

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 903(b)(e)(2)b (7 Del.C., §903(b)(e)(2)b)

PROPOSED

REGISTER NOTICE SAN #2009-27

1. Title of the Regulations:

Adopt new Tidal Finfish Regulations No. 3518, Black drum Size Limit; Possession Limit; Landing Limit; Dealer Limit.

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

The Department of Natural Resources and Environmental Control (DNREC) is proposing new regulations for the management of black drum (*Pogonias cromis*). These proposed regulations would establish recreational and commercial size limits (16 or 32-inch minimum), a daily recreational creel limit (two or three fish), daily commercial landing and dealer limits (5,000 or 10,000 pounds) and an annual commercial landing quota (50,000 or 65,000 pounds).

In the absence of a coastwide interstate management plan for black drum, the States of Delaware and New Jersey have developed a bi-state plan for black drum to provide for the consistent management and regulation of the black drum resource in the Delaware River and Delaware Bay. The limited available data suggest black drum exploitation within the Delaware Estuary has increased in recent years. Adult black drum are targeted in the spring by the recreational and commercial fisheries as the species congregates to spawn in the Delaware Bay. Juvenile or young of the year black drum are landed during the late summer and fall. Adoption of these regulations will better ensure: 1) the long-term viability of the resource; 2) its continued use by current and future generations of the fishing public; 3) and the species continued role in the Delaware Estuary's ecosystem. The DNREC is legislatively limited to adopting regulations through a bi-state plan that are substantially similar to New Jersey's regulations. New Jersey is proposing to adopt more restrictive management options than presently are in place but the change in regulations are pending. DNREC will seek to adopt substantially similar regulations at the time of public hearing.

3. Possible Terms of the Agency Action:

These changes would go into effect in March, 2010 and remain in effect indefinitely unless changed.

4. Statutory Basis or Legal Authority to Act:

§903(b)(e)(2)b. 7 Delaware Code

5. Other Regulations that may be Affected by the Proposal:

No other regulations are affected.

6. Notice of Public Comment:

Individuals may address questions to the Fisheries Section, Division of Fish and Wildlife, 89 Kings Highway, Dover, DE 19901 or phone (302)-739-9914. A public hearing on these proposed regulations will be held in the Department of Natural Resources and Environmental Control auditorium at 6:00 PM on Thursday, January 21, 2010. Individuals may present their opinions and evidence either at the hearing or in writing to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901, or via email to Lisa.Vest@state.de.us.

7. Prepared By:

Craig A. Shirey Phone # 302-739-9914 December 10, 2009

3518 Black Drum Size Limit; Possession Limit; Landing Limit; Dealer Limit

(Penalty Section 7 Del.C. §936(b)(2))

1.0 Definition

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"Delaware Estuary" means all those tidal waters located within an area to the north of a straight line drawn between Cape May Point, New Jersey and Cape Henlopen, Delaware, but not including the tributaries of the Delaware River and Delaware Bay.

2.0 Size limit

It shall be unlawful for a person to possess a black drum (Pogonias cromis) taken from the Delaware Estuary that measures less than (sixteen (16) inches **(Option A)** thirty-two (32) inches **(Option B)**, total length.

3.0 Possession Limits

3.1 It shall be unlawful for a recreational fisherman to take and reduce to possession more than three (3) **(Option A)** two (2) **(Option B)** black drum per day (a day being 24 hours) from the Delaware Estuary.

3.2 It shall be unlawful for a commercial fisherman or a vessel, regardless of the number of licensed commercial fishermen onboard that vessel, to possess or land more than 10,000 pounds **(Option A)** 5,000 pounds **(Option B)** of black drum taken from the Delaware Estuary in any one (1) day.

4.0 Landing Limit

It shall be unlawful for a commercial fisherman to sell, trade or barter or attempt to sell, trade or barter black drum or parts of black drum that are landed from the Delaware Estuary in this State after a date when the Department has determined or projected that 65,000 pounds **(Option A)** 50,000 pounds **(Option B)** of black drum have been or will be landed in this State from the Delaware Estuary by the commercial fishery in a calendar year.

5.0 Dealer limit

It shall be unlawful for a food fish dealer to accept from a commercial fisherman or a vessel more than 10,000 pounds **(Option A)** 5,000 pounds **(Option B)** of black drum harvested from the Delaware Estuary in any one (1) day.