

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 1902(a)(1); 2804; 2806

(7 Del.C. §§1902(a)(1); 2804; 2806)

7 DE Admin. Code 3710, 3711 & 3712

PROPOSED

REGISTER NOTICE #2015 - 02

3700 Shellfish

1. TITLE OF THE REGULATION:

3710 Conch

3711 Conch Minimum Size Limits

3712 Commercial Conch Dredge Licenses

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

The purpose of this action is to provide Delaware's licensed knobbed conch, *Busycon carica*, dredgers with access to this resource similar to that of their New Jersey counterparts.

The Department received a request from the commercial shellfishing sector to align Delaware's knobbed conch management measures with those measures presently in place in the State of New Jersey. New Jersey's conch dredge landings are an authorized by-catch of their blue crab dredge fishery. The New Jersey conch fishery is constrained by a five-inch minimum size limit with a five month season from November 15 through April 15 and a cap of 93 dredge licenses. Delaware's directed knobbed conch fishery is presently constrained by a six-inch minimum size limit (3.5-inch minimum whorl diameter) with no closed season and delayed entry to the fishery. The lower minimum size limit in New Jersey poses a potential economic disadvantage to Delaware conch harvesters fishing the shared waterbody of Delaware Bay.

The Department agrees that parity with New Jersey's management measures is desirable; however, complete alignment (season dates and license cap) with the New Jersey by-catch fishery does not serve the best interest of Delaware's directed conch dredge fishery. Therefore, the Department proposes to adopt a five-inch minimum size limit (3-inch minimum whorl diameter) with a five month open season from January 15 through June 15. The proposed minimum size limit will provide economic parity with New Jersey and the implementation of a five month harvest season is expected to constrain harvest without unduly jeopardizing the sustainability of the resource. The number of active licenses in the Delaware conch dredge fishery (17 in 2014), does not warrant additional licensing restrictions at this time.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Del.C. §§1902(a)(1), §2804, §2806

5. LIST OF OTHER REGULATIONS THAT MAY BE IMPACTED OR AFFECTED BY THE PROPOSAL:

N/A

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed changes to 7 DE Admin. Code §§3710, 3711 and 3712 pertaining to knobbed conch will be open May 1, 2015. Individuals may submit written comments regarding the proposed changes via e-mail to Lisa.Vest@state.de.us or via the 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 May 28, 2015 beginning at 6:00 PM in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901.

7. PREPARED BY:

Stewart Michels Stewart.Michels@state.de.us (302) 739-9914

David E. Saveikis, Director

3710 Conch

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 1/4 inches in 2007, 5 1/2 inches in 2008, 5 3/4 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 1/4 inches in 2008, 3 1/4 inches in 2009 and 3 1/2 inches in 2010 and shall remain 3 1/2 inches thereafter until changed by regulation~~ five (5) inches in length or less than three (3) inches in diameter at the whorl.
- 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. 675 (11/01/09)

3712 Commercial Conch ~~Dredge Licenses~~ Season

(Penalty Section 7 Del.C. § 1912)

- 1.0 ~~Pursuant to §2803(c) of 7 Del.C., the Department shall not issue any new conch dredge licenses for a period of 5 years to begin January 1, 2006. Licenses may continue to be issued pursuant to §2803(d) of 7 Del.C. Notwithstanding 7 Del.C. §§2803(a) and 2805, it is unlawful to for a vessel equipped with a dredge to possess knobbed conch during the period June 16 through January 14.~~

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

18 DE Reg. 844 (05/01/15) (Prop.)