

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL
CONTROL**

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 903(b)(e)(2)b (7 **Del.C.**, §903(b)(e)(2)b)
7 DE Admin. Code 3521

PROPOSED

REGISTER NOTICE SAN #2009-32

1. Title of the Regulations:

To amend Tidal Finfish Regulation 3521, Weakfish Size Limits; Possession Limits; Seasons

2. Brief Synopsis of the Subject, Substance and Issues:

A recent peer-reviewed assessment of weakfish found the stock to be depleted and at an all-time low level of abundance. Spawning stock biomass was estimated to be just three percent (3%) of an unfished stock, well below the 20% threshold for management action and the 30% target benchmark identified in the current amendment to the weakfish fisheries management plan of the Atlantic States Marine Fisheries Commission. The decline in biomass reflects a sustained rise in natural mortality after 1995 rather than fishing mortality which has been modest and stable over the same time period. Although the decline has resulted from a change in the natural mortality in recent years, it is further exacerbated by continued removals by directed commercial and recreational fisheries.

These proposed management measures were developed to discourage directed fishing, decrease bycatch mortality and reduce the coastwide harvest by approximately 50%.

3. Possible Terms of the Agency Action:

These proposed changes would go into effect March 2010 and remain in effect until changes in the weakfish population warrant further action.

4. Statutory Basis or Legal Authority to Act:

Title 7 Delaware Code § 903(e)(2)a.(3).

5. Other Regulations That may be Affected by the Proposal:

This would represent an amendment to the existing Tidal Finfish Regulation (No. 3521) Weakfish Size Limits; Possession Limits; Seasons. No other regulations are affected.

6. Notice of Public Comment:

Individuals may address questions to the Fisheries Section, Division of Fish and Wildlife, 89 Kings Highway, Dover, DE 19901 or phone (302)-739-9914. A public hearing on these proposed regulations will be held in the Department of Natural Resources and Environmental Control auditorium at 6:00 PM on Thursday, January 21, 2010. Individuals may present their opinions and evidence either at the hearing or in writing to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901, or via email to Lisa.Vest@state.de.us. The hearing record will remain open for written or email comments until 4:30 PM January 31, 2010.

7. Prepared By:

Craig A. Shirey, 302-739-9914, December 11, 2009

3521 Weakfish Size Limits; Possession Limits; Seasons.

(Penalty Section 7 **Del.C.** §936(b)(2))

- 1.0 It shall be unlawful for any person to possess weakfish, *Cynoscion regalis*, taken with a hook and line, that measure less than thirteen (13) inches, total length.

- 2.0 It shall be unlawful for any person to whom the Department has issued a commercial food fishing license and a food fishing equipment permit for hook and line to have more than ~~six (6)~~ one (1) weakfish in possession during the period beginning at 12:01 AM on May 1 and ending at midnight on October 31 except on four specific days of the week as indicated by the Department on said person's food fishing equipment permit for hook and line.
- 3.0 It shall be unlawful for any person, who has been issued a valid commercial food fishing license and a valid food fishing equipment permit for fishing equipment other than a hook and line to possess weakfish, lawfully taken by use of such permitted food fishing equipment, that measure less than twelve (12) inches, total length.

3.1 It shall be unlawful for any person, who has been issued a valid commercial food fishing license and a valid food fishing equipment permit to possess more than one hundred pounds (100 lbs) of weakfish per vessel per day (a day being 24 hours) or trip, whichever is the longer period of time.

- 4.0 It shall be unlawful for any person, except a person with a valid commercial food fishing license, to have in possession more than ~~six (6)~~ one (1) weakfish, not to include weakfish in one's personal abode or temporary or transient place of lodging. A person may have weakfish in possession that measure no less than twelve (12) inches, total length, and in excess of ~~six (6)~~ one (1) if said person has a valid bill-of-sale or receipt for said weakfish that indicates the date said weakfish were received, the number of said weakfish received and the name, address and signature of the commercial food fisherman who legally caught said weakfish or a bill-of-sale or receipt from a person who is a licensed retailer and legally obtained said weakfish for resale.

11 DE Reg. 514 (10/01/07)

- 5.0 It shall be unlawful for any person to fish with any gill net in the Delaware Bay or Atlantic Ocean or to take and reduce to possession any weakfish from the Delaware Bay or the Atlantic Ocean with any fishing equipment other than a hook and line during the following periods of time:
Every weekend day (defined as 12:01 AM on Friday through midnight Sunday) in both May and June, plus contiguous weekdays (defined as 12:01 AM Monday through midnight Thursday) at the beginning of May and the end of June, such that the total number of closure days add up to thirty four (34) days. The exact dates of closures each year shall be mailed in advance to the affected public and published annually in the Delaware Fishing Guide.
- 6.0 The Department shall indicate on a person's food fishing equipment permit for hook and line four (4) specific days of the week during the period May 1 through October 31, selected by said person when applying for said permit, as to when said permit is valid to take in excess of ~~six (6)~~ one (1) weakfish but not more than 100 pounds per day. These four days of the week shall not be changed at any time during the remainder of the calendar year.

11 DE Reg. 514 (10/01/07)

- 7.0 It shall be unlawful for any person with a food fishing equipment permit for hook and line to possess more than ~~eight (8)~~ one (1) weakfish while on the same vessel with another person who also has a food fishing equipment permit for hook and line unless each person's food fishing equipment permit for hook and line specifies the same day of the week in question for taking in excess of ~~six (6)~~ one (1) weakfish.

1 DE Reg 1770 (5/1/98)

2 DE Reg 1904 (4/1/99)

3 DE Reg 1088 (2/1/00)

4 DE Reg 1552 (3/1/01)

5 DE Reg. 2142 (5/1/02)

6 DE Reg. 1512 (5/1/03)

11 DE Reg. 514 (10/01/07)

13 DE Reg. 899 (01/01/10) (Prop.)