Page 1 Delaware Department of Natural Resources and 1 2 Environmental Control (DNREC) 3 Division of Fish and Wildlife Public Hearing Proposed Amendments to 7 DE Admin. Code 3505 4 5 Striped Bass Commercial Fishing Seasons; Quotas; 6 Tagging and Reporting Requirements 7 Docket No. 2023-R-F-0021 8 9 10 11 Moderated by Theresa Smith 12 Tuesday, January 30, 2024 6:00 p.m. 13 14 15 16 Remote Proceeding 17 DNREC 18 89 Kings Highway 19 Dover, DE 19901 20 21 Reported by: Andrew Weader 22 23 JOB NO.: 6391184 24

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2	List of Attendees:
3	Theresa Smith, Hearing Officer
4	John Clark, Presenter with DNREC
5	Tanesha Perry, Hearing Officer Assistant
6	Wes Townsend, Public Attendee
7	Katie Kazimir, Public Attendee
8	Lawrence Voss, Public Attendee
9	Sarah Everhart, Public Attendee
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Page 6 1 PROCEEDINGS 2 MS. SMITH: Good evening. Thank you 3 all for your patience. We will now begin the hearing scheduled for tonight. The time is now 6 p.m. on 4 5 Tuesday, January 30, 2024. 6 For ADA compliance, tonight's formal 7 proceeding offers closed captioning in a variation of 8 languages. Before I begin my introductory remarks, I 9 will now hand it over with Tanesha Perry with the 10 Department's Office of the Secretary to go over the 11 closed captioning feature, which is available in multiple languages on the Zoom platform. 12 Tanesha. 13 MS. PERRY: Thank you, Teresa. 14 My name is Tanesha Perry. Hello. I'm 15 the Administrative Specialist with the Office of Secretary. I'm here to assist the hearing officer 16 17 tonight. 18 I'd like to make sure that everyone is 19 aware that the Zoom platform we're using has the 20 ability for closed captioning in multiple languages. 21 To start closed captioning, if you're using a 2.2 computer, at the bottom of your screen you should see 23 a show captions button. If you do not see the show 24 captions button, you may have to select the three dots

1 that say more. Once you find your show captions
2 button, you should click the carrot pointing up, which
3 will bring up your translation options. You can
4 select the -- your preferred language from there. If
5 your preferred language isn't listed, you can select
6 more and all languages will be listed.

7 If you're on a smartphone, at the 8 bottom of your screen, select the captions button 9 indicated by CC. If your preferred language is not 10 listed at the bottom, you may have to select the three 11 dots that say more. You should then select meeting 12 settings with the gear icon next to it. Once the 13 settings page comes up, located at the very bottom, 14 select translation language. From there, you'll be 15 able to select the preferred language, then select 16 done at the top right corner, and then done again. Ιf 17 the captions are not automatically popping up, you may 18 need to select captions again and select show 19 captions. 20 Now, I'll turn it back over to the

21 hearing officer, Teresa Smith.

22 MS. SMITH: Thank you, Ms. Perry. My 23 name is Teresa Smith, as she said, and 24 Secretary Garvin has appointed me to serve as the

1 hearing officer for tonight's goal proceeding. 2 We are here this evening to provide a 3 virtual platform for the State of Delaware's Department of Natural Resources and Environmental 4 Control to conduct its virtual public hearing on the 5 6 proposed revisions to 7 DE Admin. Code 3505, Striped 7 Bass Commercial Fishing Season; Quotas; Tagging and 8 Reporting Requirements Docket Number 2023-R-F-0021. 9 The purpose of the hearing is to build 10 a record in regard to the hearing matter by providing 11 a formal legal platform for the public to learn about 12 the proposed regulatory revisions and to enable the 13 public to offer live comment. 14 First and foremost, this hearing is 15 being conducted virtually. No one is together in the 16 same room. Everyone is participating independently at 17 their own respective locations. While we are not 18 physically gathered tonight, however, Zoom does 19 generate a list of those who are virtually present for

20 this proceeding. So the department will have a record 21 of those who have joined electronically for this 22 event.

