

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 901(b); (7 Del.C., §901(b))

7 DE Admin. Code 3507

PROPOSED

REGISTER NOTICE

SAN#: 2013-18 (E.O. 36)

3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas

1. TITLE OF THE REGULATIONS:

3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas (3.0, 5.0, & 6.0)

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

Among the considerations of Executive Order 36, pertaining to the review and reform of state agency regulations, was a focused review of older, well-established regulations to ensure that State regulations continue to serve the original purpose for which they were adopted and provide for improvements. The Department's focused review of the existing tidal finfish regulations found that 7 DE Admin. Code 3507 pertaining to black sea bass failed to adequately provide for the transferability of commercial black sea bass permits. The current black sea bass regulation was enacted between 2001 and 2003 to, in part, limit the number of permits issued for the black sea bass commercial fish pot and commercial hook and line fisheries. However, the regulation did not provide a method for those permits to be transferred by the current permit holders. The proposed amendments to 7 DE Admin. Code 3507 (3.0), (5.0) & (6.0) allow the transfer of black sea bass commercial fishery permits consistent with transfer criteria established in 7 Del.C., Ch. 29.

These amendments are needed because several of the current permit holders will be retiring from commercial fishing and the Department wants to allow other Delawareans to obtain these permits. The Atlantic States Marine Fisheries Commission's Interstate Fisheries Management Plan for Black Sea Bass allocates Delaware an annual commercial black sea bass quota. This regulation will assure that there will be Delaware permit holders to harvest this valuable resource.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

N/A

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Del.C., §901(b); §903(f)

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 black sea bass regulation will be open July 1, 2013. Individuals may submit written comments regarding the proposed changes via e-mail to Lisa.Vest@state.de.us or via 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 July 25, 2013 beginning at 6:30 PM in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901.

7. PREPARED BY:

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

3502 Striped Bass Spawning Season and Area Restrictions.

(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 A.M. 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 and in the areas defined in 3502 section 2.0 with natural bait using any hook other than 3504 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.

8 DE Reg. 1169 (2/1/05)

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

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It shall be 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 shall be 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 shall be unlawful for any recreational fisherman to take and reduce to possession more than two (2) 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 shall be unlawful for any recreational fisherman to have in possession more than two (2) 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.

7 DE Reg. 1205 (3/1/04)

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 shall be unlawful for any recreational fisherman to take and reduce to possession any striped bass that measures less than twenty-eight (28) inches in total length, except that recreational hook and line fisherman may take two (2) striped bass measuring not less than 20 - inches and not greater than 26 - inches from the Delaware River, Delaware Bay, or their tributaries during the months of July and August.
- 2.0 Notwithstanding, the provisions of 7 Del.C. §929(b)(1), it shall be unlawful for any commercial food fisherman to take and reduce to possession any striped bass that measure less than twenty-eight (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) 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.
- 3.0 It shall be unlawful for any person to possess a striped bass that measures less than 28 inches, total length, 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 gill net fisherman and was legally taken and tagged by said commercial gill net fisherman 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; 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 landed in another state for non commercial 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 shall be 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 It shall be unlawful for any person to land any striped bass that measures less than twenty-eight (28) inches in total length at any time, except those striped bass caught in a commercial gill net legally fished in the waters of Delaware River or Delaware Bay or their tributaries during the period from February 15 through May 31 or from a commercial gill net legally fished in the tidal waters of the Nanticoke River or its tributaries during the period from February 15 through the month of March.
 - 7.0 It shall be 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) inches in total length.

3 DE Reg. 1088 (2/1/00)

4 DE Reg. 230 (7/1/00)

4 DE Reg. 1552 (3/1/01)

6 DE Reg. 1512 (5/1/01)

7 DE Reg. 1205 (3/1/04)

8 DE Reg. 1718 (6/1/05)

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

3505 Striped Bass Commercial Fishing Seasons; Quotas; Tagging and Reporting Requirements.

(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 A.M. on February 15 and ending at 4:00 P.M. on May 31 next ensuing. It shall be unlawful to use any gill net having a stretched-mesh size greater than four (4) 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 A.M. on November 15 and ending at 4:00 P.M. 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 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 1 for the February 15 - May 31 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 A.M. on April 1 and ending at 4:00 P.M. 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 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 - May, the striped bass gill net fishery in November - December and the striped bass hook and line fishery in April - 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 - May 31 gill net fishery, 10% of the State's commercial quota for the April - December hook and line fishery and, provided that in excess of two (2)% of the February 15 - May 31 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)

8 DE Reg 1169 (2/1/05)

3506 Striped Bass; Total Length Measurement.

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 Unless otherwise authorized, it shall be 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.

3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It shall be unlawful for any commercial person to have in possession any black sea bass (*Centropristis striata*) that measures less than eleven (11) inches, total length excluding any caudal filament.

2.0 It shall be unlawful for any recreational person to have in possession any black sea bass that measures less than twelve and one-half (12.5) inches total length excluding any caudal filament.

6 DE Reg. 1230 (3/1/03)

6 DE Reg. 1360 (4/1/03)

12 DE Reg. 1430 (05/01/09)

14 DE Reg. 1382 (06/01/11)

3.0 It shall be unlawful for any commercial fisherman to land, to sell, trade and or barter any black sea bass in Delaware unless authorized by a black sea bass landing permit issued by the Department. The black sea bass landing permit shall be presumed to transfer with the vessel whenever it is bought, sold, or otherwise transferred to an eligible transferee as defined in 7 Del.C. §2903, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel.

