

Chapter 205

(Senate Bill 29)

AN ACT concerning

Department of Natural Resources – Preparation of Fishery Management Plans – Authority

FOR the purpose of authorizing the Department of Natural Resources to prepare fishery management plans for any species of fish under certain circumstances; requiring the Department to include certain information relating to overfishing and sustainable harvests in a fishery management plan; authorizing the Department to waive a requirement to include certain information in a fishery management plan under certain circumstances; and generally relating to the authority of the Department of Natural Resources to prepare fishery management plans.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–215
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Natural Resources

4–215.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Conservation and management measures” means 1 or more techniques through which the objectives of a fishery management plan are achieved.
- (3) “Fishery” or “fishery resource” means:
- (i) One or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographic, scientific, technical, recreational, and economic characteristics; or
- (ii) The group or industry harvesting those stocks.

(4) “Fishery management” means the system used to conserve and allocate the fishery resource, including research and data collection, determination of objectives and management measures, and establishment, enforcement, and periodic evaluation of regulations.

(5) “Fishery management plan” means a document or report that contains a systematic description of a given fishery and the objectives and conservation and management measures for the fishery.

(b) The Department shall prepare fishery management plans for the following species:

- (1) Striped bass or rockfish;
- (2) White perch;
- (3) Yellow perch;
- (4) American shad;
- (5) Hickory shad;
- (6) Oysters;
- (7) Blue crabs;
- (8) Bluefish;
- (9) Herring;
- (10) Weakfish;
- (11) Croaker;
- (12) Spot;
- (13) Summer flounder;
- (14) American eel;
- (15) Red drum;
- (16) Black drum;
- (17) Spotted sea trout;

- (18) Horseshoe crabs;
- (19) Menhaden;
- (20) Tautog;
- (21) Black sea bass;
- (22) Scup;
- (23) Hard shell clams; and
- (24) Catfish.

(C) THE DEPARTMENT MAY PREPARE FISHERY MANAGEMENT PLANS FOR ANY SPECIES OF FISH IF, AFTER CONSULTATION WITH THE TIDAL FISHERIES ADVISORY COMMISSION AND THE SPORT FISHERIES ADVISORY COMMISSION, THE DEPARTMENT DETERMINES THAT THE PLANS ARE NECESSARY BASED ON:

- (1) THE POPULATION OF THE SPECIES;**
- (2) THE DISTRIBUTION OF THE SPECIES;**
- (3) THE HABITAT NEEDS OF THE SPECIES; OR**
- (4) OTHER BIOLOGICAL, ECOLOGICAL, OR SOCIOECONOMIC FACTORS CONCERNING THE SPECIES.**

[(c)] (D) (1) Conservation and management measures adopted under a fishery management plan, to the extent possible:

(i) Shall prevent overfishing while attempting to achieve the best and most efficient utilization of the State's fishery resources;

(ii) Shall be based on the best information available;

(iii) May not discriminate unfairly among groups of fishermen or have economic allocation as its sole purpose;

(iv) Shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches; and

(v) Shall avoid duplication of regulatory efforts and unnecessary costs to the State and to any other person.

(2) If it becomes necessary to allocate or assign fishing privileges among various groups of individuals under paragraph (1)(iii) of this subsection, or under any fishery management plan, that allocation shall be:

- (i) Fair and equitable to all individuals;
- (ii) Reasonably calculated to promote conservation; and
- (iii) Carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

[(d)] (E) (1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A fishery management plan may apply separately or jointly to the waters of the Chesapeake Bay and its tidal tributaries, the coastal bays and their tributaries, and the Maryland waters of the Atlantic Ocean and shall include:

- ~~(1)~~ **(I)** The best available estimates of sustainable harvest rates;
- ~~(2)~~ **(II)** Indicators that would trigger any tightening or loosening of harvest restrictions;
- ~~(3)~~ **(III)** A description of the fishery, including:
 - ~~(i)~~ **1.** The history of the fishery, and its current condition relative to historic populations;
 - ~~(ii)~~ **2.** The numbers of potential commercial and recreational fishermen projected to participate in the fishery;
 - ~~(iii)~~ **3.** The type and quantity of fishing gear used commercially;
 - ~~(iv)~~ **4.** Where practicable, the cost likely to be incurred in the management of the fishery; and
 - ~~(v)~~ **5.** The actual and potential revenues from the recreational and commercial fishery; ~~and~~

