

Article - Natural Resources

[\[Previous\]](#)[\[Next\]](#)

§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;
- (24) Catfish; and
- (25) Cownose ray.

(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.

(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.

(e) (1) 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:

(i) The best available estimates of sustainable harvest rates;

(ii) Indicators that would trigger any tightening or loosening of harvest restrictions;

(iii) A description of the fishery, including:

1. The history of the fishery, and its current condition relative to historic populations;

2. The numbers of potential commercial and recreational fishermen projected to participate in the fishery;

3. The type and quantity of fishing gear used commercially;

4. Where practicable, the cost likely to be incurred in the management of the fishery; and

5. The actual and potential revenues from the recreational and commercial fishery;

(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

(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.

(3) (i) Subject to subparagraph (ii) of this paragraph, the Department may not take any action to reduce or alter the boundaries of the oyster sanctuaries established in “Oyster Sanctuaries of the Chesapeake Bay and its Tidal Tributaries (September 2010)” until the Department has developed fisheries management plan for the scientific management of the oyster stock based on management strategies and measurements recommended by the Oyster Advisory Commission under paragraph (4) of this subsection and determined by the Department in consultation with the University of Maryland Center for Environmental Science.

(ii) The fishery management plan developed in accordance with paragraph (4) of this subsection shall:

1. End the overfishing of oysters in all areas and regions of the Chesapeake Bay and its tributaries where overfishing has occurred according to biological reference points established by the most recent oyster stock assessment while maintaining a harvest in the fishery;
2. Achieve fishing mortality rates at target levels;
3. Increase oyster abundance;
4. Increase oyster habitat; and
5. Facilitate the long-term sustainable harvest of oysters, including the public fishery.

(iii) This paragraph may not be construed to prevent the Department from:

1. Selecting the final two tributaries for tributary–scale oyster restoration sanctuary projects in accordance with the 2014 Chesapeake Bay Agreement; or

2. Establishing, in the discretion of the Department, any dimensions for a tributary–scale oyster restoration sanctuary project.

(4) (i) Subject to subparagraph (ii) of this paragraph, the Department may not take any action to reduce or alter the boundaries of the oyster sanctuaries established in “Oyster Sanctuaries of the Chesapeake Bay and its Tidal Tributaries (September 2010)” until the Department has developed an updated fisheries management plan for the scientific management of the oyster stock based on management strategies and measurements recommended by the Oyster Advisory Commission under paragraph (5) of this subsection and determined by the Department in consultation with the University of Maryland Center for Environmental Science.

(ii) The fishery management plan developed in accordance with paragraph (5) of this subsection shall:

1. End the overfishing of oysters in all areas and regions of the Chesapeake Bay and its tributaries where overfishing has occurred according to biological reference points established by the most recent oyster stock assessment while maintaining a harvest in the fishery;

2. Achieve fishing mortality rates at target levels;

3. Increase oyster abundance;

4. Increase oyster habitat; and

5. Facilitate the long–term sustainable harvest of oysters, including the public fishery.

(iii) This paragraph may not be construed to prevent the Department from:

1. Selecting the final two tributaries for tributary–scale oyster restoration sanctuary projects in accordance with the 2014 Chesapeake Bay Agreement; or

2. Establishing, in the discretion of the Department, any dimensions for a tributary–scale oyster restoration sanctuary project.

(5) (i) The Department shall:

1. In coordination with the University of Maryland Center for Environmental Science and the Oyster Advisory Commission, develop a package of consensus recommendations for enhancing and implementing the fishery management plan for oysters that will be informed by a collaboratively developed, science-based modeling tool to quantify the long-term impacts of identified management actions and possible combinations of management actions on:

- A. Oyster abundance;
- B. Oyster habitat;
- C. Oyster harvest;
- D. Oyster harvest revenue; and
- E. Nitrogen removal; and

2. Hold public listening sessions throughout the State to identify possible management actions for use in the public oyster fishery.

(ii) The Oyster Advisory Commission, with the assistance of external conflict resolution and facilitation specialists, shall:

1. Develop a package of consensus recommendations through a facilitated consensus solutions process, based on a 75% majority agreement level for each recommendation;

2. Recommend management actions or combinations of management actions to achieve the targets identified in the oyster stock assessment with the goal of increasing oyster abundance; and

3. Review model results for each management action or combination of management actions to inform its recommendations.

(iii) 1. The Department shall submit interim reports on the development of the package of consensus recommendations by August 1, 2020, December 1, 2020, and August 1, 2021, to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

2. In addition to the requirements under subparagraph 1 of this subparagraph, the Department shall include in the interim report submitted by August 1, 2021:

A. The status of the development of the science-based modeling tool used to quantify the long-term impacts of identified management actions; and

B. A summary of the model results of any actions identified by the Oyster Advisory Commission on or before the date of the interim report.

3. The Department shall provide a final report by December 1, 2021, which will include an implementation schedule for the consensus recommendations, to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

(iv) To be responsive to changes in the oyster resource due to environmental conditions, the Department shall:

1. Review the status of the stock relative to reference points every 2 years and conduct a benchmark stock assessment every 6 years with consideration of new methods and with external peer review; and

2. With the input of interested stakeholders, implement management actions that increase oyster habitat, maintain harvest, and grow the oyster stock.

(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.

(g) The Department shall present the management plans under this section in the form of an annual report, subject to § 2-1257 of the State Government Article, to:

(1) The Legislative Policy Committee;

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

(3) The Environment and Transportation Committee.

(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.

(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.

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

[\[Previous\]](#)[\[Next\]](#)