

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

Statutory Authority: 7 Delaware Code, Sections 901(b), (c) and (d); 903(a) and (b); 903(e)(2)a.4; and 903(e)(2)b.3, 4 and 6) (7 **Del.C.** §§901(b), (c) and (d); 903(a) & (b); 903(e)(2)a.4; & 903(e)(2)b.3, 4 & 6)
7 **DE Admin. Code** 3503 & 3504

PROPOSED

REGISTER NOTICE

SAN # 2020-04

Hearing Docket No.: 2020-R-F-015

**3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit
3504 Striped Bass Possession Size Limit; Exceptions**

1. TITLE OF THE REGULATIONS:

Amend 7 **DE Admin. Code** 3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit and 7 **DE Admin. Code** 3504 Striped Bass Possession Size Limit; Exceptions.

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

The mandatory provisions of the Atlantic States Fisheries Commission's (ASMFC's) Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan require a coastwide 18% reduction in striped bass removals (landings + discard mortality). The ASMFC adopted specific, prescribed coastwide management measures to meet the required 18% reduction, but these measures are not preferred for Delaware. Delaware developed two management options that were approved by the ASMFC that, if implemented by the Department, would be equivalent to the specific coastwide management measures in Addendum VI. The first option results in a 1.8% reduction in commercial removals and a 20.4% reduction in recreational removals. The second option results in an 18% reduction in commercial removals and an 18.18% reduction in recreational removals.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

N/A

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 **Del.C.** §901 (b), (c) & (d); §903 (a) & (b); §903 (e)(2)a.4; §903 (e)(2)b.3, 4 & 6

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 7 **DE Admin. Code** 3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit and 7 **DE Admin. Code** 3504 Striped Bass Possession Size Limit; Exceptions opens June 1, 2020 (Hearing Docket No. 2020-R-F-015). Individuals may submit comments regarding the proposed new regulation to the Hearing Officer via the online comment form at <https://dnrec.alpha.delaware.gov/public-hearings/comment-form/>, via email to DNRECHearingComments@delaware.gov, or via USPS to Theresa Newman, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE, 19901. Public comments will be received until close of business July 10, 2020.

A virtual public hearing on the proposed amendment will be held on Thursday, June 25, 2020 beginning at 6:00 PM. For additional information on this proposed regulatory promulgation, visit <https://de.gov/dnrechearings>. Please note that live comments will not be accepted during the virtual hearing.

7. PREPARED BY:

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**3500 Tidal Finfish
Bass (Striped Bass; Black Sea Bass)**

3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit.

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It is lawful for any person to take and reduce to possession striped bass from the tidal waters of this State at any time except as otherwise set forth in this regulation or in Tidal Finfish Regulations 3502 and 3504.
- 2.0 It is unlawful for any recreational fisherman to take or attempt to take any striped bass from the tidal waters of this State with any fishing equipment other than a hook and line or a spear while said recreational fisherman using the spear is underwater. Recreational gill net permittees are not authorized to take and reduce to possession any striped bass in gill nets.
- 3.0 Unless otherwise authorized, it is unlawful for any recreational fisherman to take and reduce to possession more than ~~two (2)~~ one striped bass per day (a day being 24 hours) from the tidal waters of this State. Any striped bass taken from the tidal waters of this State that is not immediately returned, without unnecessary injury, to the same waters from which it was taken, is deemed taken and reduced to possession for purposes of this subsection.
- 4.0 Unless otherwise authorized, it is unlawful for any recreational fisherman to have in possession more than ~~two (2)~~ one striped bass at or between the place said striped bass was taken and said fisherman's personal abode or temporary or transient place of lodging.
- 5.0 Notwithstanding 7 Del.C. §943, which only relates to commercial fishermen, it is lawful for a recreational fisherman to possess striped bass that have not been tagged, unless otherwise prohibited.

7 DE Reg. 1205 (03/01/04)

18 DE Reg. 889 (05/01/15)

20 DE Reg. 467 (12/01/16)

3504 Striped Bass Possession Size Limit; Exceptions.

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 Notwithstanding, the provisions of 7 Del.C. §929(b)(1), it is unlawful for any recreational fisherman to take and reduce to possession any striped bass that measures less than ~~twenty-eight (28)~~ 28 inches in total length or any striped bass that measures greater than ~~thirty-seven (37)~~ or equal to [TBD from Table] inches in total length but less than ~~forty-four (44)~~ inches in total length, except that a recreational hook and line fisherman may only take ~~two (2)~~ one striped bass measuring not less than ~~twenty (20)~~ 20 inches in total length and not greater than ~~twenty-five (25)~~ 25 inches in total length from the Delaware River, Delaware Bay, or their tributaries during the months of July and August.

Table. Legal recreational striped bass lengths options in proposed amendments to 7 DE Admin. Code §3504 (1.0).

<u>Option</u>	<u>Minimum Length (inches)</u>	<u>Length not to be equaled or exceeded (inches)</u>
<u>1</u>	<u>28</u>	<u>35</u>
<u>2</u>	<u>28</u>	<u>38</u>

- 2.0 Notwithstanding, the provisions of 7 Del.C. §929(b)(1), it is unlawful for any commercial food fisherman to take and reduce to possession any striped bass that measure less than ~~twenty-eight (28)~~ 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)~~ 20 inches in total length from the tidal waters of the Delaware River and Delaware Bay or their tributaries during the period from February 15 through May 31 or from the tidal waters of the Nanticoke River or its tributaries during the period from February 15 through ~~the month of March~~ 31.
- 3.0 It is unlawful for any person to possess a striped bass except in accordance with Section 1.0 or 2.0 of this section or 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 food fisherman and was legally taken and tagged by said commercial food fisherman; 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 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 taken and reduced to possession in another state for noncommercial 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 It is 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 The words "take and reduce to possession" shall mean the removal of any striped bass from Delaware waters with the intent to keep or harvest the striped bass.
- 7.0 It is 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)~~ 20 inches in total length.

3 DE Reg. 1088 (02/01/00)

4 DE Reg. 230 (07/01/00)

4 DE Reg. 1552 (03/01/01)

6 DE Reg. 1512 (05/01/01)

7 DE Reg. 1205 (03/01/04)

8 DE Reg. 1718 (06/01/05)

12 DE Reg. 1228 (03/01/09)

18 DE Reg. 889 (05/01/15)

20 DE Reg. 467 (12/01/16)

23 DE Reg. 1001 (06/01/20) (Prop.)