4.0 The black sea bass pot fishery and the black sea bass commercial hook and line fishery shall be considered separate black sea bass fisheries. The total pounds allocated to each fishery by the Department shall be as follows: 96 percent of the State's commercial quota, as determined by the ASMFC, for the pot fishery; 4 percent for the commercial hook and line fishery.

5.0 The Department may only issue a black sea bass landing permit for the pot fishery to a person who is the owner of a vessel permitted by the National Marine Fisheries Service in accordance with 50 CFR §§ 648.4 and ~~who had applied for and secured from the Department a commercial food fishing license and has a reported landing history in either the federal or state reporting systems of landing by pot at least 10,000 pounds of black sea bass during the period 1994 through 2001. Those individuals that have landing history only in the federal data base must have possessed a state commercial food fishing license for at least one year during the time from 1994 through 2001.~~ pertaining to black sea bass and was either issued a black sea bass landing permit by the Department in 2013 or was the transferee of black sea bass landing permit issued by the Department as per 3507 (3.0). The number of black sea bass landings permits issued by the Department for the pot fishery in any year will not exceed six.

6.0 The Department may only issue a black sea bass landing permit for the commercial hook and line fishery to a person who has applied for and secured from the Department a commercial food fishing license and a fishing equipment permit for hook and line ~~and submitted landings reports in either the federal or state landing report systems for black sea bass harvested by hook and line during at least one year between 1994 and 2001 and was either issued a black sea bass landing permit by the Department in 2013 or was the transferee of black sea bass landing permit issued by the Department as per 3507 (3.0). The number of black sea bass landings permits issued by the Department for the commercial hook and line fishery in any year will not exceed thirteen.~~

1 DE Reg.1767 (5/1/98)

2 DE Reg. 1900 (4/1/99)

3 DE Reg. 1088 (2/1/00)

4 DE Reg. 1665 (4/1/01)

4 DE Reg. 1859 (5/1/01)

5 DE Reg. 2142 (5/1/02)

6 DE Reg. 348 (9/1/02)

6 DE Reg. 1230 (3/1/03)

7.0 Any overage of the State's commercial quota will be subtracted by the Atlantic States Marine Fisheries Commission from the next year's commercial quota.

Any overage of an individual's allocation will be subtracted from that individual's allocation the next year and distributed to those individuals in the appropriate fishery that did not exceed their quota.

8.0 Each participant in a black sea bass fishery shall be assigned a equal share of the total pounds of black sea bass allotted by the Department for that particular fishery. A share shall be determined by dividing the number of pre-registered participants in one of the two recognized fisheries into the total pounds of black sea bass allotted to the fishery by the Department. In order to pre-register an individual must indicate their intent in writing to participate in this fishery.

9.0 Individual shares of the pot fishery quota may be transferred to another participant in the pot fishery. Any transfer of black sea bass individual pot quota shall be limited by the following conditions:

9.1 A maximum of one transfer per year per person.

9.2 No transfer of shares of the black sea bass pot fishery quota shall be authorized unless such transfer is documented on a form provided by the Department and approved by the Secretary in advance of the actual transfer.

- 10.0 Individual shares of the commercial hook and line fishery quota may be transferred to another participant in the commercial hook and line fishery. Any transfer of black sea bass individual commercial hook and line quota shall be limited by the following conditions:
 - 10.1 A maximum of one transfer per year per person.
 - 10.2 No transfer of shares of the black sea bass commercial hook and line quota shall be authorized unless such transfer is documented on a form provided by the Department and approved by the Secretary in advance of the transfer.
- 11.0 Each commercial food fisherman participating in a black sea bass fishery shall report to the Department, via the interactive voice phone reporting system operated by the Department, each days landings in pounds at least one hour after packing out their harvest.
- 12.0 It shall be unlawful for any recreational fisherman to take and reduce to possession or to land any black sea bass beginning at 12:01a.m. March 1, and ending midnight May 18, and beginning at 12:01 a.m. October 15 and ending mid-night October 31.
 - 12.1 It shall be unlawful for any recreational fisherman to have in possession more than 25 black sea bass at or between the place where said black sea bass were caught and said recreational fisherman's personal abode or temporary or transient place of lodging during the period May 19 through October 14 and during the period November 1 through December 31.
 - 12.2 It shall be unlawful for any recreational fisherman to have in possession more than 15 black sea bass at or between the place where said black sea bass were caught and said recreational fisherman's personal abode or temporary or transient place of lodging during the period January 1 through February 28.

7 DE Reg. 1575 (5/1/04)

6 DE Reg. 1230 (3/1/03)

8 DE Reg. 1488 (4/1/05)

9 DE Reg. 1759 (5/1/06)

11 DE Reg. 1662 (06/01/08)

14 DE Reg. 113 (08/01/10)

16 DE Reg. 431 (10/01/12)

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, 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) 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 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 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 of black drum harvested from the Delaware Estuary in any one (1) day.

13 DE Reg. 1352 (04/01/10)

3516 Bluefish Possession Limits.

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

- 1.0 Unless otherwise authorized, it shall be unlawful for any recreational fisherman to have in possession more than ten (10) bluefish (*Pomatomus saltatrix*) at or between the place caught and his/her personal abode or temporary or transient place of lodging).

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

Flounder (Summer Flounder; Winter Flounder)

3511 Summer Flounder Size Limits; Possession Limits; Season

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

- 1.0 It shall be unlawful for any recreational fisherman to have in possession more than four (4) summer flounder at or between the place where said summer flounder were caught and said recreational fisherman's personal abode or temporary or transient place of lodging.
- 2.0 It shall be unlawful for any person, other than qualified persons as set forth in section 4.0 of this regulation, to possess any summer flounder that measure less than seventeen (17) inches between the tip of the snout and the furthest tip of the tail.