There is a court reporter virtuallypresent who will prepare a verbatim transcript of the

1 hearing pursuant to the statutory requirement for 2 DNREC to have the same prepared. And as always, that 3 transcript will be posted on the hearing web page dedicated to this matter as soon as it is received. 4 In addition, I would encourage those 5 6 who are attending the hearing to also visit the 7 hearing web page dedicated to this matter for 8 additional details concerning the proposed revisions to 7 DE Admin. Code 3505. 9 10 The hearing tonight presented along 11 with other related documents, are posted on the 12 department of the hearing web page dedicated to this matter. 13 The hearing web page can be found online 14 under the Administrative Law section of DNREC's 15 website that will be listed towards the end of the 16 hearing. 17 At the conclusion of my introductory

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remarks, I will be turning the hearing record over to department staff to provide their presentation for the record being generated in this matter. Following department's presentation, the public comment portion of the hearing will begin.

For those who pre-registered with DNRECto offer live comment this evening, they will be

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1	recognized in the order that their pre-registration
2	was received, and each commenter will be given three
3	minutes to provide their verbal comment. If you are
4	unable to finish your comment within the three
5	minutes, you are encouraged to submit your full
6	comments in writing to DNREC. All comments have equal
7	weight, whether they are offered live this evening or
8	in writing between now and when the record closes,
9	which will be February 14, 2024. I will provide more
10	details about the comment portion of the proceeding
11	after the presentations conclude.
12	Before we begin the presentation,
13	please be advised of the following protocols that
14	remain in place for all public DNREC hearings.
14 15	remain in place for all public DNREC hearings. All comments received must be limited
15	All comments received must be limited
15 16	All comments received must be limited solely to the subject matter of tonight's hearing.
15 16 17	All comments received must be limited solely to the subject matter of tonight's hearing. All comments pertinent to the subject matter of this
15 16 17 18	All comments received must be limited solely to the subject matter of tonight's hearing. All comments pertinent to the subject matter of this virtual hearing will be incorporated into the record
15 16 17 18 19	All comments received must be limited solely to the subject matter of tonight's hearing. All comments pertinent to the subject matter of this virtual hearing will be incorporated into the record being generated.
15 16 17 18 19 20	All comments received must be limited solely to the subject matter of tonight's hearing. All comments pertinent to the subject matter of this virtual hearing will be incorporated into the record being generated. In the light of Administrative Act
15 16 17 18 19 20 21	All comments received must be limited solely to the subject matter of tonight's hearing. All comments pertinent to the subject matter of this virtual hearing will be incorporated into the record being generated. In the light of Administrative Act procedure, and to ensure everyone who wishes to offer

1 hearing.

There's only one authentic record of 2 3 the formal proceeding tonight and is the official court reporter's verbatim transcript. 4 5 The statutory purpose of tonight's hearing is to build the record with -- with regard to 6 7 the department's proposed actions. A record 8 consisting of a transcript of the hearing tonight, all 9 written comments, all exhibits, and eventually the 10 hearing officer's report will be reviewed by Secretary Garvey. The Secretary will ultimately issue 11 12 an order following that review process containing his 13 decision on this matter and their reasons therefore. 14 Per DNREC's standard hearing protocols, there will be 15 no Q&A or chat session permitted during the hearing. 16 It is important to note that no 17 decision has already been made by the department nor 18 will any decision be made tonight with regard to the 19 proposed regulatory matter. 20 As previously stated, DNREC wishes to 21 ensure that everyone is able to offer their comments 2.2 for inclusion into the record being generated in this 23 matter. As noticed in the legal ads and online, the 24 Department stated that the public comment period will

