

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 102(c), 504, 508, 510 and 513
(7 Del.C. §§102(c), 504, 508, 510 and 513)
7 DE Admin. Code 3311 and 3567

PROPOSED

REGISTER NOTICE

SAN# 2008-17

1. Title of the Regulations:

New Non-tidal Finfish Regulation 3311, Freshwater Fisherman Registry.
New Tidal Finfish Regulation 3567, Tidal Water Fisherman Registry.

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

These proposed additions to the tidal and non-tidal fishing regulations would enable Delaware to provide a computerized registry of names, addresses, and phone numbers of saltwater anglers to the federal National Marine Fisheries Service so that Delaware may avoid requirements for federal licensing of Delaware saltwater anglers. In order to improve upon present means of determining recreational catch and effort in marine waters, Congress authorized the National Marine Fisheries Service to compile a registry of all anglers fishing in saltwater beginning in 2009 and to begin charging for participation in this registry as of 2011. The fees so generated will be deposited in the federal treasury and not returned to the states according to existing federal plans.

The National Marine Fisheries Service has determined that any state such as Delaware that already has a complete name and address file of marine recreational fishermen via state-issued recreational fishing licenses will be exempt from the federal registry and the federal fees to be imposed. Under Delaware's present fishing license statutory requirements contained in Chapter 5 of 7 Delaware Code, Delaware would be classified by the National Marine Fisheries Service as a non-exempt state because the holder of a recreational boat license may take any number of non-licensed anglers with them on the licensed vessel, thus these unlicensed anglers would not be included in the database of all anglers. In addition, resident senior citizens age 65 and older also are exempt from Delaware recreational fishing license requirements. Therefore, to avoid a federal determination that Delaware is a non-exempt state, this regulation will establish a state-level registration process for all anglers fishing in Delaware at no additional cost to the angler. This new Delaware registration will be known as the F.I.N number (Fisherman Information Network).

All prospective Delaware anglers age of 16 or older, whether they are licensed or not, will be required by this regulation to obtain a F.I.N number on an annual basis before fishing in Delaware's waters. This requirement is similar to a federal registration known as the Hunter Information Program (H.I.P.) for all who intend to hunt migratory birds. This F.I.N. number may be obtained at no cost to the angler by calling a toll free number and providing the required information over the phone or by entering the required information on-line through an internet access portal designated by the Department for this purpose. Each person who requests a F.I.N. number should write this number on his or her Delaware fishing license, or for those who are legally unlicensed, be able to produce this number when challenged by an authorized enforcement agent.

Both the appropriate web site address and toll-free number will be advertised and made readily available to all prospective Delaware anglers. The caller or computer user will be instructed to indicate whether they intend to fish in Delaware's freshwaters, marine (tidal) waters, or both, and then give their name, address, and phone number. Once all Delaware fishermen have obtained a F.I.N. number, Delaware will be able to supply a complete computerized name, address, and telephone number file of saltwater anglers to the National Marine Fisheries Service so that Delaware may be exempt from the federal marine recreational fishing registry and associated federal charges.

3. Possible Terms of the Agency Action:

These changes would go into effect January 1, 2009 and remain in effect indefinitely unless changed.

4. Statutory Basis:

7 Del.C. § 504, 508, 510, 513, 102(c), 903 (a) and (b), and 903 (f).

5. Other Regulations That May Be Affected By The Proposal:

N/A

6. Notice of Public Comment:

Individuals may address questions to the Fisheries Section, Division of Fish and Wildlife, (302) 739-3441. A public hearing on these proposed regulations will be held in the Department of Natural Resources and Environmental Control Auditorium, at 89 Kings Highway, Dover, DE at 7:00 PM on August 27, 2008. Individuals may present their opinion and evidence either at the hearing or in writing to Lisa Vest, Hearing Officer, Department of Natural Resources and Environmental Control, 89 Kings Highway, Dover, DE 19901 or via e-mail to Lisa.Vest@state.de.us. The hearing record will remain open for written or e-mail comments until 4:30 PM August 31, 2008.

7. Prepared By:

Roy W. Miller 302-739-9914 July 14, 2008

3311 Freshwater Fisherman Registry

1.0 All persons ages 16 and older who wish to fish in Delaware's fresh or tidal waters or both in any given year must first obtain a Fisherman Identification Network (F.I.N.) number for the year in question before fishing. This number may be obtained at no cost to the angler by calling a toll free number and providing the required information over the phone or by entering the required information on-line through an internet access portal designated by the Department for that purpose. Each person who requests a F.I.N. number is to write this number on his or her Delaware fishing license, or those who are legally unlicensed must be able to produce this number when checked by an enforcement agent when fishing in Delaware waters. Failure to provide a valid F.I.N. number for the year in question is a violation of 7 Del.C. §501 in the case of residents, or 7 Del.C. §506 in the case of non-residents, and will be treated the same as a failure to have a fishing license before going fishing. Information provided during the process of obtaining a F.I.N. number shall be treated as confidential and may only be shared with the National Marine Fisheries Service for the purpose of compliance with federal requirements for a national registry of marine fishermen.

3567 Tidal Water Fisherman Registry

1.0 All persons ages 16 and older who wish to fish in Delaware's fresh or tidal waters or both in any given year must first obtain a Fisherman Identification Network (F.I.N.) number for the year in question before fishing. This number may be obtained at no cost to the angler by calling a toll free number and providing the required information over the phone or by entering the required information on-line through an internet access portal designated by the Department for that purpose. Each person who requests a F.I.N. number is to write this number on his or her Delaware fishing license, or those who are legally unlicensed must be able to produce this number when checked by an enforcement agent when fishing in Delaware waters. Failure to provide a valid F.I.N. number for the year in question is a violation of 7 Del.C. §501 in the case of residents, or 7 Del.C. §506 in the case of non-residents, and will be treated the same as a failure to have a fishing license before going fishing. Information provided during the process of obtaining a F.I.N. number shall be treated as confidential and may only be shared

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12 DE Reg. 167 (08/01/08)