

MARYLAND REGISTER

Proposed Action on Regulations

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3. Name of Promulgating Authority

Department of Natural Resources

4. Name of Regulations Coordinator Telephone Number
Lisa A Eutsler 410-260-8107

Mailing Address

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

City State Zip Code
Annapolis MD 21401

Email

lisa.eutsler@maryland.gov

5. Name of Person to Call About this Document Telephone No.
Tamara O'Connell 410-507-0779

Email Address

tamaral.oconnell@maryland.gov

6. Check applicable items:

- New Regulations
- Amendments to Existing Regulations
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- Repeal of Existing Regulations
- Recodification

Notice of Proposed Action

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The Secretary of Natural Resources proposes to amend Regulations .09, .10, and .12 under COMAR 08.02.15 Striped Bass.

Statement of Purpose

The purpose of this action is to implement Addendum VI to Amendment 6 of the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Atlantic Striped Bass. The proposed action amends the catch limit, size limit, and season to reduce total removals of striped bass during the recreational and charter boat summer and fall fishery in Maryland's Chesapeake Bay and its tidal tributaries.

The 2018 benchmark stock assessment for striped bass indicated the striped bass stock is overfished and experiencing overfishing. Based on these findings, the Atlantic States Marine Fisheries Commission (ASMFC) determined that conservation measures are needed. Addendum VI to Amendment 6 of the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Atlantic Striped Bass (Addendum) was finalized by ASMFC in October of 2019. The Addendum requires all states to reduce total removals (harvest + dead discards) by 18% beginning in 2020. The conservation goal set by ASMFC is to reduce the total number of striped bass that are killed by fishing activities. This means reducing the number of fish that are harvested and the number of fish that die after being caught and returned to the water, known as dead discards.

The Addendum specifies the actions necessary for the recreational fishery, however it allows states to file plans that will provide equivalent conservation. The proposed action implements a plan that will provide equivalent conservation to the option prescribed by the Addendum. The option selected is based on public comment and Maryland's goal to reduce total removals paying particular attention to decreasing dead discards during the summer and fall season. The option was submitted to the ASMFC Technical Committee in November 2019 and approved by the ASMFC Striped Bass Management Board in February 2020.

The proposed action reduces the creel limit from two to one striped bass per person per day. The creel limit applies to all open seasons beginning May 16, 2020. Changing the creel limit removes the need for a limit on the second striped bass; therefore, the proposed action removes the upper limit and re-words each regulation to make it clear that a person may not keep a striped bass that is less than 19 inches in total length.

The proposed action establishes a closure period of August 16, 2020 through August 31, 2020. Dates are inclusive which means both August 16 and August 31 would be closed. A closure period is being established in an effort to reduce dead discards during the summer when water quality conditions in the Chesapeake Bay increase this mortality.

Striped bass require cool, well-oxygenated water to thrive.

Based on current information, expectations of fishery participants, and measures approved by ASMFC, the proposed action specifies that the closure is only for the year 2020. During the summer months, as water temperatures increase and oxygen conditions worsen, striped bass become more stressed. Data will be gathered and analyzed during the 2020 season to determine the effectiveness of the closure period and inform future decisions.

During the closure period in August, anglers may not target striped bass. "Target" means that a person may not catch, harass, harm, pursue, hunt, shoot, wound, or attempt to catch striped bass or striped bass hybrids. Anglers would still be allowed to fish for other species, but all efforts must be made to avoid interacting with striped bass during the closure period.

The proposed action requires that, while fishing, all striped bass in a person's possession shall meet the size and possession limits set forth in regulation for that area. Anglers that fish the mainstem and tributaries of the Potomac River need to be aware of the rules for where they are fishing. Season and limits can be, and sometimes are, different in the mainstem of the river and its tributaries.

The proposed action changes the end of the season to December 10. This is a 5-day shortening of the season. The proposed action also removes the provision that allows the captain or the mate to keep a striped bass during a charter trip. Both measures are needed to achieve the desired reduction in total removals in Maryland's conservation equivalency plan.

