

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF FISH AND WILDLIFE
Statutory Authority: 7 Delaware Code, Sections 903(e)(2)(a)(3&5) and 930(b) (7 Del.C.
§§903(e)(2)(a)(3&5) and 930(b))

REGISTER NOTICE
SAN# 2004-08

3308 Fish Stocking Practices;
3502 Striped Bass Spawning Season and Area Restrictions;
3508 Striped Bass Commercial Fishing Seasons' Quotas; Tagging & Reporting Requirements;
3553 River Herring Creel Limit

PROPOSED

1. Title Of The Regulations:

Non-Tidal Fishing Regulation 3308 (Formerly NT-7). Fish Stocking Practices.
Section 2. Transportation, Possession and Sale

2. Brief Synopsis Of The Subject, Substance And Issues:

To modify Non-Tidal Fishing Regulation 3308 (Formerly NT-7), Fish Stocking Practices, to add the northern snakehead fish (*Channa argus*) and the blotched snakehead fish (*Channa maculata*) to the list of species for which it shall be unlawful for any person to transport, purchase, possess or sell within Delaware. This action complements action taken recently by the Maryland Department of Natural Resources and previous action taken by the states of Pennsylvania and New Jersey. These two species of snakehead fishes have been identified as the two most likely species of potentially injurious exotic snakehead fishes to thrive and breed in our area when released to the wild. The northern snakehead species has been documented to have escaped efforts at eradication within the state of Maryland and also has been shown to have bred in the wild in southeastern Pennsylvania.

3. Possible Terms Of The Agency Action:

N/A

4. Statutory Basis Or Legal Authority To Act:

7 Del.C. §103(a)(1) and §103(b)

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

N/A

6. Notice Of Public Comment:

Individuals may present their opinions and evidence and/or request additional information by writing or calling or visiting the Fisheries Section, Division of Fish and Wildlife, 89 Kings Highway, Dover, Delaware 19901, (302) 739-3441. A public hearing on this proposed amendment will be held at the Department of Natural Resources and Environmental Control Auditorium, 89 Kings Highway, Dover, DE at 7:00 PM on January 4, 2005. The record will remain open for written or e-mail comments to roy.miller@state.de.us until 4:30 PM January 14, 2005.

7. Prepared By: Roy W. Miller, (302)739-3441,
October 27, 2004

3308 Fish Stocking Practices (Formerly NT-7)
(Penalty Section 7 Del.C. §1304)

1.0 Stocking Fish Practices.

1.1 It shall be unlawful for any person to stock any species of fish into the non-tidal public waters of this State without the written permission of the Director. This regulation does not prohibit the stocking of private impoundments.

2.0 Transportation, Possession and Sale.

2.1 It shall be unlawful for any person to transport, purchase, possess, or sell walking catfish (*Clarius batrachus*) or the white amur or grass carp (*Ctenopharyngodon idella*) or live northern snakehead fish (*Channa argus*) or blotched snakehead fish (*Channa maculata*) without the written permission of the Director.

3 DE Reg. 289 (8/1/99)

REGISTER NOTICE SAN# 2004-13

1. Title Of The Regulations:

Tidal Finfish Regulation 3502. Striped Bass Season And Area Restrictions.

Tidal Finfish Regulation 3505. Striped Bass Commercial Fishing Season; Quotas; Tagging And Reporting Requirements.

2. Brief Synopsis Of The Subject, Substance And Issues:

To increase the length of the commercial gill net season for striped bass to extend from February 15 through May 31 instead of the present March 1-April 30 open season and to require the use of drift nets for any gill nets having a mesh size of 4-inches or greater that are used to take striped bass during the February striped bass season extension;

To increase the duration of the commercial hook and line fishing season for striped bass from April 1 through and including December 31 instead of September 1 through December 31.

To require the use of non-offset "circle hooks" when fishing with natural bait in the designated striped bass spawning areas during the April 1-May 31 spawning season to reduce mortality rates from catch and release recreational fishing. The requirement for the use of circle hooks shall only apply to hooks having a gap greater than 3/8 inches as measured from the hook point to the shank of the hook.

3. Possible Terms Of The Agency Action:

N/A

4. Statutory Basis Or Legal Authority To Act:

§903(e)(2)(a)(3&5), 7 Del.C. and §930(b), 7 Del.C.

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

N/A

6. Notice Of Public Comment:

Individuals may present their opinions and evidence and/or request additional information by writing or calling or visiting the Fisheries Section, Division of Fish and Wildlife, 89 Kings Highway, Dover, Delaware 19901, (302)739-3441. A public hearing on this proposed amendment will be held at the Department of Natural Resources and Environmental Control Auditorium, 89 Kings Highway, Dover, DE at 7:00 PM on December 30, 2004. The record will remain open for written or e-mail comments to roy.miller@state.de.us until 4:30 PM January 4, 2005.

