



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL  
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**Secretary's Order No.: 2023-F-0011**

**RE: Approving Final Regulation, pursuant to 7 Del. C. §903(e)(2)a.1, to Amend 7 DE Admin. Code 3504 - *Striped Bass Possession Size Limit; Exceptions***

**Date of Issuance: May 19, 2023**

**Effective Date of the Amendment:** 48 hours following publication of this Secretary's Order and regulation on the Department's website: <https://de.gov/dnrecorders>

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), pursuant to 7 Del. C. §903(e)(2)a.1, and all other relevant statutory authority, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory amendment.

Notwithstanding 29 Del.C. Ch. 101 (which sets forth the standardized procedures whereby a state agency shall promulgate regulations), the Department also has the statutory authority under 7 Del. C. §903(e)(2)a.1 to promulgate certain regulations in order to adopt a specified management measure for finfish, subject to 7 Del.C. Ch. 9, *Finfishing in Tidal Waters*, by the issuance of a Secretary's Order. The Department is allowed to follow this abbreviated regulatory promulgation process only in instances where the management measures are specified by, and ensures compliance or maintains consistency with, a fisheries management plan or rule established by the Atlantic States Marine Fisheries Commission ("ASMFC"), the *Atlantic Coastal Fisheries Cooperative Management Act*, the Mid-Atlantic Fishery Management Council, or the National Marine Fisheries Service.

Whenever the Department promulgates a regulation pursuant to 7 Del. C. §903(e)(2)a.1, it shall also (1) publish on its website a public notice with a copy of the Secretary's Order and final regulation that implements the specific management measure; and (2) file the Secretary's Order and regulation that implements the specified management measure in the next available issue of the *Delaware Register of Regulations*. The final regulation becomes effective 48 hours after the Department has published the aforementioned public notice on its website, as mandated by 7 Del. C. §903(e)(2)a.2.

## Background, Procedural History and Findings of Fact

This order amends 7 DE Admin. Code 3504 – *Striped Bass Possession Size Limit; Exceptions* as part of an effort to reduce Striped Bass mortality in the recreational fishery by adopting a specified emergency management measure approved by the Atlantic States Marine Fisheries Commission’s (“ASMFC”) Atlantic Striped Bass Management Board (“Board”). Specifically, this amendment reduces the maximum length of a striped bass that may be legally possessed by a recreational angler from 35 inches to 31 inches. This order is required for Delaware to remain compliant with the ASMFC Emergency Order, approved by the Board on May 2, 2023, mandating that all entities in the management unit put the reduction in maximum length into effect by July 2, 2023.

The estimated 2022 recreational striped bass removals (harvest and dead discards) increased by 40% from the 2021 removals. The increase is jeopardizing the rebuilding of the striped bass population to the target level by 2029, as required by Amendment 7 to the *Interstate Fishery Management Plan for Atlantic Striped Bass*. Striped bass recruitment, as observed in the size of year classes, has mostly been below average over the past ten years, except for the year 2015. The 2015 class was one of the largest populations in the past 30 years and the survival of its members is critical to maintaining the spawning stock biomass needed to rebuild the striped bass population. Unfortunately, nearly all surviving members of the 2015 class now fall within the current recreational size limit, not less than 28 inches or greater than or equal to 35 inches in total length. This emergency action should greatly reduce the proportion of the 2015 class vulnerable to harvest, allowing them to survive, continue to spawn and replenish the population.

The Department has the statutory basis and legal authority to act with regard to promulgation of the proposed amendments to 7 DE Admin. Code 3504 - *Striped Bass Possession Size Limit; Exceptions*, pursuant to 7 Del. C. §§901 (c & d) and 903(e)(2)a.1.

### ORDER

In accordance with 7 Del. C. §903(e)(2)a.1, it is hereby ordered, this 19th day of May, 2023 that the above referenced amendments to 7 DE Admin. Code 3504 - *Striped Bass Possession Size Limit; Exceptions*, a copy of which is hereby attached, are supported by the evidence contained herein and are hereby adopted. The above referenced amendment shall take effect 48 hours following publication of this Secretary’s Order and regulation on the Department’s website in accordance with 7 Del. C. §903(e)(2)a.2.

  
For Shawn M. Garvin  
Secretary