1 be opened through February 14, 2024. Comments may be 2 submitted through a comment form link on the hearing 3 web page, via e-mail to dnrechearingcomments@delaware.gov, or via the 4 U.S. Postal Service at the physical address for DNREC 5 6 indicated on the hearing web page and/or the public notices previously issued in this matter. Written 7 8 comments to DNREC may not be submitted using social 9 media platforms such as Twitter, Facebook, YouTube, or 10 text messaging. 11 Please remember that all comment 12 received either through USPS or via the electronic 13 mechanism read just now, as long as it -- as it is 14 received by the comment on or before February 14th, 15 will bear the exact same weight and will be considered 16 equally by the Secretary prior to making his final 17 decision in this matter. 18 While comments are appreciated, each 19 comment must be limited solely to the subject matter of tonight's hearing. Multiple comments saying the 20 21 same thing do not outweigh one singular comment. 2.2 Simply put, comments are not votes. A single well 23 supported comment may carry more weight than 1000 form 24 letters.

1	I also want to note that only comments
2	submitted directly to DNREC and entered by myself into
3	the hearing record in this matter will be posted on
4	the hearing web page and be considered by the
5	department as a part of the decision process. The
6	department has not partnered with any outside
7	organizations or websites to assist in the public
8	submission of comments in this matter, so again, only
9	submit your comments to DNREC directly.
10	Lastly, the ultimate decision regarding
11	this matter is made by DNREC Secretary Garvin. This
12	formal proceeding tonight acts as a mechanism to
13	enable the department to thoroughly back the hearing
14	matter to the public and to let the public know the
15	various ways to which the comment may be received and
16	submitted for Secretary Garvin's consideration if so
17	desired.
18	I will now hand it over to John Clark
19	with the Division of Fish and Wildlife to provide the
20	department's presentation.
21	MR. CLARK: Thank you, Hearing Officer
22	Smith. I will can now proceed to let me get this.
23	Okay. Before I get to the
24	presentation, I'd just like to review the exhibits

1 that we have submitted for this proposed regulatory 2 action. 3 Exhibit 1 is a copy of the final minutes from the September 19, 2023 Advisory Council 4 entitled Finfisheries Meeting, which documents the 5 6 discussion of this proposal and the Council's unanimous vote to recommend that the DNREC's Division 7 8 of Fish and Wildlife proceed with this regulatory 9 action. 10 Exhibit 2 is a copy of the Start Action 11 Notice. 12 Exhibit 3 is a copy of the Regulatory 13 Flexibility Analysis Regulatory Impact Statement. 14 Exhibit 4 is a copy of the Register 15 Notice. 16 Exhibit 5 is the proposed amendment as 17 to the regulation as published in the January 2024 18 Delaware Register of Regulations. 19 Exhibit 6 is the legal notice and proof 20 of publication of the notice as it appeared in the 21 January 7th Delaware State News. 2.2 Exhibit 7 is proof of publication and 23 the legal notice of the notice that was published on 24 January 9th in the Wilmington News Journal.

Page 15 1 Exhibit 8 is notice of this public 2 hearing as it appears on the DNREC's Public Hearings website. 3 Exhibit 9, Notice of this hearing on 4 the State calendar. 5 6 Exhibit 10 is notice of this hearing as it appears on the DNREC Division of Fish and Wildlife 7 8 Facebook page. 9 Exhibit 11, an e-mail sent to 10 Delaware's Commercial Gill Net permittees. Those gill 11 net permittees that we had their e-mail address for, I should clarify, on January 23rd notifying them of this 12 13 hearing, and that same e-mail was resent on 14 January 29th. 15 Exhibit 12 is the notice of this public 16 hearing as it appears on DNREC's Public Meeting 17 Notices Bulletin Board in the Visitor Center. 18 And finally, Exhibit 13 is a copy of 19 the hearing presentation, which I will now proceed to 20 go through. 21 MS. SMITH: Before you proceed with the 2.2 presentation, John, I'd like to mark those exhibits 23 into the record. I haven't received all of the 24 electronic versions of the proposed exhibits by the