7 DE Reg. 1575 (5/1/04)

12 DE Reg. 1430 (05/01/09)

13 DE Reg. 1468 (05/01/10)

14 DE Reg. 1235 (05/01/11)

16 DE Reg. 1283 (06/01/13)

- 3.0 It shall be unlawful for any person, to have in possession any part of a summer flounder that measures less than seventeen (17) inches between said part's two most distant points unless said person also has in possession the head, backbone and tail intact from which said part was removed.

13 DE Reg. 1468 (05/01/10)

14 DE Reg. 1235 (05/01/11)

16 DE Reg. 1283 (06/01/13)

- 4.0 Notwithstanding the size limits and possession limits in this regulation, a person may possess a summer flounder that measures no less than fourteen (14) inches between the tip of the snout and the furthest tip of the tail and a quantity of summer flounder in excess of the possession limit set forth in this regulation, provided said person has one of the following:

- 4.1 A valid bill-of-sale or receipt indicating the date said summer flounder were received, the amount of said summer flounder received and the name, address and signature of the person who had landed said summer flounder;
- 4.2 A receipt from a licensed or permitted fish dealer who obtained said summer flounder; or
- 4.3 A bill of lading while transporting fresh or frozen summer flounder.
- 4.4 A valid commercial food fishing license and a food fishing equipment permit for gill nets.

- 5.0 It shall be unlawful for any commercial finfisherman to sell, trade and or barter or attempt to sell, trade and or barter any summer flounder or part thereof that is landed in this State by said commercial fisherman after a date when the de minimis amount of commercial landings of summer flounder is determined to have been landed in this State by the Department. The de minimis amount of summer flounder shall be 0.1% of the coast wide commercial quota as set forth in the Summer Flounder Fishery Management Plan approved by the Atlantic States Marine Fisheries Commission.

- 6.0 It shall be unlawful for any vessel to land more than 200 pounds of summer flounder in any one day in this State.

- 7.0 It shall be unlawful for any person, who has been issued a commercial food fishing license and fishes for summer flounder with any food fishing equipment other than a gill net, to have in possession more than four (4) summer flounder at or between the place where said summer flounder were caught and said person's personal abode or temporary or transient place of lodging.

1 DE Reg. 1767 (5/1/98)

2 DE Reg. 1900 (4/1/99)

3 DE Reg. 1088 (2/1/00)

4 DE Reg. 1552 (3/1/01)

5 DE Reg. 462 (8/1/01)

- 5 DE Reg. 2142 (5/1/02)
- 6 DE Reg. 1358 (4/1/03)
- 7 DE Reg. 1575 (5/1/04)
- 8 DE Reg. 1488 (4/1/05)
- 9 DE Reg. 1759 (5/1/06)
- 10 DE Reg. 1722 (05/01/07)
- 11 DE Reg. 1493 (05/01/08)
- 12 DE Reg. 1430 (05/01/09)
- 13 DE Reg. 1468 (05/01/10)
- 14 DE Reg. 1235 (05/01/11)
- 16 DE Reg. 1283 (06/01/13)

3512 Winter Flounder Size Limit; Possession Limit; Seasons.

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It shall be unlawful for any person to possess any winter flounder, (*Pseudopleuronectes americanus*), that measure less than twelve (12) inches, total length.
- 2.0 It shall be unlawful for any recreational fisherman to have in possession more than two (2) winter flounder per day (a day being 24 hours) at or between the place where said winter flounder were caught and said recreational fisherman's personal abode or temporary or transient place of lodging.
- 3.0 It shall be unlawful for any recreational fisherman to take and reduce to possession any winter flounder before 12:01 AM February 11 or after midnight April 10 in any given calendar year.
- 4.0 It shall be unlawful for any non-federally licensed commercial fishermen to harvest, land or possess more than 50 pounds of winter flounder per day. Federally licensed commercial fishermen are subject to current federal winter flounder harvest, landing, and possession limits.

- 8 DE Reg. 1718 (6/1/05)
- 13 DE Reg. 672 (11/01/09)

Invasive Finfish

3545 Invasive Finfish

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

- 1.0 Definitions

For the purpose of Tidal Finfish Regulation 3545, the following words and phrases shall have the following meaning ascribed to them, unless the context clearly indicates otherwise:

"Bow and arrow" means an instrument with one or more pointed barbed or barbless prongs or blades affixed to a straight shaft and propelled by a stringed mechanical device.

"Director" means the Director of the Division of Fish and Wildlife.

"Invasive finfish" means any species of the family Channidae, including but not limited to the northern snakehead (*Channa argus*) and blotched snakehead (*C. maculata*); blue catfish (*Ictalurus furcatus*); flathead catfish (*Pylodictis olivaris*); walking catfish (*Clarias batrachus*); and grass carp (*Ctenopharyngodon idella*).
- 2.0 Transportation, Possession and Sale

It is unlawful to transport, purchase, possess, or sell a live invasive finfish without the written permission of the Director.
- 3.0 Stocking

It is unlawful to stock any invasive finfish, including the eggs thereof or other biological material, capable of spread, reproduction or propagation, into the tidal waters of this state without the written permission of the Director.
- 4.0 Equipment and Methods Used for Invasive Species Fishing
 - 4.1 It is lawful for a person to take invasive finfish with any fishing equipment or method for which they are licensed, permitted or lawfully exempt.
 - 4.2 It is lawful for a licensed, permitted or lawfully exempt recreational angler to take invasive finfish in Delaware's tidal waters with a bow and arrow.

