

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL
CONTROL**

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 1902(a)(5) and 2804
(7 **Del.C.** §§1902(a)(5) and 2804)
7 **DE Admin. Code** 3711

PROPOSED

**REGISTER NOTICE
SAN #2009-15**

1. Title of the Regulation:

Shellfish Regulation 3711 Conch Minimum Size Limits (Formerly S-48)

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

Revised regulation 3711 will establish a tolerance for undersize knobbed whelks (knobbed conchs) in the dredge and pot commercial fisheries similar to the existing tolerance established in Regulation 3711 2.0 for the channeled or smooth whelks (conchs). The purpose of the proposed regulation is to allow the retention of up to five (5) undersized knobbed whelks (that is conchs that are less than the applicable minimum length or diameter measurement in effect during the year in question) per 60 pound bag or basket of whelks per day. The allowance of a few undersized knobbed whelks during the course of normal harvesting operations will be a convenience for harvesters who have to pay crews of widely varying experience to cull undersize conchs from the harvest. Also such a tolerance is in recognition that occasionally conch shells are partially broken off either during or prior to harvesting. This proposed regulation should ease the burden on Department enforcement staff who during the course of checking the harvest for compliance with applicable minimum size limits.

3. Possible Terms of the Agency Action:

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

4. Statutory Basis or Legal Authority To Act:

§1902(a)(5) and §2804 of 7 Delaware Code

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

This would represent an amendment to the existing Tidal Shellfish Regulation (No. 3711). 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 Wednesday, September 30, 2009. 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, 302-739-9914, August 4, 2009

3711 Conch Minimum Size Limits

(Penalty Section 7 **Del.C.** §1912)

- 1.0 It shall be unlawful for any person to possess any channeled conch, *Busycotypus canaliculatum*, that measures less than six (6) inches in length or 3 1/8 inches in diameter at the whorl.

- 2.0 Notwithstanding the provisions of paragraph 1.0, a person may possess no more than five (5) channeled conchs per 60 pounds that are less than six (6) inches in length or 3 1/8 inches in diameter at the whorl.
- 3.0 It shall be unlawful for any person to possess any knobbed conch, *Busycon carica*, that measures less than five 5 ¼ inches in 2007, 5 ½ inches in 2008, 5 ¾ inches in 2009, and six (6) inches in length in 2010. Beginning in 2010, the minimum length shall remain 6 inches thereafter until changed by regulation. The minimum diameter at the whorl shall be no less than 3 inches in 2007, 3 ¼ inches in 2008, 3 ½ inches in 2009 and 3 ½ inches in 2010 and shall remain 3 ½ inches thereafter until changed by regulation.
- 4.0 Notwithstanding the provisions of paragraph 3.0, a person may possess no more than five (5) knobbed conchs per 60 pounds that are less than the allowable minimum length limit or the minimum diameter at the whorl.

1 DE Reg. 250 (9/1/97)

1 DE Reg. 835 (1/1/98)

10 DE Reg. 1034 (12/01/06)

13 DE Reg. 387 (09/01/09) (Prop.)