7. Prepared By: Roy W. Miller, (302)739-3441

November 5, 2004

3502 Striped Bass Spawning Season and Area Restrictions. (Formerly Tidal Finfish Reg. 2)

(Penalty Section 7 Del.C. §936(b)(2))

1.0 The spawning season for striped bass (*Morone saxatilis*) in Delaware shall begin at 12:01 AM on April 1 and continue through midnight on May 31 of each calendar year.

2.0 It shall be unlawful for any person to take and retain any striped bass during the striped bass spawning season from the Nanticoke River or its tributaries, the Delaware River and its tributaries to the north of a line extending due east beginning at and including the south jetty at the mouth of the C & D Canal, or the C & D Canal or its tributaries.

3.0 It shall be unlawful for any person to fish a fixed gill net in the Nanticoke River or its tributaries or the C & D Canal or its tributaries during the striped bass spawning season.

4.0 It shall be unlawful for any person to fish during the striped bass spawning season in the Nanticoke River or its tributaries or the C & D Canal or its tributaries with a draft gill net of multi- or mono-filament twine larger than 0.28 millimeters in diameter (size #69) or a stretched mesh size larger than five and one-half (5 1/2) inches.

5.0 It shall be unlawful for any person to fish any fixed gill net in the Delaware River north of a line beginning at Liston Point (River Mile 48.06) and continuing due east to the boundary with New Jersey during January, February, March, April or May.

6.0 It shall be unlawful for any person to fish during the striped bass spawning season defined in 3502 section 1.0 in the areas defined in 3502 section 2.0 with natural bait using any hook other than a non-offset circle hook when said hook measures greater than three-eighths (3/8s) inches as measured from the point of the hook to the shank of the hook.

3505 Striped Bass Commercial Fishing Seasons; Quotas; Tagging and Reporting Requirements. (Formerly Tidal Finfish Reg. 8)

(Penalty Section 7 Del.C. §936(b)(2))

1.0 It shall be unlawful for any commercial food fisherman using a gill net to take and reduce to possession any striped bass at any time except when said commercial food fisherman is authorized by the Department to participate in a commercial gill net fishery for striped bass established herein. A commercial food fisherman may use a gill net to take and reduce to possession striped bass during the period beginning at 12:01 AM on ~~February 15~~ ~~March 1~~ and ending at 4:00 P.M. on ~~May 31~~ ~~April 30~~ next ensuing. It shall be unlawful to use any gill net having a stretched-mesh size greater than four (four) inches to take striped bass during the period February 15 until and including the last day in February unless the net is drifted. A commercial food fisherman may use a gill net to take and reduce to possession striped bass during the period beginning at 12:01 AM on November 15 and ending at 4:00 PM on December 31 next ensuing provided at least two (2) percent of the commercial allocation of striped bass for the gill net fishery, as determined by the Department, was not landed in the ~~February – May~~ ~~March – April~~ gill net fishery. In order for a commercial food fisherman to be authorized by the Department to participate in a commercial gill net fishery, said commercial food fisherman shall have a valid food fishing equipment permit for a gill net and shall register in writing with the Department to participate in said fishery by February 15 for the ~~February 15~~ ~~March – May 31~~ ~~April~~ gill net fishery and by November 1 for the December gill net fishery.

2.0 It shall be unlawful for any commercial food fisherman using a hook and line to take and reduce to possession any striped bass at any time except when said commercial food fisherman is authorized by the Department to participate in a commercial hook and line fishery for striped bass established herein. A commercial food fisherman may use a hook and line to take and reduce to possession striped bass during the period beginning at 12:01 AM on ~~April~~ ~~September~~ 1 and ending at 4:00 PM on December 31 next ensuing. In order for a commercial food fisherman to be authorized to participate in the commercial hook and line fishery, said commercial food fisherman shall register in writing with the Department to participate in said fishery by ~~August~~ ~~March~~ 15.

3.0 It shall be unlawful for any commercial food fisherman using a hook and line, during the striped bass hook and line fishery established for subsection 2.0 herein, to take striped bass by means of a gill net or to have any gill net on board or to otherwise have in possession on or near his person any gill net.