- 17 DE Reg. 7 (07-01-13)

Red Drum

3551 Red Drum Size Limits; Creel Limits.

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 Unless otherwise authorized, it shall be unlawful for any person to possess any red drum, (*Sciaenops ocellatus*), that measures less than twenty (20) inches, total length or more than twenty-seven (27) inches, total length.

6 DE Reg. 1229 (3/1/03)

- 2.0 Unless otherwise authorized, it shall be unlawful for any person to possess more than five (5) red drum.

River Herring

3553 River Herring Creel Limit

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

It shall be unlawful for any person to have in possession 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 from a state or jurisdiction where river herring harvest is lawful and that indicates the date said river herring were received, the number of said river herring received and the name, address and signature of the 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 (3/1/05)

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

15 DE Reg. 1179 (02/01/12)

Scup

3526 Scup Size Limit.

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It shall be unlawful for any recreational fisherman to have in possession any scup, *Stenotomus chrysops*, that measures less than eight (8) inches, total length
- 2.0 It shall be unlawful for any person who has been issued a commercial food fishing license by the Department to possess any scup that measures less than nine (9) inches, total length.
- 3.0 It shall be unlawful for any commercial finfisherman to sell, trade or barter or attempt to sell, trade or barter any scup or part thereof that is landed in this State by said commercial finfisherman after a date when the de minimis amount of commercial landings of scup is determined to have been landed in this State by the Department. The de minimis amount of scup shall be 0.1% of the coastwide commercial quota as set forth in the Scup Fishery Management Plan approved by the Atlantic State Marine Fisheries Commission.
- 4.0 It shall be unlawful for any recreational fisherman to have in possession more than 50 scup at or between the place where said scup were caught and said recreational fisherman's personal abode or temporary or transient place of lodging.

4 DE Reg. 1859 (5/1/01)

Shad

3591 American Shad and Hickory Shad Creel Limits.

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It shall be unlawful for any person who does not have a valid commercial foodfishing license to have in possession more than an aggregate of ten (10) American shad and hickory shad at or between the place caught and his/her personal abode or transient place of lodging.

2 DE Reg. 1906 (4/1/99)

- 2.0 It shall be unlawful for any person to take and reduce to possession any American shad or hickory shad from the Nanticoke River or its tributaries.

3 DE Reg. 1088 (2/1/00)

3592 Atlantic Ocean American Shad Season and Closure

- 1.0 All Delaware licensed commercial gill netters who wish to harvest and land American shad, *Alosa sapidissima*, in the Atlantic Ocean must register with the Department their intent to participate in this Atlantic Ocean commercial shad fishery by February 1 each year during either or both of 2003 and 2004.
- 2.0 If three or fewer licensed commercial gill netters register to participate in the Atlantic Ocean commercial American shad fishery in any given year in 2003 or 2004, then the season for that year shall open at 12:01 a.m. February 14 and shall close on or before midnight April 21. If more than three licensed commercial gill netters register to participate in the Atlantic Ocean commercial American shad fishery in any given year in 2003 or 2004, then the season start and end dates shall be adjusted according to the following table based on the number of registered Atlantic Ocean shad commercial gill net fishermen:

Number of Registered Shad Fishermen	Season Length	Season Dates
4	59 days	14 Feb. - 13 April
5	47 days	20 Feb. - 7 April
6	39 days	24 Feb. - 3 April
7	34 days	27 Feb. - 1 April
8	29 days	1 March - 29 March
9	26 days	2 March - 27 March
10	24 days	3 March - 26 March
11	21 days	4 March - 24 March

If more than 11 fishermen register to participate in the Atlantic Ocean commercial American shad fishery in 2003 or 2004, the season length for that year shall be shortened one day for each additional registered fisherman and the season dates shall be adjusted accordingly.

- 3.0 Beginning 12:01 a.m. on January 1, 2005, it shall be unlawful for any Delaware fisherman to take and reduce to possession any American shad caught by gill net from the waters of the Atlantic Ocean.

6 DE Reg. 1230 (3/1/03)

Sharks

3541 Atlantic Sharks

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 Definitions:

“**Fillet**” shall mean to remove slices of fish flesh, of irregular size and shape, from the carcass by cuts made parallel to the backbone.

“**Land or Landing**” shall mean to put or cause to go on shore from a vessel.

“**Management Unit**” shall mean any of the non-sandbar large coastal species, small coastal species, pelagic species and prohibited species of sharks or parts thereof defined in this regulation. Smooth dogfish (*Mustelus canus*), although they are a species of shark, are not presently part of the management unit as defined above, and are not subject to minimum size or daily harvest restrictions. They are subject to the provisions of Regulation 3541, Sections 3.0 and 4.0.

