

# DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

## DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 901(c) & (d); 903(e)(2)a  
(7 Del.C., §§901(c) & (d); 903(e)(2)a)

### PROPOSED

#### REGISTER NOTICE #2013 - 23

#### 3588 Atlantic Menhaden

**1. TITLE OF THE REGULATION:**

3588 Atlantic Menhaden

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

The recent population assessment of Atlantic menhaden (*Brevoortia tyrannus*) showed a decline in population abundance and low recruitment rates. Estimates of fishing mortality show that overfishing is occurring and, in response, the Atlantic States Marine Fisheries Commission (ASMFC) adopted Amendment 2 to the Interstate Fisheries Management Plan for Atlantic Menhaden. Amendment 2 is designed to minimize the chance of a population decline due to overfishing; reduce the risk of recruitment failure; reduce impacts to species which are ecologically dependent on Atlantic menhaden; and minimize adverse effects on participants in the fishery.

Implementation of Amendment 2 required that states submit implementation plans for approval by the ASMFC's Atlantic Menhaden Management Board. The Board approved Delaware's implementation plan at its 22 May 2013 meeting. The purpose of the present action is to formally adopt the management measures contained in Delaware's Atlantic menhaden implementation plan. The action will establish Delaware's annual Atlantic menhaden quota consistent with Amendment 2; establish timely reporting by the fishery; provide for closure of the fishery upon reaching quota; and establish a daily by-catch limit.

**3. POSSIBLE TERMS OF THE AGENCY ACTION:**

None.

**4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:**

7 Del.C. §901 (c) & (d); §903 (e)(2)a

**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 inclusion of a new 3588 Atlantic Menhaden to the Tidal Finfish Regulations (7 DE Admin. Code 3500) will be open September 1, 2013. 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 September 30, 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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David E. Saveikis, Director

#### 3588 Atlantic Menhaden

**1.0 Atlantic Menhaden Quota**

1.1 The annual quota for Atlantic menhaden shall be determined in accordance with the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Atlantic Menhaden and its subsequent amendments and addenda.

1.2 Any person who has been issued a valid commercial food fishing license may take and reduce to possession Atlantic menhaden during the period beginning at 12:01 AM January 1 and ending when the Department has determined that the annual Atlantic menhaden quota has been landed. The Department shall establish, based on recent fishery performance and landings, a date and time to order the directed fishery closed.

## **2.0 Atlantic Menhaden Bycatch Allowance**

- 2.1** It is unlawful for any person who has been issued a valid commercial food fishing license to take and reduce to possession more than 6,000 pounds of Atlantic menhaden during any one day once the Department has determined that the Atlantic menhaden fishery is closed.
- 2.2** It shall be unlawful for any person who has been issued a valid commercial food fishing license or any vessel, regardless of the number of licensed commercial fisherman onboard that vessel, to possess or land more than 6,000 pounds of Atlantic menhaden in any one (1) day once the Department has determined the annual Atlantic menhaden fishery is closed.

## **3.0 Atlantic Menhaden Reporting Requirements**

- 3.1** It is unlawful for any person who has been issued a valid commercial food fishing license to not accurately and completely report their Atlantic menhaden landings to the Department, via the interactive voice phone reporting system, within 24 hours of landing.
- 3.2** In addition to the requirement to phone in daily landing reports, it is unlawful for any person who has been issued a valid commercial food fishing license to not accurately and completely compile and file monthly log sheets detailing their daily landings of Atlantic menhaden on forms supplied by the Department. These forms must be submitted by the 10th of the month next ensuing. Failure to submit these monthly reports on a timely basis may be cause for revocation or non-renewal of their commercial food fishing license.

## **4.0 Atlantic Menhaden Landing Restrictions**

It is unlawful for any person who has been issued a valid commercial food fishing license to offload Atlantic menhaden to any other vessel or means of conveyance prior to landing.

**17 DE Reg. 305 (09/01/13) (Prop.)**