Part of the department's conservation equivalency plan allows charter captains licensed under Natural Resources Article, §4-701, Annotated Code of Maryland to voluntarily participate in a pilot program. The program is not available for the Susquehanna Flats & Northeast River from May 16 through May 31. Participating captains will be required to use FACTS (an electronic reporting system) and will be allowed to keep two fish per person per day. Only one of those two fish may be greater than 28 inches. FACTS is an e-Reporting system that will provide real-time data on harvest, discards, and fishing activity. Electronic reporting in Maryland requires that participants send a Trip Start Hail before they leave the dock and a Trip End Hail before they return to the dock. The pilot program will be implemented in accordance with the Code of Maryland Regulations 08.02.01.10.

Due to the timing of the ASMFC Management Board approval and implementation date, the department will manage the size, creel, and season for the fishery by public notice until a regulation is adopted for all parameters. Except for the prohibition on targeting in August, all rules will be implemented by a public notice. The public notice will be issued in accordance with the Code of Maryland Regulations 08.02.15.12.

The public notice and proposed action ensure Maryland's compliance with the Atlantic

States Marine Fisheries Commission Interstate Fishery Management Plan for Atlantic Striped Bass.

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 on the department, charter boat operations, bait stores, tackle stores, and marinas. Given the ongoing COVID-19 pandemic and the recent closure of recreational fishing for non-subsistence activity, it may be difficult to discern between the economic impacts from the COVID-19 pandemic and the proposed action. For example, catch and release is currently prohibited by regulation at the same time it is prohibited by Executive Order.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
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A. On issuing agency:		
License Sales	(R-)	Indeterminable
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	Magnitude
	Cost (-)	
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D. On regulated industries or trade groups:		
(1) Recreational Anglers	(-)	Indeterminable
(2) Charter Boat - Creel Limit	(-)	Indeterminable
(3) Charter - August Closure	(-)	Indeterminable
(4) Charter - Shortening of Season	(-)	Indeterminable
E. On other industries or trade groups:		
Bait Stores/Tackle Stores/Marinas	(-)	Indeterminable
F. Direct and indirect effects on public:	NONE	

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

A. There is a potential loss of revenue from fishing license sales. NOAA Fisheries Marine Recreational Information Program (MRIP) data from 2012-2016 shows that approximately 760,000 anglers make 2.5 million fishing trips annually in Maryland waters. It is unknown if or how many of these individuals will choose to not purchase a license to fish in Maryland due to restricted striped bass rules; therefore, the actual impact is indeterminable.

D(1). NOAA Fisheries Marine Recreational Information Program (MRIP) data from 2012-2016 shows that approximately 760,000 anglers make 2.5 million fishing trips annually in Maryland waters. It is unknown how many of these individuals only fish for striped bass, how much money they have invested in equipment (fishing gear, boats, etc.), or if they have trips planned during the closure that centered around striped bass. It is unknown if they will continue to fish in Maryland for other species, make fewer trips to Maryland, or not fish at all due to restricted striped bass rules. The actual impact to recreational anglers is indeterminable.

D(2). Decreasing the catch limit to one fish per person per day will likely have a negative impact on charter businesses. Over the last 5 years, the average number of trips that charter captains have reported is 1,723 for May; 1,893 for June; 2,007 for July; 1,676 for August; 992 for September; 722 for October; 439 for November; and 159 for December. Decreasing the catch limit may mean that some anglers may not hire a chartered trip. It is unknown how many of those trips were taken strictly for striped bass or how many anglers will not book a trip if they can only catch one striped bass. We are not able to predict the actions of anglers or businesses so the actual impact cannot be determined.

D(3). The prohibition on targeting (catching or attempting to catch) striped bass from August 16 through August 31 in the Chesapeake Bay and its tidal tributaries will likely have an indeterminable negative impact on charter businesses. Over the last 5 years, charter captains have reported an average of 524 trips per year where they landed striped bass during that time period. Losing those days in August will likely result in lost opportunities to book trips. The actual impact is indeterminable because it is unknown how many trips during that time period are taken strictly for striped bass. Instead of fishing for striped bass they could plan trips for other species. We are not able to predict the actions of anglers or businesses so the actual impact cannot be determined.

D(4). Decreasing the season by five days in December means that the charter industry could be negatively impacted if customers stop scheduling trips. The charter industry may change their business model at the end of the season. Instead of harvesting striped bass they could plan trips for catch and release or switch to other species in December. We are not able to predict the actions of anglers or businesses so the actual impact cannot be determined.