“**Non-Sandbar Large Coastal Species**” shall mean any of the following species of sharks or parts thereof:

- Great hammerhead, *Sphyrna mokarran*
- Scalloped hammerhead, *Sphyrna lewini*
- Smooth hammerhead, *Sphyrna zygaena*
- Nurse shark, *Ginglymostoma cirratum*
- Blacktip shark, *Carcharhinus limbatus*
- Bull shark, *Carcharhinus leucas*
- Lemon shark, *Neqapriion brevirostris*
- Silky shark, *Carcharhinus falciformis*
- Spinner shark, *Carcharhinus brevipinna*
- Tiger shark, *Galeocerdo cuvieri*

“**Pelagic Species**” shall mean any of the following species of sharks or parts thereof:

- Porbeagle shark, *Lamna nasus*
- Shortfin mako, *Isurus oxyrinchus*

Blue shark, *Prionace glauca*
Oceanic whitetip shark, *Carcharhinus longimanus*
Thresher shark, *Alopias vulpinus*

“Prohibited Species” shall mean any of the following species of sharks or parts thereof:

Basking shark, *Cetorhinidae maximus*
White shark, *Carcharodon carcharias*
Bigeye sand tiger, *Odontaspis noronhai*
Sand tiger, *Odontaspis taurus*
Whale shark, *Rhincodon typus*
Bignose shark, *Carcharhinus altimus*
Caribbean reef shark, *Carcharhinus perezii*
Dusky shark, *Carcharhinus obscurus*
Galapagos shark, *Carcharhinus galapagensis*
Narrowtooth shark, *Carcharhinus brachyurus*
Night shark, *Carcharhinus signatus*
Atlantic angel shark, *Squatina dumerili*
Caribbean sharpnose shark, *Rhizoprionodon porosus*
Smalltail shark, *Carcharhinus porosus*
Bigeye sixgill shark, *Hexanchus vitulus*
Sevengill shark, *Heptranchias perlo*
Sixgill shark, *Hexanchus griseus*
Longfin mako, *Isurus paucus*
Bigeye thresher, *Alopias superciliosus*

"Sandbar shark" shall mean *Carcharhinus plumbeus*

"Shore fishing" shall mean any fishing that does not take place on board a vessel. The terms "shore fishing" and "shore angler" are synonymous.

“Small Coastal Species” shall mean any of the following species of sharks or parts thereof:

Bonnethead, *Sphyrna tiburo*
Atlantic sharpnose shark, *Rhizoprionodon terraenovae*
Blacknose shark, *Carcharhinus acronotus*
Finetooth shark, *Carcharhinus isodon*

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

12 DE Reg. 1517 (06/01/09)

2.0 It shall be unlawful for any person to land, purchase, trade, barter, or possess or attempt to land, purchase, trade, barter, or possess a prohibited species.

2.1 It shall be unlawful for any hook and line fisherman to remove from the water sandbar shark, or any other species of shark when prohibited from harvest under §3541.

14 DE Reg. 1385 (06/01/11)

3.0 It shall be unlawful for any person to possess the fins from any shark in the management unit prior to landing said shark unless said fins are naturally attached to the body of said shark.

4.0 It shall be unlawful for any person to fish for any shark while in state waters with any fishing equipment or by any method, except: (1) Hook and Line; (2) Gill Net.

14 DE Reg. 193 (09/01/10)

5.0 It shall be unlawful for any person to fillet a shark in the management unit prior to landing said shark. A shark may be eviscerated prior to landing said shark, but the head, tail, and fins must remain naturally attached to the carcass, except that commercial fishermen may eviscerate and remove the head of any shark reduced to possession, but the tail and fins must remain attached to the carcass.

12 DE Reg. 1517 (06/01/09)

14 DE Reg. 193 (09/01/10)

6.0 It shall be unlawful to release any shark in the management unit or any sandbar shark in a manner that will not ensure said sharks maximum probability of survival. All species of shark when prohibited from harvest under §3541 must be immediately released.

14 DE Reg. 193 (09/01/10)

14 DE Reg. 1385 (06/01/11)

- 7.0 It shall be unlawful for the operator of any vessel without a commercial food fishing license to have on board said vessel more than one non-prohibited shark per trip from among those species in the management unit, regardless of the number of people on board the vessel. In addition each recreational angler fishing from a vessel may harvest and possess one bonnethead, and one Atlantic sharpnose shark per trip.
- 7.1 It shall be unlawful for any shark caught in state waters to be bought and sold without a federal Commercial Shark Dealer Permit.

1 DE Reg. 345 (10/1/97)

3 DE Reg. 1088 (2/1/00)

8 DE Reg. 1718 (6/1/05)

12 DE Reg. 1517 (06/01/09)

14 DE Reg. 193 (09/01/10)

- 8.0 It shall be unlawful for any person who has been issued a valid commercial food fishing license while on board any vessel to possess any non-prohibited shark from among those species in the management unit during the remainder of any period after the effective date a commercial quota for that group of sharks has been reached in said period or is projected to be reached in said period by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration and the U.S. Department of Commerce. Further, it shall be unlawful for any person who has been issued a valid commercial food fishing license while on board any vessel to possess any non-sandbar large coastal sharks, small coastal sharks, or pelagic sharks in excess of current federal daily harvest limits administered by the National Marine Fisheries Service.

12 DE Reg. 1517 (06/01/09)

- 9.0 It shall be unlawful for any person to engage in a directed commercial fishery for a prohibited species.
- 10.0 It shall be unlawful for the operator of any vessel without a commercial foodfishing license to have on board said vessel any non-prohibited shark from among those species in the management unit that measures less than 54 inches, fork length (tip of snout to indentation between dorsal and ventral tail lobes), with the exception of Atlantic sharpnose, blacknose, finetooth, bonnethead, and smooth dogfish sharks, for which no minimum size limit applies.

3 DE Reg. 1088 (2/1/00)

1 DE Reg. 850 (1/1/98)

1 DE Reg. 1005 (2/1/98)

12 DE Reg. 1517 (06/01/09)

- 11.0 It shall be unlawful for any shore angler without a commercial foodfishing license to take and reduce to possession any non-prohibited shark from among those species in the management unit less than 54 inches, with the exception of Atlantic sharpnose, blacknose, finetooth, bonnethead, and smooth dogfish sharks, for which no size limit applies.

