

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

Statutory Authority: 7 Delaware Code, Section 903(e)(1)g (7 **Del.C.** §903(e)(1)g)
7 **DE Admin. Code** 3536

PROPOSED

REGISTER NOTICE #2011-02

3536 Fish Pot Requirements

1. TYPE OF ACTION:

Amend Tidal Finfish Regulation 3536 Fish Pot Requirements to include new subsection 5.0.

2. PURPOSE OF ACTION:

Complaints and conflicts have surfaced between recreational hook and line fishermen, charter and head boat operators, and commercial fish pot fishermen on some of the artificial reef sites developed in the Delaware Bay as part of Delaware's Artificial Reef Program. The abundance of fish pots, their marking lines and floats have in some instances prevented or interfered with normal hook and line angling opportunities. The Department has legislative authority to regulate the type of fishing gear that can be used on artificial reef sites within Delaware waters. This proposed regulation is intended to eliminate existing conflicts between hook and line gear and other fishing gear types currently being deployed on artificial reef sites. It is also intended to address concerns of the funding agency (US Fish and Wildlife Service) that some fishing gear presently being fished on Delaware artificial reef sites is incompatible with the intent of the funding agency in providing support to the Division of Fish and Wildlife for the State's reef program.

3. STATUTORY BASIS:

Title 7 DE Code §903(e)(1)g

4. LIKELY AFFECTED PUBLIC:

Hook and line anglers, charter and head boat captains, commercial fish and crab potters.

5. NOTICE OF PUBLIC COMMENT:

Individuals may present their comments or request additional information by contacting the Fisheries Section, Division of Fish and Wildlife, 89 Kings Highway, Dover, DE 19901, (302) 739-9914. A public hearing on the proposed amendment will be held on March 25, 2011 at the Department of Natural Resources and Environmental Control auditorium beginning at 6 PM, located at 89 Kings Highway, Dover, DE 19901.

6. REVIEW COMMITTEE:

Advisory Council on Tidal Finfisheries

7. RESPONSIBLE STAFF MEMBER(S):

Jeffery Tinsman (office) 302-735-2974; (fax) 302-739-6780; email jeffrey.tinsman@state.de.us
Craig Shirey (office) 302-739-9914; (fax) 302-739-6157; email craig.shirey@state.de.us

3536 Fish Pot Requirements

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

- 1.0 It shall be unlawful for any person to fish, set, place, use or tend any fish pot in the tidal waters of this state unless said fish pot has two escape vents placed in the parlor portion of said pot which complies with one of the following minimum sizes: 1.375 inches by 5.75 inches; or a circular vent 2.5 inches in diameter; or a square vent with sides of 2 inches, inside measure. Pots constructed of wooden lathes must have spacing of at least 1.375 inches between one set of lathes.
- 2.0 It shall be unlawful for any person to fish, set, place, use or tend any fish pot in the tidal waters of this state unless said fish pot contains a panel (ghost panel) measuring at least 3.0 inches by 6.0 inches affixed to said pot with one of the following degradable materials:
 - 2.1 Untreated hemp, jute or cotton string of 3/16 inches diameter or smaller; or
 - 2.2 Magnesium alloy timed float release (pop-up devices) or similar magnesium alloy fasteners; or
 - 2.3 Ungalvanized or uncoated iron wire of 0.094 inches diameter or smaller.

- 3.0 It shall be lawful for a person to take and reduce to possession any food fish, except tautog, black seabass or summer flounder, when said food fish is caught in his/her crab pot provided said food fish is not otherwise illegal to possess at that time.
- 4.0 It shall be lawful for a person to take and reduce to possession any food fish, except tautog, black seabass or summer flounder, when said food fish is caught in his/her blue crab dredge provided said food fish is not otherwise illegal to possess at that time.
- 5.0 It shall be unlawful to take or attempt to take any finfish within the geographic boundaries of any permitted artificial reef site under Delaware jurisdiction by any method other than hook and line or spear. The coordinates of Delaware permitted reef sites are defined in U.S. Army Corps of Engineers permit CENAP-OP-R-200500059-1 and any updated permits subsequently issued and are depicted on NOAA charts 12304 and 12214. An Artificial Reef Guide is also available to the public upon request and on-line.

2 DE Reg. 1905 (4/1/99)

6 DE Reg. 350 (9/1/02)

10 DE Reg. 1035 (12/01/06)

14 DE Reg. 862 (03/01/11) (Prop.)