

PUBLIC NOTICE OF PROPOSED RULEMAKING
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title of Rule: Part 3 - Finfish

Rule Identifier: 250-RICR-90-00-3

Rulemaking Action: Direct Final Amendment

Rule Summary

1. Proposed amendments to recreational Striped Bass management (section 3.11.1):

Proposed rule seeks to amend the striped bass recreational size from less than thirty-five inches (<35”) to less than thirty-one inches (<31”).

An emergency rule for the same amendment was filed and became effective on May 22, 2023, in response to emergency action taken by the Atlantic States Marine Fisheries Commission (ASMFC) Striped Bass Management Board. The ASMFC is the management authority for the striped bass resource in state waters (0-3 miles) along the East Coast of the United States. The striped bass stock is currently overfished but not experiencing overfishing and is in a rebuilding status where spawning stock biomass (SSB) must be at or above the SSB target by a rebuilding deadline of 2029. Updated stock projections using preliminary 2022 removals data showed a 15% probability of the stock being rebuilt by the 2029 deadline. In response, the ASMFC Striped Bass Management Board passed an emergency action On May 2, 2023, for all coastal states to implement a maximum size limit of < 31” for their recreational fisheries by July 2023. ASMFC emergency actions are effective for 180 days and therefore was set to expire on October 28, 2023.

The ASMFC is currently working on Draft Addendum II to the Amendment 7 of the Interstate Fishery Management Plan for Atlantic Striped Bass to address management measure for 2024. Based on timeline of the Draft Addendum, these measures would not be implemented prior to the expiration of the ASMFC emergency action. Therefore, on August 1, 2023, the ASMFC’s Atlantic Striped Bass Management Board extended the current emergency action through October 28, 2024, or until the implementation of Addendum II to Amendment 7 of the Interstate Fishery Management Plan.

To be compliant with the ASMFC Striped Bass Fishery Management Plan, the State of Rhode Island must implement the proposed amendment for 2024. Failure to implement these rules will result in a non-compliance finding by the ASMFC, which would be

deemed a violation of the interstate fisheries compact and may therefore jeopardize Rhode Island's fisheries interstate commerce. Additionally, this regulatory amendment has been classified as an emergency by the ASMFC to avoid irreparable damage to the striped bass resource, as continued overharvest of this resource will result in a reduced probability of successful stock rebuilding efforts and in turn adversely impact current and future recreational and commercial striped bass harvesters relying on the resource. As such, failing to act could result in imminent peril to the welfare of Rhode Island residents. Lastly, not implementing this required action could threaten federal funding to the State that is provided to implement fisheries management plans enacted by the ASMFC.

2. Proposed amendments to recreational Cod management (section 3.22.1):

Increase in minimum size and subperiod dates consistent with federal (NOAA) rule