12 DE Reg. 1517 (06/01/09)

- 12.0 It shall be unlawful for any shore angler without a commercial foodfishing license to take and reduce to possession more than one non-prohibited shark from among those species in the management unit per day (a day being 24 hours). Recreational shore anglers may also harvest one additional bonnethead, and one additional Atlantic sharpnose shark per day.

8 DE Reg. 1718 (6/1/05)

12 DE Reg. 1517 (06/01/09)

- 13.0 It shall be unlawful for any recreational or commercial fisherman to possess silky, tiger, blacktip, spinner, bull, lemon, nurse, scalloped hammerhead, great hammerhead, and smooth hammerhead sharks from May 15 through July 15, regardless of where the shark was caught. Fishermen who catch any of these species in federal waters may not transport them through Delaware state waters during the aforementioned closed season.

12 DE Reg. 1517 (06/01/09)

- 14.0 It shall be unlawful for any recreational or commercial fisherman to land or possess any sandbar sharks, except for a commercial fisherman in possession of a valid sandbar shark research permit issued by the National Marine Fisheries Service. There must be a qualified observer aboard any vessel that lands and possesses sandbar sharks fishing under the auspices of a valid federal research permit.

12 DE Reg. 1517 (06/01/09)

- 15.0 It shall be unlawful for any Delaware recreational or commercial fisherman to land or possess any species of shark in state waters that is illegal to catch or land or possess in federal waters. Presently it is unlawful for recreational fishermen to take and possess silky sharks in federal waters at any time of the year.

12 DE Reg. 1517 (06/01/09)

- 16.0 The Department may grant anyone permission to take and possess sharks that would otherwise be illegal to take and possess when used for display and/or research purposes. Applicants will need a current State of Delaware scientific collecting permit. Applicants must annually report the number, weight, species, location caught, and gear used for each shark collected for research or display purposes, and the annual disposition of said sharks throughout the life of each shark so taken. The Division reserves the right to place limits on or deny any request to take prohibited species of sharks under the auspices of a scientific collecting permit.

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

12 DE Reg. 1517 (06/01/09)

Spanish Mackerel

3552 Spanish Mackerel Size Limit and Possession Requirements.

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 Unless otherwise authorized, it shall be unlawful for any person to possess any Spanish mackerel, (*Scomberomorus maculatus*), that measure less than fourteen (14) inches total length.
- 2.0 Unless otherwise authorized, it shall be unlawful for any recreational finfisherman to have in possession more than fifteen (15) Spanish mackerel at or between the place caught and his/her personal abode or temporary or transient place of lodging.
- 3.0 Unless otherwise authorized, it shall be unlawful for any recreational finfisherman to possess any Spanish mackerel at or between the place caught and his/her personal abode or temporary or transient place of lodging without the head and fins intact.
- 4.0 Unless otherwise authorized, it shall be unlawful for any commercial finfisherman to possess or land more than 3,500 pounds of Spanish mackerel per vessel, per day.
- 5.0 Unless otherwise authorized, it shall be unlawful for any commercial finfisherman to possess any Spanish mackerel without the head and fins intact prior to selling, trading or bartering said Spanish mackerel.

4 DE Reg 1552 (3/1/01)

16 DE Reg. 94 (07/02/12)

Spiny Dogfish

3581 Spiny Dogfish

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It shall be unlawful for any commercial fisherman to harvest, land or possess any spiny dogfish, *Squalus acanthias*, in Delaware except in those sizes, seasons, and quantities permitted in accordance with the most recent version of the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Spiny Dogfish as amended. It shall be unlawful for any commercial fisherman to harvest, land or possess any spiny dogfish after the Atlantic States Marine Fisheries Commission approved allocation for the region which includes Delaware has been reached during any given year. It shall be unlawful to commercially harvest, land or possess spiny dogfish taken from federal waters during any time when adjoining federal waters are closed to the taking of spiny dogfish. It shall be unlawful for any commercial fisherman to take, land or possess more than 3,000 pounds of spiny dogfish per day from Delaware waters, with a day being defined as 24 hours. Further, it shall be unlawful for any Delaware commercial fisherman to be in possession of spiny dogfish taken from federal waters in excess of the federal daily landing limit. It shall be unlawful for any person to possess the fins from any spiny dogfish prior to landing said spiny dogfish unless said fins are naturally attached to the body of said spiny dogfish. All spiny dogfish landed in Delaware for commercial purposes must be reported through the normal state reporting system.

4 DE Reg 1859 (5/1/01)

10 DE Reg. 1724 (05/01/07)

12 DE Reg. 1517 (06/01/09)

Sturgeon

3571 Atlantic Sturgeon Moratorium on Possession.

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It shall be unlawful for any person to harvest, possess, or land any Atlantic Sturgeon, *Acipenser oxyrhynchus*, or part thereof.
- 2.0 It shall be unlawful for any person to attempt to harvest, possess, or land any Atlantic sturgeon or part thereof.

