

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF FISH AND WILDLIFE**

Statutory Authority: 7 Delaware Code, Sections 903(e)(2)a; 903(f) and 1902(a)(4)(7 Del.C.
§§903(e)(2)a; 903(f) and 1902(a)(4))

REGISTER NOTICE

SAN# 2005-02

1. Title Of The Regulations:

- Tidal Finfish Regulation 3504 Striped Bass Possession Size Limit; Exceptions. (Formerly Tidal Finfish Reg. 7)**
Tidal Finfish Regulation 3541 Atlantic Sharks. (Formerly Tidal Finfish Reg. 25)
Tidal Finfish Regulation 3566 Minimum Age For A Commercial Finfish Licensee Or A Recreational Gill Net Licensee.
Shellfish Regulation 3701 Minimum Age For A Commercial Shellfishing Licensee Or Non-commercial Clamming Permittee.

2. Brief Synopsis Of The Subject, Substance And Issues:

To clarify what the minimum size limit is for striped bass taken commercially in gill nets in the Delaware River and Bay during the extended two-week season in February and the extended season during the month of May. During these season extensions, the minimum size for striped bass taken commercially from Delaware River and Bay shall be 20 inches total length, just as it is 20 inches total length during March and April in the Delaware River and Bay. The commercial gill net minimum size during the extended two-week season in February shall also be 20 inches total length in the Nanticoke River and its tributaries.

To set a minimum size of 54 inches, fork length and a one shark per person per day harvest limit for shoreline and pier fishermen for any large coastal shark, any pelagic shark or any small coastal shark exclusive of dogfish sharks.

To establish the age of 16 years as the minimum age to qualify for a commercial foodfish license and commercial foodfish equipment permits, for a recreational gill net permit, or for commercial shellfish licenses or a non-commercial clamming permit.

3. Possible Terms Of The Agency Action:

N/A

4. Statutory Basis Or Legal Authority To Act:

§903(e)(2)a; §903 (f); §1902 (a)(4) of 7 Del.C.

5. Other Regulations That May Be Affected By The Proposal:

N/A

6. Notice Of Public Comment:

Individuals may present their opinions and evidence and/or request additional information by writing or calling or visiting the Fisheries Section, Division of Fish and Wildlife, 89 Kings Highway, Dover, Delaware 19901, (302)739-3441. A public hearing on this proposed amendment will be held at the Department of Natural resources and Environmental Control Auditorium, 89 Kings Highway, Dover, DE at 7:30 PM on April 27, 2005. The record will remain open for written or e-mail comments to roy.miller@state.de.us until 4:40 PM May 2, 2005.

3504 Striped Bass Possession Size Limit; Exceptions. (Formerly Tidal Finfish Reg. 7)

(Penalty Section 7 Del.C. §936(b)(2))

1.0 Notwithstanding, the provisions of 7 Del.C. §929(b)(1) ~~or unless otherwise authorized~~, it shall be unlawful for any recreational fisherman to take and reduce to possession any striped bass that measures less than twenty-eight (28) inches in total length.

2.0 Notwithstanding, the provisions of 7 Del.C. §929(b)(1) ~~or unless otherwise authorized~~, it shall be unlawful for any commercial food fisherman to take and reduce to possession any striped bass that measure less than twenty-eight (28) inches in total length from the tidal waters of this State except that commercial gill net fishermen may take

striped bass measuring no less than twenty (20) inches in total length from the tidal waters of the Delaware River and Delaware Bay or their tributaries during the period from months of February 15 ~~March and April~~ through May 31 or from the tidal waters of the Nanticoke River or its tributaries during the period from February 15 through ~~in~~ the month of March.

