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DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
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Secretary

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Secretary's Order No.: 2024-F-0019

**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: June 10, 2024

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 management measure approved by the Atlantic States Marine Fisheries Commission's ("ASMFC") Atlantic Striped Bass Management Board ("Board"). Specifically, this amendment reduces the slot length of a striped bass that maybe legally possessed by a recreational angler by one inch, from 20 - 25 inches to 20 - 24 inches, during Delaware's summer slot Striped Bass season. This order is required for Delaware to remain compliant with the implementation plan of ASMFC Addendum II to Amendment 7 to the Interstate Fishery Management Plan ("FMP") for Atlantic Striped Bass, approved by the Board on March 26, 2024. The implementation plan requires Delaware to enforce the recreational slot limit reduction by July 1, 2024, which is the start of the recreational summer slot Striped Bass season.

The estimated 2022 recreational striped bass removals (harvest plus dead discards) increased by 40% from the 2021 removals, which jeopardized the rebuilding of the striped bass population to the target level by 2029 and resulted in the emergency action taken in 2023. Addendum II builds upon the 2023 emergency action by changing the measures in the FMP to reduce fishing mortality and support stock rebuilding. Addendum II replaces the emergency action measures and adds additional measures upon its implementation by the states.

The Department has the statutory basis and legal authority to act with regard to the 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 10th day of June, 2024 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