4.0 The striped bass gill net fishery in ~~February~~ ~~March – May~~ ~~April~~, the striped bass gill net fishery in November - December and the striped bass hook and line fishery in ~~April~~ ~~September~~ - December shall be considered separate striped bass fisheries. Each participant in a striped bass fishery shall be assigned an equal share of the total pounds of striped bass allotted by the Department to that fishery. A share shall be determined by dividing the number of pre-registered participants in that fishery into the total pounds of striped bass allotted to that fishery by the Department. The total pounds of striped bass allotted to each fishery by the Department shall be as follows: 95% of the State's commercial quota, as determined by the ASMFC, for the ~~February 15~~ ~~March – May 31~~ ~~April~~ gill net fishery, 10% of the State's commercial quota for the ~~April~~ ~~September~~ - December hook and line fishery and, provided that in excess of two (2) % of the ~~February 15~~ ~~March – May 31~~ ~~April~~ gill net fishery allocation was not landed, said remainder for the November - December gill net fishery. Any overage of the State's commercial quota will be subtracted from the

next year's commercial quota proportionally to the appropriate fishery.

5.0 It shall be unlawful for any commercial food fisherman to land, during a striped bass fishing season, more than the total pounds assigned by the Department to said individual commercial food fisherman.

6.0 It shall be unlawful for any commercial food fisherman to possess any striped bass that does not have locked into place through the mouth and gill a tag issued to said commercial fisherman by the Department. Said tag shall be locked into place immediately after taking said striped bass.

7.0 The Department shall issue tags to commercial food fishermen who register in writing with the Department to participate in a striped bass fishery. Each participant shall initially be issued a quantity of tags that is to be determined by the Department by dividing said participants assigned share in pounds by the estimated weight of a striped bass expected to be landed. If a commercial food fisherman needs additional tags to fulfill his or her assigned share, the Department shall issue additional tags after verifying the balance of the share from reports submitted by an official weigh station to the Department.

8.0 It shall be lawful for a commercial food fisherman who is authorized to be issued striped bass tags by the Department to transfer said tags to another commercial food fisherman, authorized to participate in the same striped bass fishery, provided said transfer is made prior to said tags being issued by the Department.

9.0 It shall be unlawful for any commercial food fisherman to apply a tag to a striped bass unless said tag had been issued or legally transferred to said commercial food fisherman by the Department.

10.0 It shall be unlawful for any commercial food fisherman to apply a tag to a striped bass if said tag had previously been applied to another striped bass.

11.0 It shall be unlawful for any commercial food fisherman to sell, barter or trade any striped bass, to attempt to sell, barter or trade any striped bass or to transport, to have transported or to attempt to have transported any striped bass out of the state unless said striped bass has been weighed and tagged by an official weigh station.

12.0 The Department shall appoint individuals and their agents as official weigh stations to weigh and tag all striped bass landed in a commercial striped bass fishery. Official weigh stations shall be compensated by the Department for each striped bass weighed and tagged. An official weigh station shall enter into an agreement with the Department to maintain records and report on a regular basis each commercial food fisherman's daily landings of striped bass weighed and tagged at said station. The Department shall provide official weigh stations with tags to be applied to each striped bass weighed.

13.0 Each commercial food fisherman participating in a striped bass fishery shall file an acceptable report with the Department on forms provided by the Department on all striped bass landed during said fishery. Each report shall be filed with the Department within 30 days after the end date of each fishery. All unused tags issued or legally transferred to a commercial food fisherman shall be returned to the Department with said report. Failure to file an acceptable report or failure to return all unused tags may disqualify the commercial food fishermen from future striped bass fisheries.

1 DE Reg 270 (9/1/97)

4 DE Reg 1552 (3/1/01)

REGISTER NOTICE

SAN# 2004-11

1. Title Of The Regulations:

Tidal Finfish Regulation 3553. River Herring Creel Limit

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

This new regulation would set a daily limit on the take and possession of blueback herring and/or alewife (*Alosa*

aestivalis and/or *Alosa pseudoharengus*), collectively known as river herring, of 25 per person for the two species combined, except for those possessing a valid commercial finfish license or a receipt from a person legally entitled to take or possess in excess of 25 river herring per day. The purpose of his regulation is to prevent the establishment of a bait fishery for river herring in tidal tributaries of the State. The Department has been attempting to restore river herring to their former abundance by providing passage over dams that block spawning migrations. This action would complement actions previously taken by New Jersey and Pennsylvania. Live river herring are sought after as bait for striped bass and other species and are vulnerable to overexploitation when they approach fishways, dams or other obstructions while on their spawning migrations or out-migrations. This regulation would not affect normal commercial fishing operations in tidal waters, but will impact recreational fishermen who take live river herring as bait for sale.

3. Possible Terms Of The Agency Action:

N/A

4. Statutory Basis Or Legal Authority To Act:

7 Del.C. §903(e)(2)(a)

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

N/A

6. Notice Of Public Comment:

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7. Prepared By: Roy W. Miller, (302)739-3441

October 27, 2004

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 twenty-five (25) blueback herring and/or alewife (*Alosa aestivalis* and/or *Alosa pseudoharengus*), collectively known as river herring, at or between the place caught and his/her personal abode or temporary or transient place of lodging; or 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 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. 858 (12/01/04)