3.0 ~~Unless otherwise authorized, it~~ shall be unlawful for any person to possess a striped bass that measures less than 28 inches, total length, unless said striped bass is in one or more of the following categories:

3.1 It has affixed, a valid strap tag issued by the Department to a commercial gill net fisherman and was legally taken and tagged by said commercial gill net fisherman from the tidal waters of the Delaware River and Delaware Bay or their tributaries during the period from months of February 15 ~~March and April~~ through May 31; or from the tidal waters of the Nanticoke River or its tributaries during the period from February 15 ~~in~~ through the month of March; or

3.2 It was legally landed in another state for commercial purposes and has affixed a valid tag issued by said state's marine fishery authority; or

3.3 It entered Delaware ~~is~~ packed or contained for shipment, either fresh or frozen, and accompanied by a bill-of-lading with a destination to a state other than Delaware; or

3.4 It was legally landed in another state for non commercial purposes by the person in possession of said striped bass and there is affixed to either the striped bass or the container in which the striped bass is contained a tag that depicts the name and address of the person landing said striped bass and the date, location, and state in which said striped bass was landed; or

3.5 It is the product of a legal aquaculture operation and the person in possession has a written bill of sale or receipt for said striped bass.

4.0 ~~Unless otherwise authorized, it~~ shall be unlawful for any commercial finfisherman to possess any striped bass for which the total length has been altered in any way prior to selling, trading or bartering said striped bass.

5.0 The words "land" and "landed" shall mean to put or cause to go on shore from a vessel.

6.0 It shall be unlawful for any person to land any striped bass that measures less than twenty-eight (28) inches in total length at any time, except those striped bass caught in a commercial gill net legally fished in the waters of Delaware River or Delaware Bay or their tributaries during the period from February 15 ~~months of March and April~~ through May 31 or from a commercial gill net legally fished in the tidal waters of the Nanticoke River or its tributaries ~~in~~ during the period from February 15 through the month of March.

7.0 It shall be unlawful for a commercial finfisherman authorized to fish during Delaware's commercial striped bass fishery to land any striped bass that measures less than twenty (20) inches in total length.

**3541 Atlantic Sharks (Formerly Tidal Finfish Reg. 25)
(Penalty Section 7 Del.C. §936(b)(2))**

1.0 Definitions:

"Fillet" shall mean to remove slices of fish flesh, of irregular size and shape, from the carcass by cuts made parallel to the backbone.

"Land or Landing" shall mean to put or cause to go on shore from a vessel.

"Management Unit" shall mean any of the large coastal species, small coastal species, pelagic species and prohibited species of sharks or parts thereof defined in this regulation.

"Large Coastal Species" shall mean any of the following species of sharks or parts thereof:

- Great hammerhead, *Sphyrna mokarran*
- Scalloped hammerhead, *Sphyrna lewini*
- Smooth hammerhead, *Sphyrna zygaena*
- White shark, *Carcharodon carcharias*
- Nurse shark, *Ginglymostoma cirratum*
- Blacktip shark, *Carcharhinus limbatus*
- Bull shark, *Carcharhinus leucas*

Lemon shark, *Neqaprion brevirostris*
Sandbar shark, *Carcharhinus plumbeus*
Silky shark, *Carcharhinus falciformis*
Spinner shark, *Carcharhinus brevipinna*
Tiger shark, *Galeocerdo cuvieri*

“Small Coastal Species” shall mean any of the following species of sharks or parts thereof:

Bonnethead, *Sphyrna tiburo*
Atlantic sharpnose shark, *Rhizoprionodon terraenovae*
Blacknose shark, *Carcharhinus acronotus*
Finetooth shark, *Carcharhinus isodon*

“Pelagic Species” shall mean any of the following species of sharks or parts thereof:

Porbeagle shark, *Lamna nasus*
Shortfin mako, *Isurus oxyrinchus*
Blue shark, *Prionace glauca*
Oceanic whitetip shark, *Carcharhinus longimanus*
Thresher shark, *Alopias vulpinus*

“Prohibited Species” shall mean any of the following species of sharks or parts thereof:

Basking shark, *Cetorhinidae maximus*
White shark, *Carcharodon carcharias*
Bigeye sand tiger, *Odontaspis noronhai*
Sand tiger, *Odontaspis taurus*
Whale shark, *Rhincodon typus*
Bignose shark, *Carcharhinus altimus*
Caribbean reef shark, *Carcharhinus perezi*
Dusky shark, *Carcharhinus obscurus*
Galapagos shark, *Carcharhinus galapagensis*
Narrowtooth shark, *Carcharhinus brachyurus*
Night shark, *Carcharhinus signatus*
Atlantic angel shark, *Squatina dumerili*
Caribbean sharpnose shark, *Rhizoprionodon porosus*
Smalltail shark, *Carcharhinus porosus*
Bigeye sixgill shark, *Hexanchus vitulus*
Sevengill shark, *Heptranchias perlo*
Sixgill shark, *Hexanchus griseus*
Longfin mako, *Isurus paucus*
Bigeye thresher, *Alopias superciliosus*

3 DE Reg 1088 (2/1/00)

2.0 It shall be unlawful for any person to land, purchase, trade, barter, or possess or attempt to land, purchase, trade, barter, or possess a prohibited species.

3.0 It shall be unlawful for any person to possess the fins from any shark in the management unit prior to landing said shark unless said fins are naturally attached to the body of said shark.

4.0 It shall be unlawful for any person to fillet a shark in the management unit prior to landing said shark. A shark may be eviscerated and the head removed prior to landing said shark.

5.0 It shall be unlawful to release any shark in the management unit in a manner that will not ensure said sharks maximum probability of survival.

6.0 It shall be unlawful for the operator of any vessel without a commercial food fishing license to have on board said vessel more than one shark in the management unit except that two Atlantic sharpnose sharks also may be on board in addition to the one shark in the management unit.

1 DE Reg. 345 (10/1/97)

3 DE Reg 1088 (2/1/00)

7.0 It shall be unlawful for any person who has been issued a valid commercial food fishing license while on board any vessel to possess any large coastal shark, any small coastal shark or any pelagic shark in the management unit during the remainder of any period after the effective date a commercial quota for that group of sharks has been reached in said period or is projected to be reached in said period by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration and the U.S. Department of Commerce.

8.0 It shall be unlawful for any person to engage in a directed commercial fishery for a prohibited species.

9.0 It shall be unlawful for the operator of any vessel without a commercial foodfishing license to have on board said vessel any large coastal shark, any pelagic shark or any small coastal shark that measures less than 54 inches, fork length (tip of snout to indentation between dorsal and ventral tail lobes).

10.0 It shall be unlawful for any person without a commercial foodfishing license to take and reduce to possession any large coastal shark, any small coastal shark or any pelagic shark less than 54 inches.

11.0 It shall be unlawful for any person without a commercial foodfishing license to take and reduce to possession more than one large coastal shark, small coastal shark or pelagic shark per day (a day being 24 hours).

3566 Minimum Age for Commercial Food Fish Licensees
(Penalty Section 7 Del.C. §936(b)(2))

1.0 An individual must be at least 16 years of age to qualify for a commercial foodfish license as defined in 7 Delaware Code §914 or to qualify for a food fishing equipment permit as defined in 7 Delaware Code §915, including recreational gill net permits and recreational drift gill net permits.

3701 General

1.0 An individual must be at least 16 years of age in order to qualify for any of the following licenses or permits:

- 1.1 Commercial clam tong/rake license
- 1.2 Commercial clam dredge license
- 1.3 Noncommercial clamming permit
- 1.4 Commercial conch pot license
- 1.5 Commercial conch dredge license
- 1.6 Commercial crab pot license
- 1.7 Commercial crab dredge license
- 1.8 Commercial horseshoe crab collecting permit
- 1.9 Horseshoe crab dredge permit
- 1.10 Commercial lobster pot license
- 1.11 Oyster harvesting license