

6 NYCRR Part 10 – Sportfishing Regulations & Part 40 - Marine Fish (Striped Bass) - Regulatory Impact Statement

1. Statutory authority:

Environmental Conservation Law (ECL)

ECL § 13-0105 directs that it shall be “the policy of the state that the primary principle in managing the state’s marine fishery resource is to maintain the long-term health and abundance of marine fisheries resources and their habitats, and to ensure that [fisheries] are sustained in usable abundance and diversity for future generations.” The legislature further directed that “the management of the state’s transboundary and migratory species shall be consistent with [all] interjurisdictional management plans, interstate or state-federal.”

ECL §§ 11-0303 and 13-0339 authorizes the Department of Environmental Conservation (DEC) to adopt regulations governing Atlantic Striped Bass including: size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, and other management measures.

ECL §13-0347 establishes additional provisions for Atlantic Striped Bass management in the marine district.

2. Legislative objectives:

It is the objective of the above-cited legislation that DEC manages marine fisheries to optimize resource use for recreational and commercial harvesters in a manner that is consistent with federal marine fisheries conservation and management policies including all applicable interstate fishery management plans. These amendments will ensure that New York maintains compliance and consistency with requirements of the Atlantic States Marine Fisheries Commission’s (ASMFC) Interstate Fishery Management Plan (FMP) for Atlantic Striped Bass.

3. Needs and benefits:

This rulemaking must be adopted on an emergency basis for the preservation of the general welfare by ensuring that New York State maintains compliance with the requirements of ASMFC's emergency action for the Fishery Management Plan (FMP) of Atlantic Striped Bass. Failure to maintain compliance may result in the federal closure of New York State's Atlantic Striped Bass fishery. FMPs are designed to promote the long-term sustainability of managed marine species, preserve the States' marine resources, and protect the interests of both commercial and recreational fishermen. The proposed new management measures are required by ASMFC's emergency action on Atlantic Striped Bass, which is designed to reduce recreational harvest of striped bass by protecting certain size fish to rebuild the stock to its target level by 2029. To comply with this directive, New York State must amend 6 NYCRR Parts 10 and 40 to ensure that the State's regulations are consistent with the required reduction in slot size. Failure to adopt these regulations could further impede the rebuilding plan for the Atlantic Striped Bass stock, which is currently overfished. Additionally, failure to adopt these regulations as an emergency rule by July 2, 2023, may lead to the closure of New York State's Atlantic Striped Bass fishery by the federal government due to New York State's failure to comply with mandatory requirements.

4. Costs:

There are no new costs to state and local governments from this action. The DEC will incur limited costs associated with both the implementation and administration of these rules, including the costs relating to notifying recreational fishers, party and charter boat operators, and other recreational fishing associated businesses of the new rules.

5. Local government mandates:

The proposed rule does not impose any mandates on local governments.

6. Paperwork:

Regulated parties are not expected to experience an increase in paperwork as a result of the proposed regulations.

7. Duplication:

The proposed amendment does not duplicate any state or federal requirement.

8. Alternatives:

The ASMFC Management Board voted to pass an emergency action on Atlantic Striped Bass to decrease the slot size from 28 to 35 inches to 28 to 31 inches. This motion passed with fifteen member states voting in favor and one member state voting against. Implementation of any other option would place New York State out of compliance with the ASMFC's action.

A "no action" alternative would not amend recreational fishing regulations and would fail to keep New York in compliance with ASMFC's emergency action on Atlantic Striped Bass and could result in a closure of the fishery.

9. Federal standards:

The amendments to 6 NYCRR Part 40 are in compliance with ASMFC's emergency action for Atlantic Striped Bass.

10. Compliance schedule:

The proposed regulations will take effect immediately upon filing with the Department of State, and regulated parties will be able to immediately comply with the proposed rule. The public will be notified of the changes to the regulations through publication in the State Register, through appropriate news releases, and through DEC's website.