags.

[(4)](1)—[(6)](3) (text unchanged)

(4) *Only one type of tag, individual or bulk, may be present on a vessel while harvesting oysters.*

[(7)](5)—[(9)](7) (text unchanged)

[C.] *E. Exemptions.*

(1) Oysters harvested for recreational purposes and not for sale are exempt from the requirements of §§A [and B]—D of this regulation.

(2) Oysters harvested from a lease and stored and tagged in accordance with COMAR 08.02.23 are exempt from the requirements of §§A [and B]—D of this regulation.

08.02.23 Shellfish Aquaculture and Leasing

Authority: Natural Resources Article, §4-11A-12, Annotated Code of Maryland

.04 Shellfish Aquaculture Harvester Permit.

A.—F. (text unchanged)

G. Containers.

(1) (text unchanged)

(2) Oysters shall remain in the original container until a tag is no longer required on the container in accordance with [§H(4)(d)] §J(1)(d) of this regulation.

H. Tagging of Individual Containers.

(1) Except as provided in §§H(2) and I of this regulation, an individual storing oysters in accordance with §H of this regulation shall complete and affix a Department-issued tag to each container of oysters prior to leaving the lease from which the oysters were harvested.

(2)—(3) (text unchanged)

I. Bulk Tagging.

(1) *Definitions.*

(a) *In this regulation the following terms have the following meanings.*

(b) *“Bulk tag” means a tag that provides the necessary information as required by the National Shellfish Sanitation Program Model Ordinance for a single lot of oysters.*

(c) *“Single lot” means oysters coming from a single lease, harvested during a single trip on a single day.*

(2) *Except as provided in §I(3) of this regulation, an individual storing oysters in accordance with §G of this regulation may complete and affix a Department-issued bulk tag to a single container of oysters prior to leaving the lease from which the oysters were harvested.*

(3) *An individual storing oysters in accordance with §G of this regulation may use a bulk tag not supplied by the Department if:*

(a) *The individual:*

(i) *Is licensed and certified to sell shellfish by the Maryland Department of Health in accordance with COMAR 10.15.04 and 10.15.07; and*

(ii) *Follows the tagging requirements of the National Shellfish Sanitation Program Model Ordinance, incorporated by reference by the Maryland Department of Health in COMAR 10.15.07.01; and*

(b) *Each tag contains:*

(i) *The statement “Farm-Raised Shellfish”;*

(ii) *The lease number; and*

(iii) *The following statement in bold capitalized letters: “ALL SHELLFISH CONTAINERS IN THIS LOT HAVE THE SAME HARVEST DATE AND ARE FROM THE SAME LEASE”;* and

(iv) *The number of individual containers in the lot.*

(4) *If a bulk tag is used, the vessel may only harvest from one lease on that trip.*

J. Tagging Provisions for Both Tagging of Individual Containers and Bulk Tags.

[(4)](1) —[(6)](3) (text unchanged)

(4) *An individual shall possess only one type of tag, individual or bulk, while harvesting oysters.*

[(7)](5)—[(8)](6) (text unchanged)

[I.] K. (text unchanged)

JOSH KURTZ

Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

Authority: Natural Resources Article, §4-2A-03, Annotated Code of Maryland

Notice of Proposed Action

[23-267-P]

The Secretary of Natural Resources proposes to amend Regulation .07 under **COMAR 08.02.05 Fish**.

Statement of Purpose

The purpose of this action is to clearly allow the recreational harvest of Atlantic menhaden. The action proposes to allow the Department to correct a technical error. When the Department originally declared Atlantic menhaden as “In Need of Conservation” and adopted regulations for

their commercial harvest, it was overlooked that the authority that was used made it so that harvest was only allowed under rules that explicitly allowed the activity. Typically, fishing activities that are not explicitly prohibited by regulation are allowed (i.e., unlimited harvest of catfish in tidal waters). Because of the authority used for menhaden, the Department must affirmatively allow recreational harvest, or it is not legal. The Department never intended to prohibit this activity and believes that this activity has long occurred even with the current technical prohibition. The Department also believes that the recreational harvest of menhaden (typically as bait for other fisheries) will not have a meaningful impact on the species, as the majority of harvest in Maryland comes from pound nets, and the largest percentage of harvest on the coast comes from the purse seine fishery in Virginia.

Estimate of Economic Impact

The proposed action has no economic impact.

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 Atlantic Menhaden — Recreational Harvest, Regulatory Staff, Department of Natural Resources, Fishing and Boating Services, 580 Taylor Ave., E4, Annapolis MD 21401, or call 410-260-8300, or submit comments to <https://dnr.maryland.gov/fisheries/pages/regulations/changes.aspx#menhaden>. Comments will be accepted through February 12, 2024. A public hearing has not been scheduled.

.07 Atlantic Menhaden.

A. Commercial Quota.

(1) The annual total allowable landings of Atlantic menhaden for the commercial fishery is set by the Atlantic States Marine Fisheries Commission and shall be published through a public notice issued in accordance with [§F] §G of this regulation.

(2) (text unchanged)

B. Commercial Seasons. A public notice shall be issued in accordance with [§F] §G of this regulation when the quota and season are approved by the Atlantic State Marine Fisheries Commission.

C. Commercial Catch Limits.

(1) (text unchanged)

(2) Upon the State quota being met or exceeded, the catch limit for Atlantic menhaden and the harvest rate at which an Atlantic menhaden bycatch allowance landing permit is required shall be established and may be modified through a public notice issued in accordance with [§F] §G of this regulation.

D. Recreational Fishery.

(1) *Season.* The season for the recreational harvest of Atlantic menhaden is January 1 through December 31.

(2) *Catch Limit.* There is no limit on the number of Atlantic menhaden that an individual may harvest for recreational use.

(3) *Size Limit.* There is no minimum size for Atlantic menhaden.

[D.] E. Atlantic Menhaden Bycatch Allowance Landing Permits.

(1)—(4) (text unchanged)

(5) Atlantic menhaden bycatch allowance landing permits may not be transferred and are valid only for the named individual on the permit card or their operator as described in [§D(4)] §E(4) of this regulation.

(6) (text unchanged)

[E.] F. Reporting.

(1) (text unchanged)

(2) **Reporting Penalties.**

(a) The Department may suspend the holder of an Atlantic menhaden bycatch allowance landing permit from participation in the menhaden fishery for up to 90 days per violation for failing to comply with [§E(1)(b)] §F(1)(b) of this regulation.

(b) In addition to any other penalty, the Department may deny an application for an Atlantic menhaden bycatch allowance landing permit for failing to comply with [§E(1)] §F(1) of this regulation during the previous season.

(c) (text unchanged)

[F.] G. (text unchanged)

JOSH KURTZ
Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.26 Shell Recycling [Tax Credit] Grant Program

Authority: [Tax-General Article, §10-724.1] *Natural Resources, §4-1019.1*, Annotated Code of Maryland

Notice of Proposed Action

[23-264-P]

The Secretary of Natural Resources proposes to amend Regulations .01 and .02, repeal existing Regulations .03—.05, and amend and recodify existing Regulation .06 to be Regulation .03 under **COMAR 08.02.26 Shell Recycling Tax Credit**. The Department proposes to rename the chapter Shell Recycling Grant Program to reflect the new nature of the program.