E. Reducing the creel to one fish for recreational anglers, prohibiting the targeting (catching or attempting to catch) of striped bass during mid to late August and the season closing earlier in December will likely have an impact on bait shops, tackle shops, and marinas. Anglers will likely have less need for tackle and will take fewer trips during these closure periods, resulting in less marine fuel being purchased and the loss of other incidental sales. It is not possible to know how many fewer trips will be taken, as anglers could choose to pursue other species during the striped bass closure, so the total economic impact is not determinable.

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 action may have an economic impact on charter boat operations, bait stores, tackle stores, and marinas. These types of businesses are generally considered small businesses. Please see the Assumptions in the Estimate of Economic Impact for how it could impact the 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 Regulations, Regulatory Staff, Department of Natural Resources Fishing and Boating Services, 580 Taylor Avenue, B-2, 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 June 8, 2020. A public hearing will be held, A webinar or similar remote conference to discuss the details of the proposed action will be held May 11, 2020. Details will be announced at a later date.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2021

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 additional funds are necessary to implement the changes. The proposed changes do not require additional staff time or enforcement. Natural Resources Police officers currently enforce striped bass regulations and will enforce the proposed changes during their normal course of business.

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:

Chapter 15 Striped Bass

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

.09 Recreational and Charter Boat Summer and Fall Fishery in the Chesapeake Bay and Its Tidal Tributaries.

A. Early Season.

- (1) (text unchanged)
- (2) Chesapeake Bay and Its Tidal Tributaries.
 - (a) (text unchanged)
 - (b) Catch Restrictions.

(i) A person may not catch or possess more than [two] *one* striped bass per day.

(ii) A person may *not* catch [and] *or* possess [two] striped bass [at least] *less than* 19 inches *in total length*[, only one of which may be greater than 28 inches total length].

- (3) (text unchanged)

B. Summer and Fall Season.

(1) [The] *Except for the closure specified in Regulation .12I(6) of this chapter, the recreational and charter boat summer and fall season for taking striped bass is June 1 through December [15] 10.*

- (2) (text unchanged)
- (3) Catch Restrictions.

(a) A person may not catch or possess more than [two] *one* striped bass per day.

(b) A person may *not* catch [and] *or* possess [two] striped bass [at least] *less than* 19 inches *in total length*[, only one of which may be greater than 28 inches total length].

C. General Restriction. When fishing in any area described in this regulation, all striped bass in *a person's* possession shall meet the size and possession limits set forth in regulation for that area.

.10 Recreational and Charter Boat Summer and Fall Fishery for Maryland Tributaries of the Potomac River.

A. Season. [The] *Except for the closure specified in Regulation .12I(6) of this chapter, the recreational and charter boat summer and fall season in the:*

- (1) (text unchanged)

(2) Maryland tributaries of the Potomac River downstream of Woodrow Wilson Bridge (I-95) is June 1 through December [31] 10.

B. Catch Limit. A person may not catch or possess more than [two] *one* striped bass per day.

C. Size Limit. A person may *not* catch [and] *or* possess [two] striped bass [at least] *less than* 19 inches *in total length*[, only one of which may be greater than 28 inches total length].

D. General Restriction. When fishing in any area described in this regulation, all striped bass in *a person's* possession shall meet the size and possession limits set forth in regulation for that area.

.12 General Restrictions.

A.—F. (text unchanged)

G. Restrictions for Charter Boats.

(1) During a chartered fishing trip, the captain or mate[:

(a) May] *may not* land or possess striped bass for personal consumption [during the season described in Regulation .08 of this chapter;

(b) May land and possess one striped bass per boat per trip during the seasons described in Regulation .09 of this chapter, to be retained for personal consumption only].

- (2) (text unchanged)

H. (text unchanged)

I. Seasonal Restrictions.

(1)—(5) (text unchanged)

(6) *During the period August 16, 2020 through August 31, 2020, a person may not catch, harass, harm, pursue, hunt, shoot, wound, or attempt to catch striped bass or striped bass hybrids in the Chesapeake Bay or its tidal tributaries.*