Tautog

3512 Tautog; Size Limits, Creel Limits and Seasons

- 1.0 Notwithstanding the provisions of 7 Del.C. §939, it shall be unlawful for any person to possess any tautog, *Tautoga onitis*, less than **fifteen (15) inches** in total length.
- 2.0 Notwithstanding the provisions of 7 Del.C. §§938, 939, it shall be unlawful for any person to possess more than five (5) tautog during the period beginning at 12:00 a.m. on January 1 and ending at 11:59 p.m. on March 31, and during the period beginning at 12:00 a.m. on July 17 and ending at 11:59 p.m. on August 31, and during the period beginning at 12:00 a.m. on September 29 and ending at 11:59 p.m. on December 31, at or between the place where said tautog were caught and said person's personal abode or temporary or transient place of lodging.
- 3.0 Notwithstanding the provisions of 7 Del.C. §§938, 939, it shall be unlawful for any person to possess more than three (3) tautog during the period beginning at 12:00 a.m. on April 1 and ending at 11:59 p.m. on May 11, at or between the place where said tautog were caught and said person's personal abode or temporary or transient place of lodging.
- 4.0 Notwithstanding the provisions of subsections 1.0, 2.0 and 3.0 of this regulation, it shall be unlawful for any person to possess any tautog during the period beginning at 12:00 a.m. on May 12 and ending at 11:59 p.m. on July 16 and during the period beginning at 12:00 a.m. on September 1 and ending at 11:59 p.m. on September 28, except in said person's personal abode or temporary or transient place of lodging.

1 DE Reg. 1771 (05/01/98)

6 DE Reg. 1360 (04/01/03)

11 DE Reg. 1257 (03/01/08)

15 DE Reg. 1177 (02/01/12)

16 DE Reg. 216 (08/01/12)

Weakfish and Spotted Sea Trout

3521 Weakfish Size Limits; Possession Limits; Seasons.

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It shall be unlawful for any person to possess weakfish, *Cynoscion regalis*, taken with a hook and line, that measure less than thirteen (13) inches, total length.
- 2.0 It shall be unlawful for any person to whom the Department has issued a commercial food fishing license and a food fishing equipment permit for hook and line to have more than one (1) weakfish in possession during the period beginning at 12:01 AM on May 1 and ending at midnight on October 31 except on four specific days of the week as indicated by the Department on said person's food fishing equipment permit for hook and line.
- 3.0 It shall be unlawful for any person, who has been issued a valid commercial food fishing license and a valid food fishing equipment permit for fishing equipment other than a hook and line to possess weakfish, lawfully taken by use of such permitted food fishing equipment, that measure less than twelve (12) inches, total length.
 - 3.1 It shall be unlawful for any person, who has been issued a valid commercial food fishing license and a valid food fishing equipment permit to possess more than one hundred pounds (100 lbs) of weakfish per vessel per day (a day being 24 hours) or trip, whichever is the longer period of time.

13 DE Reg. 1354 (04/01/10)

- 4.0 It shall be unlawful for any person, except a person with a valid commercial food fishing license, to have in possession more than one (1) weakfish, not to include weakfish in one's personal abode or temporary or transient place of lodging. A person may have weakfish in possession that measure no less than twelve (12) inches, total length, and in excess of one (1) if said person has a valid bill-of-sale or receipt for said weakfish that indicates the date said weakfish were received, the number of said weakfish received and the name, address and signature of the commercial food fisherman who legally caught said weakfish or a bill-of-sale or receipt from a person who is a licensed retailer and legally obtained said weakfish for resale.

11 DE Reg. 514 (10/01/07)

13 DE Reg. 1354 (04/01/10)

- 5.0 It shall be unlawful for any person to fish with any gill net in the Delaware Bay or Atlantic Ocean or to take and reduce to possession any weakfish from the Delaware Bay or the Atlantic Ocean with any fishing equipment other than a hook and line during the following periods of time:

Every weekend day (defined as 12:01 AM on Friday through midnight Sunday) in both May and June, plus contiguous weekdays (defined as 12:01 AM Monday through midnight Thursday) at the beginning of May and the end of June, such that the total number of closure days add up to thirty four (34) days. The exact dates of closures each year shall be mailed in advance to the affected public and published annually in the Delaware Fishing Guide.

- 6.0 The Department shall indicate on a person's food fishing equipment permit for hook and line four (4) specific days of the week during the period May 1 through October 31, selected by said person when applying for said permit, as to when said permit is valid to take in excess of one (1) weakfish but not more than 100 pounds per day. These four days of the week shall not be changed at any time during the remainder of the calendar year.

11 DE Reg. 514 (10/01/07)

13 DE Reg. 1354 (04/01/10)

- 7.0 It shall be unlawful for any person with a food fishing equipment permit for hook and line to possess more than one (1) weakfish while on the same vessel with another person who also has a food fishing equipment permit for hook and line unless each person's food fishing equipment permit for hook and line specifies the same day of the week in question for taking in excess of one (1) weakfish.

1 DE Reg 1770 (5/1/98)

2 DE Reg 1904 (4/1/99)

3 DE Reg 1088 (2/1/00)

4 DE Reg 1552 (3/1/01)

5 DE Reg. 2142 (5/1/02)

6 DE Reg. 1512 (5/1/03)

11 DE Reg. 514 (10/01/07)

13 DE Reg. 1354 (04/01/10)

3576 Spotted Seatrout Size Limit

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 Unless otherwise authorized, it shall be unlawful for any person to possess any spotted seatrout, *Cynoscion nebulosus*, that measure less than twelve (12) inches total length.