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department, and I hereby mark these exhibits as 1 2 Department's Exhibits 1 through 13. 3 (Exhibit 1 through Exhibit 13 were marked for identification.) 4 5 You may proceed, John. 6 MR. CLARK: Thank you. First, I'll 7 start by reviewing the current gill net season. The spring striped bass gill net season will open on 8 9 February 15th and it runs through May 31st. The 10 entire period is open for drift gill netting, but 11 anchor gill netting is only open from March 1st 12 through May 10th. 13 Anchor gill netting does account for 14 the great majority of Delaware striped bass landings, 15 approximately 90 percent of spring landings. Anchor netting is more efficient than drift netting, but can 16 also be more destructive. Striped bass discard 17 18 mortality studies conducted by the Division of Fish 19 and Wildlife showed that from anchor nets, striped 20 bass discard mortality was 41 percent versus only 21 8 percent for drifted gill nets. And anchor nets, 22 because they are more efficient, they're out there fishing all day long. They kill other species. 23 We 24 have documented Dead Endangered Species Act listed in

Atlantic Sturgeon and protected water birds among
 others.

3 So why are we changing this -- the -or proposing to change this. I shouldn't say 4 5 changing. Proposing. Okay. The Advisory Council 6 entitled Fin Fish Fisheries discussed modifications to 7 the spring anchor gill net season with DNREC Division 8 of Fish and Wildlife at its April 18th and then its 9 September 19, 2023 meetings. DNREC Fish and Wildlife 10 stipulated at these meetings it would not support 11 adding additional anchor net days, but it would 12 support changing the anchor net season while 13 maintaining the same number of days for as I mentioned 14 before, because anchor netting can have unintended 15 side effects that we are not looking to increase. 16 The Council passed a motion unanimously 17 at the September meeting recommending that DNREC 18 modify the spring anchor gill net season by adding two 19 weeks in February and eliminating two weeks in April

and May to better synchronize the spring anchor gill net season with the availability of striped bass since striped bass have been coming into Delaware Bay and River earlier in the year as the waters warm up, and the market for striped bass. Although the market for

striped bass early in the season typically was not
 that great, the last few years it has been good. So
 that was the impetus for this action.

After this action was started, the 4 5 proposal that is to get this proposed regulation 6 moving, the Council did receive comments from several matters that were not in favor of this action. 7 And the Council further discussed this recommendation at 8 9 its January 17th meeting and recommended a minor 10 modification to the start and end date of the proposed 11 regulation.

12 So first, I'll show here the -- the 13 strikethrough version of the proposed regulation as 14 printed in the January 2024 Delaware Register of 15 Regulations. And as mentioned, what this will do is 16 change the opening of the anchor net season to 17 February 15th instead of March 1st, and it will close 18 the season on -- for anchor nets on April 27th instead 19 of on May 10th.

After the discussion at the January meeting, the modification recommended by the Advisory Council entitled Finfisheries is to change the -- both those by five days. So with the change recommended at the meeting, the season for anchor nets

would open on February 20th and it would close on 1 2 May 2nd. So either way, it's the same number of 3 anchor netting days. 4 And that concludes my presentation. And I will stop sharing my screen now. 5 6 MS. SMITH: Thank you, Mr. Clark. 7 We will now turn to the public comment portion of tonight's hearing. Those who 8 9 pre-registered by noon today with DNREC to offer live comment for inclusion into the record will be called 10 11 upon in the order the registration was received. The Department only received one registrant, 12 13 Harvey Yankinson [ph]. 14 At the time your name is called, you 15 will be unmuted. If for any reason you are having technical issues, we will call your name twice and 16 17 move on with the remainder of the hearing. 18 Before I begin, I want to stress the 19 following parameters of the public comment portion of 20 the hearing. Comments must be related to the subject 21 matter of tonight's hearing. Each registrant will be 22 given three minutes to offer comments for the record. The timer will begin when the commenter starts 23

