

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 903(h) and 29 Delaware Code, Section 10119
(7 **Del.C.** §903(h) & 29 **Del.C.** §10119)
7 **DE Admin. Code** 3504

EMERGENCY

Secretary's Order No: 2020-F-0002
Pursuant to 7 **Del.C.** §903(h) and 29 **Del.C.** §10119

3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit
3504 Striped Bass Possession Size Limit; Exceptions

AUTHORITY

Pursuant to 7 **Del.C.** §903(h) and 29 **Del.C.** §10119, the Department of Natural Resources and Environmental Control is adopting amendments to Tidal Finfish Regulation 7 **DE Admin. Code** 3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit and to 7 **DE Admin. Code** 3504 Striped Bass Possession Size Limit; Exceptions. 7 **Del.C.** §903(h) authorizes the Department to adopt emergency regulations involving finfish subject to Chapter 9, and in accordance with the procedures set forth in 29 **Del.C.** §10119.

REASON FOR THE EMERGENCY ORDER

The mandatory provisions of the Atlantic States Fisheries Commission's (ASMFC's) Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan requires a coastwide 18% reduction in striped bass removals (landings + discard mortality). The ASMFC adopted specific, prescribed coastwide management measures to meet the required 18% reduction, but these measures are not preferred for Delaware.

The Department has developed two management alternatives that, if implemented by the Department, would be equivalent to the specific coastwide management measures in Addendum VI. One alternative (Option 1) provides a recreational possession limit of one striped bass and an allowable striped bass size limit of not less than 28-inches or more than 35-inches in total length; except, in the Delaware Bay, Delaware River and their tributaries during July and August, the allowable size limit is not less than 20-inches or greater than 25-inches. Delaware's authorized commercial striped bass quota is established as 142,474 pounds. The result of Option 1 measures a 1.8% reduction in commercial removals and a 20.4% reduction in recreational removals.

The other alternative (Option 2) provides a recreational possession limit of one striped bass and an allowable striped bass size limit of not less than 28-inches or more than 38-inches in total length; except, in the Delaware Bay, Delaware River and their tributaries during July and August, the allowable size limit is not less than 20-inches or greater than 25-inches. Delaware's authorized commercial striped bass quota would be 118,969 pounds. The result of Option 2 measures an 18% reduction in commercial removals and an 18.18% reduction in recreational removals.

The ASMFC's Striped Bass Management Board approved both alternatives for use at their February 4, 2020 meeting; however, there is insufficient time to promulgate regulations for either alternative through standard administrative procedures by the required April 1, 2020 implementation date. There is also a need to implement management measures by the February 15, 2020 opening of Delaware's commercial striped bass fishery to avoid jeopardizing the welfare of the striped bass resource and its dependent commercial and recreational fisheries.

The Department is implementing the management alternative preferred by Delaware's Advisory Council on Tidal Finfisheries (Option 1) through this Emergency Order, until both alternatives are vetted through standard administrative procedures.

This order establishes measures that are compliant with Addendum VI and are expected to reduce Delaware's total striped bass removals by 18.4% relative to 2017. Adoption of these measures by the February 15, 2020 opening of Delaware's commercial striped bass fishery through the provisions of 7 **Del.C.** §903(h) and by the procedures set forth in 29 **Del.C.** §10119, is necessary to ensure the welfare of the striped bass resource and its dependent commercial and recreational fisheries.

EFFECTIVE DATE OF ORDER

This Emergency Order shall take effect February 15, 2020 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent

PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Fisheries Section, Division of Fish & Wildlife, 89 Kings Highway, Dover, DE 19901.

ORDER

It is hereby ordered, this 12th day of February, 2020, that the above referenced amendments to 7 DE Admin. Code 3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit and 7 DE Admin. Code 3504 Striped Bass Possession Size Limit; Exceptions, copies of which are hereby attached, are adopted pursuant to 7 Del.C. §903(h) according to the procedures of 29 Del.C. §10119 and supported by the evidence contained herein.

Shawn M. Garvin
Secretary

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

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It is 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 is 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 is unlawful for any recreational fisherman to take and reduce to possession more than ~~two (2)~~ one 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 is unlawful for any recreational fisherman to have in possession more than ~~two (2)~~ one 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.
- 5.0 Notwithstanding 7 Del.C. §943, which only relates to commercial fishermen, it is lawful for a recreational fisherman to possess striped bass that have not been tagged, unless otherwise prohibited.

7 DE Reg. 1205 (03/01/04)

18 DE Reg. 889 (05/01/15)

20 DE Reg. 467 (12/01/16)

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 is unlawful for any recreational fisherman to take and reduce to possession any striped bass that measures less than ~~twenty-eight (28)~~ 28 inches in total length or any striped bass that measures greater than ~~thirty-seven (37)~~ 35 inches in total length ~~but less than forty-four (44) inches in total length~~, except that a recreational hook and line fisherman may only take ~~two (2)~~ one striped bass measuring not less than ~~twenty (20)~~ 20 inches in total length and not greater than ~~twenty-five (25)~~ 25 inches in total length 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 is unlawful for any commercial food fisherman to take and reduce to possession any striped bass that measure less than ~~twenty-eight (28)~~ 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)~~ 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 31.

- 3.0 It is unlawful for any person to possess a striped bass except in accordance with Section 1.0 or 2.0 of this section or 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 food fisherman and was legally taken and tagged by said commercial food fisherman; 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 taken and reduced to possession in another state for noncommercial 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 is 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 The words "take and reduce to possession" shall mean the removal of any striped bass from Delaware waters with the intent to keep or harvest the striped bass.
- 7.0 It is 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)~~ 20 inches in total length.

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

4 DE Reg. 230 (07/01/00)

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

6 DE Reg. 1512 (05/01/01)

7 DE Reg. 1205 (03/01/04)

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

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

18 DE Reg. 889 (05/01/15)

20 DE Reg. 467 (12/01/16)

23 DE Reg. 705 (03/01/20) (Emer.)