Equipment and Fishing Gear

3536 Fish Pot Requirements

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It shall be unlawful for any person to fish, set, place, use or tend any fish pot in the tidal waters of this state unless said fish pot has two escape vents placed in the parlor portion of said pot which complies with one of the following minimum sizes: 1.375 inches by 5.75 inches; or a circular vent 2.5 inches in diameter; or a square vent with sides of 2 inches, inside measure. Pots constructed of wooden lathes must have spacing of at least 1.375 inches between one set of lathes.
- 2.0 It shall be unlawful for any person to fish, set, place, use or tend any fish pot in the tidal waters of this state unless said fish pot contains a panel (ghost panel) measuring at least 3.0 inches by 6.0 inches affixed to said pot with one of the following degradable materials:
- 2.1 Untreated hemp, jute or cotton string of 3/16 inches diameter or smaller; or
- 2.2 Magnesium alloy timed float release (pop-up devices) or similar magnesium alloy fasteners; or
- 2.3 Ungalvanized or uncoated iron wire of 0.094 inches diameter or smaller.
- 3.0 It shall be lawful for a person to take and reduce to possession any food fish, except tautog, black seabass or summer flounder, when said food fish is caught in his/her crab pot provided said food fish is not otherwise illegal to possess at that time.
- 4.0 It shall be lawful for a person to take and reduce to possession any food fish, except tautog, black seabass or summer flounder, when said food fish is caught in his/her blue crab dredge provided said food fish is not otherwise illegal to possess at that time.
- 5.0 It shall be unlawful to take or attempt to take any finfish within the geographic boundaries of any permitted artificial reef site under Delaware jurisdiction by any method other than hook and line or spear. The coordinates of Delaware permitted reef sites are defined in U.S. Army Corps of Engineers permit CENAP-OP-R-200500059-1 and any updated permits subsequently issued and are depicted on NOAA charts 12304 and 12214. An Artificial Reef Guide is also available to the public upon request and on-line.

2 DE Reg. 1905 (4/1/99)

6 DE Reg. 350 (9/1/02)

3561 Areas Closed to Gill Net Fishing.

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

- 1.0 It shall be unlawful for any person to fish with gill nets for food fish in areas described as follows:
 - 1.1 The Assawoman Canal from White Creek to Assawoman Bay;
 - 1.2 Indian River from Millsboro Pond dam to the first Canal marker approximately 1,000 yards down river;
 - 1.3 Masseys Ditch from Canal marker 12 in Rehoboth Bay to a line connecting the southern most part of Middle Island and the nearest point of land to the west;
 - 1.4 The Lewes and Rehoboth Canal from Roosevelt Inlet to its entrance into Rehoboth Bay;
 - 1.5 The Broadkill River from Roosevelt Inlet to a point up river 1,000 yards;
 - 1.6 Mispillion River from the tip of the jetty up river to a line drawn perpendicularly across the Mispillion River from the Mispillion Lighthouse;
 - 1.7 Cedar Creek from its entrance to the Mispillion River up river to a point 500 yards south of the Route 36 bridge;
 - 1.8 The Murderkill River from the mouth up river to Webbs Landing;
 - 1.9 The Fenwick Ditch from Little Assawoman Bay to the Delaware - Maryland state line.

3562 Gill Net Mesh Size Restrictions.

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

- 1.0 Unless otherwise authorized, it shall be unlawful for any commercial finfisherman to fish any gill net having a mesh size less than 3 1/8 inches, stretched measure; in the tidal waters of this State during a period beginning at 12:01 A.M. on April 1 and ending midnight on June 30, next ensuing.
- 2.0 Unless otherwise authorized, it shall be unlawful for any recreational finfisherman to fish any gill net having a mesh size less than 3 1/4 inches, stretched measure, in the Delaware River, Delaware Bay and Atlantic Ocean under the jurisdiction of this State.

3563 Electric Lights.

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

- 1.0 'Lights used for illumination for visual purposes' shall mean any light that is fixed in position anywhere directly above the hull or deck of any vessel, dock or shore area or any electric flood light less than 500 watts and fixed in position no less than ten (10) feet directly above the surface of the water. An electric flood light is any electric light that does not have a focused beam.
- 2.0 It shall be legal for any person to fish in the tidal waters of this State with the aid of 'lights used for illumination for visual purposes' in addition to the equipment and methods listed in 7 **Del.C.** §929.

3564 Spear Fishing.

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

- 1.0 Unless otherwise prohibited, it shall be lawful for any recreational fisherman while submerged in the tidal waters of this State to use a spear that is propelled by a gun or a mechanical or pneumatic device to take a species of food fish whenever a hook and line is authorized as legal fishing equipment to take said species of food fish in the Department's tidal finfish regulations.

License Lotteries and Tidal Water Fisherman Registry

3565 License Lotteries For Apprentices.

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

- 1.0 The first lottery for available commercial gill net permits and authorization for commercial hook and line permits shall be held on January 2, 2004; with subsequent lotteries to be held annually the first working day in January of each year, as long as one or more licenses are available. Participants in the lotteries shall include current participants in the apprentice program who have completed the required and properly documented 150 days of commercial fishing activities over no less than a 2-year period dating from the specific date the applicant filed their application with the Department as an apprentice, according to the provisions of 7 **Del.C.** §915(e), (k), and (n).

7 DE Reg. 785 (12/1/03)

3566 Minimum Age for Commercial Food Fish Licensees

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

- 1.0 An individual must be at least 16 years of age to qualify for a commercial foodfish license as defined in 7 **Del.C.** §914 or to qualify for a food fishing equipment permit as defined in 7 **Del.C.** §915, including recreational gill net permits and recreational drift gill net permits.

8 DE Reg. 1718 (6/1/05)

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 with the National Marine Fisheries Service for the purpose of compliance with federal requirements for a national registry of marine fishermen.

12 DE Reg. 493 (10/01/08)

17 DE Reg. 50 (07/01/13) (Prop.)