24 talking, and the system will automatically mute the

1 commenter at the three minute mark. The commenter's 2 video will remain off while speaking. There's no 3 sharing or yielding of the commenters three minutes. 4 While the department appreciates all comments received, there will be no -- there will be a 5 6 zero tolerance policy in effect for disruptive 7 behavior, discouraging remarks, offensive language, or 8 personal attacks. 9 This formal proceeding acts -- this 10 formal -- this is a formal proceeding, and as such, 11 should be given this respect by all attendance -- all in attendance this evening. 12 13 With that being said, may I have 14 Mr. Harvey Yankinson [ph] unmuted? Please state your 15 name for the record, and the organization you are 16 representing, and you may begin with your comments. 17 MS. PERRY: Mr. Yankinson, if you're in 18 attendance, can you raise your hand? 19 Tanesha, is there a MS. SMITH: 20 feature? I see there's a couple call-ins. What is 21 the feature to raise your hand if you are a call-in? 2.2 MS. PERRY: Here, I'm going to unmute the call-ins, and if Mr. Yankinson [ph] is available. 23 24 I've asked him to unmute.

Page 21 1 MS. SMITH: Okay. Did we receive any other contact information for Mr. Yankinson [ph] with 2 3 his registration? That's what I'm about to 4 MS. PERRY: check for his phone number. 5 6 MS. SMITH: Thank you. Thank you all 7 patiently for waiting. 8 MS. PERRY: It is a 610 number, so neither of the call-ins --9 MS. SMITH: 10 Okay. Thank you. 11 -- match that number. MS. PERRY: 12 MS. SMITH: Thank you, Ms. Perry, for 13 confirming that. 14 As Mr. Yankinson is not in attendance 15 tonight, we will move on with the remainder of the 16 hearing. 17 That now concludes the comment portion 18 of the hearing. I want to extend the written comments 19 will be received again between now and February 14th 20 and will be posted on the hearing web page so that 21 everyone can see the hearing record as it is 2.2 generated. 23 As we conclude tonight's hearing, I 24 want to remind everyone of all the ways in which you

Page 22 can offer comments for inclusion into the formal hearing record. It is on the screen, or should be on the screen soon for you to record if you need to, but is also available on the hearing web page dedicated to this matter if you need to go there. That now concludes the hearing for tonight, and it is now 6:19. Thank you all for joining. (Whereupon, the meeting concluded at 6:19 p.m.) 2.2

CERTIFICATE

1

2 I, ANDREW WEADER, the officer before whom the foregoing proceedings were taken, do hereby 3 certify that any witness(es) in the foregoing 4 5 proceedings, prior to testifying, were duly sworn; 6 that the proceedings were recorded by me and 7 thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of 8 said proceedings are a true and accurate record to the 9 10 best of my knowledge, skills, and ability; that I am 11 neither counsel for, related to, nor employed by any 12 of the parties to the action in which this was taken; 13 and, further, that I am not a relative or employee of 14 any counsel or attorney employed by the parties 15 hereto, nor financially or otherwise interested in the 16 outcome of this action. Andrew Weader ANDREW WEADER 17 18 Notary Public in and for the 19 Commonwealth of Pennsylvania 20 21 2.2 23 24

1	CERTIFICATE OF TRANSCRIBER	
2	I, PATRICIA EDMONDS, do hereby certify that	
3	this transcript was prepared from the digital audio	
4	recording of the foregoing proceeding, that said	
5	transcript is a true and accurate record of the	
6	proceedings to the best of my knowledge, skills, and	
7	ability; that I am neither counsel for, related to,	
8	nor employed by any of the parties to the action in	
9	which this was taken; and, further, that I am not a	
10	relative or employee of any counsel or attorney	
11	employed by the parties hereto, nor financially or	
12	otherwise interested in the outcome of this action.	
13		
13 14	Patricia Edm	lone
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