

# DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

## DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 901(b) and 903(e)(2)a (7 Del.C. §901(b) §903(e)(2)a)  
7 DE Admin. Code 3553

### PROPOSED

REGISTER NOTICE #2011-15

3553 River Herring Creel Limit

**1. TITLE OF THE REGULATIONS:**

3553 River Herring Creel Limit

**2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:**

Amendment 2 to the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fisheries Management Plan for Shad and River Herring prohibits commercial and recreational river herring fisheries in state waters beginning January 1, 2012 unless a state or jurisdiction can demonstrate that their alewife and/or blueback herring stock(s) can support a commercial and/or recreational fishery that will not diminish potential future stock reproduction and recruitment. The lack of reliable, system-specific data prevents Delaware/New Jersey (Delaware River & Bay) and Delaware/Maryland (Nanticoke River) from providing reliable targets that would satisfy this mandate. Therefore, Delaware must close its recreational and commercial river herring fisheries.

Prior to the adoption of Amendment 2, Delaware adopted a 25 fish per day recreational possession limit in 2005 to discourage the development of a live-bait river herring fishery to support a growing recreational striped bass fishery. In 2008, this regulation was amended from a 25 fish per day possession limit to a 10 fish per person daily creel (harvest) limit. These actions were consistent with the management objectives of Amendment 1 to reduce fishing mortality on river herring.

River herring was listed as a "species of concern" in 2006 by the National Marine Fisheries Service. In addition, the commercial catch of river herring has been declining coastwide to very low levels. Only 300lbs of river herring were reported from Delaware commercial fishermen in 2011 which is the lowest amount reported since mandatory reporting began in 1985. The majority of commercial river herring landings in Delaware have originated from the Nanticoke River and its tributaries. The Maryland portion of the Nanticoke River will be closed to recreational and commercial fishing as part of a statewide river herring closure planned for the State of Maryland. New Jersey plans to close its river herring fishery in the Delaware River and Bay as well.

**3. POSSIBLE TERMS OF THE AGENCY ACTION:**

N/A

**4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:**

§901(b), §903(e)(2)a, Title 7 Delaware Code

**5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:**

N/A

**6. NOTICE OF PUBLIC COMMENT:**

The hearing record on the proposed changes to the river herring regulation will be open November 1, 2011. 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 November 28, 2011 beginning at 7 pm in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901.

**7. PREPARED BY:**

Stewart Michels, Stewart.Michels@state.de.us, (302) 739-9914

Michael Stangl, Michael.Stangl@state.de.us, (302) 739-4782

David E. Saveikis, Director

3553 River Herring Creel Limit

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

Unless otherwise authorized, it shall be unlawful for any person to have in possession ~~except a person with a valid Delaware commercial food fishing license, more than ten (10)~~ any blueback herring and/or alewife (*Alosa aestivalis* and/or *Alosa pseudoharengus*), collectively known as river herring, unless said person has a valid bill-of-sale or receipt for said river herring that indicates the date said river herring were received, the number of said river herring received and the name, address and signature of the ~~commercial food fisherman~~ harvester who legally caught said river herring; or, a bill-of-sale or receipt from a person who is a licensed retailer and legally obtained said river herring for resale.

**8 DE Reg. 1315 (03/01/05)**

**11 DE Reg. 1259 (03/01/08)**

**15 DE Reg. 627 (11/01/11) (Proposed)**