(IV) IF THE DEPARTMENT DETERMINES THAT A FISHERY HAS BEEN, OR IS CURRENTLY, OVERFISHED:

- 1. A SPECIES-SPECIFIC TIME PERIOD FOR:**
- A. ENDING OR APPROPRIATELY ADDRESSING OVERFISHING; AND**

B. REBUILDING THE STOCK OF THE SPECIES TO A SUSTAINABLE LEVEL; AND

2. A DESCRIPTION OF:

A. MANAGEMENT STRATEGIES THAT HAVE A HIGH PROBABILITY OF REDUCING FISHING TO A TARGET LEVEL WITHIN A TARGET TIME PERIOD, AS DETERMINED BY THE DEPARTMENT; AND

B. THE APPROPRIATE ASSIGNMENT OR ALLOCATION OF FISHING PRIVILEGES IN ACCORDANCE WITH SUBSECTION (D)(2) OF THIS SECTION; AND

~~(4)~~ **(V)** Other pertinent data that will assist the Secretary in determining conservation and management measures reasonably necessary to ensure that the fishery resources will be sustained.

(2) THE DEPARTMENT MAY WAIVE THE REQUIREMENTS IN PARAGRAPH (1)(IV) OF THIS SUBSECTION FOR A SPECIES OF FISH IF THE DEPARTMENT DETERMINES THAT MEETING THE REQUIREMENTS IS NOT PRACTICABLE OR BIOLOGICALLY APPROPRIATE BASED ON:

(I) THE SPECIFIC BIOLOGY OF THE SPECIES;

(II) THE MANAGEMENT OF THE SPECIES UNDER A FEDERAL OR MULTI-STATE FISHERY MANAGEMENT PLAN;

(III) THE DESIGNATION OF THE SPECIES AS A NUISANCE;

(IV) ENVIRONMENTAL CONDITIONS; OR

(V) OTHER ECOLOGICAL FACTORS.

[(e)] (F) A fishery management plan may include:

(1) Proposed limitations on the catch of fish, based on area, species, size, number, weight, sex, incidental catch, total biomass, or other factors, which are necessary and appropriate for conservation and management of a fishery;

(2) Incorporation of relevant fishery conservation and management measures proposed or adopted by interstate bodies of which Maryland is a member; and

(3) Other proposed measures, requirements, or conditions and restrictions which are necessary and appropriate for fishery management.

[(f)] (G) The Department shall present the management plans under this section in the form of an annual report, subject to § 2–1246 of the State Government Article, to:

(1) The Legislative Policy Committee;

(2) The Education, Health, and Environmental Affairs Committee;
and

(3) The Environmental Matters Committee.

[(g)] (H) (1) (i) The Secretary shall adopt the proposed management plans and any proposed conservation and management measures by regulation.

(ii) The Secretary may adopt conservation and management measures in separate proceedings and by separate regulations. Conservation and management measures adopted separately may include changes to those proposed or adopted in a fishery management plan and any additional measures necessary to carry out the adopted plan.

(iii) The Secretary may not prohibit the use of pound net sites in the coastal bays that are registered with the Department as of January 1, 2000.

(2) The regulations of the Department to implement a fisheries management plan for the coastal bays may not become effective under this section until the Department first holds public hearings in Worcester County.

(3) All notices of public hearings required for the adoption of regulations under this section shall be printed in the Maryland Register and further publicized so as to provide reasonable notice to the affected communities of fishermen and the public.

[(h)] (I) Notwithstanding any other provision of this title, except § 4–1002 of this title, once a fishery management plan has been adopted by regulation, the State’s fishery resources shall be harvested in accordance with the conservation and management measures in the fishery management plan and any regulations implementing or amending that plan.

[(i)] (J) The provisions of this section do not apply to aquaculture activities in nontidal ponds, lakes, or impoundments in the State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 4, 2010.