

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 901(c & d) and 903(e)(2)a;
(7 Del.C. §§901(c & d) & 903(e)(2)a)
7 DE Admin. Code 3521

PROPOSED

REGISTER NOTICE #2014 - 03

3521 Weakfish Size Limits; Possession Limits; Seasons

1. TITLE OF THE REGULATION:

3521 Weakfish Size Limits; Possession Limits; Seasons

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUE:

This action proposes to modify Delaware's commercial weakfish management approach of intermittent net closures from May 1 through June 30 to an uninterrupted closure (all gears) from May 1 through June 2. The amendment proposes a weakfish bycatch allowance during the closure of up to 100 pounds per day or trip for the commercial gill net fishery and accommodates commercial fishing for species other than weakfish (e.g., Atlantic menhaden and black drum). It should be noted that the proposed action will not impact the gill net restrictions established in 7 Del.C. §923 and it maintains existing recreational closures, as well as catch limits during the open season in all fisheries. Finally, the action proposes to eliminate mailed notices of net closure dates, as the dates are annually published in the Fishing Guide which is widely available in print and posted online.

The Atlantic States Marine Fisheries Commission (ASMFC) determined that the proposed net closure management strategy is consistent with Amendment III and Addendum IV to Amendment IV of the Interstate Fishery Management Plan for Weakfish. Further, the concept of the proposed action was endorsed by the Tidal Finfish Advisory Council at its January 15, 2014 meeting.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Del.C. §901(c & d) and §903(e)(2)a

5. LIST OF OTHER REGULATIONS THAT MAY BE IMPACTED OR AFFECTED BY THE PROPOSAL:

N/A

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed changes to 3521 Weakfish Size Limits; Possession Limits; Seasons will be open May 1, 2014. Individuals may submit written comments regarding the proposed changes via e-mail to Lisa.Vest@state.de.us or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901 (302) 739-9042. A public hearing on the proposed amendment will be held on May 22, 2014 beginning at 6:00 PM in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901.

7. PREPARED BY:

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David E. Saveikis, Director

3521 Weakfish Size Limits; Possession Limits; Seasons.

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It ~~shall be~~ is 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~~ is 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 one (1) weakfish in possession during the period beginning at 12:01 AM on ~~May 1~~ June 3 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~~ is 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~~ is 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, during the periods January 1 through April 30 and June 3 through December 31.

13 DE Reg. 1354 (04/01/10)

- 4.0 It ~~shall be~~ is unlawful for any person, except a person with a valid commercial food fishing license, to have in possession more than 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 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)

13 DE Reg. 1354 (04/01/10)

- 5.0 It is unlawful for any person issued a valid commercial food fishing license to take and reduce to possession any weakfish during the period May 1 through June 2, except a person issued a valid commercial food fishing license and a valid gill net food fishing permit by the Department may retain not more than 100 pounds of weakfish per day or trip (whichever is the longer period of time) as bycatch, provided that the combined weight of all other finfish retained per said day or trip is greater than the combined weight of weakfish retained. [Note: All provisions of 7 Del.C. §923 continue to apply.]

- 56.0 It ~~shall be~~ is unlawful for any person, ~~except a person issued a commercial food fishing license and a gill net equipment permit,~~ 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.

- 67.0 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 4~~ June 3 through October 31, selected by said person when applying for said permit, as to when said permit is valid to take in excess of 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)

13 DE Reg. 1354 (04/01/10)

- 78.0 It ~~shall be~~ is unlawful for any person with a food fishing equipment permit for hook and line to possess more than 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 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. 1354 (04/01/10)

17 DE Reg. 1040 (05/01/14) (Prop.)