



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**


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MEMORANDUM

TO: Theresa Smith, Regulatory Specialist

THROUGH: Patrick J. Emory, Division of Fish and Wildlife Director 

FROM: John H. Clark, Fisheries Section Administrator

DATE: February 19, 2024

SUBJECT: Technical Response Memorandum – Docket #2023-R-F-0021: 7 DE Admin. Code 3755 3505 Striped Bass Commercial Fishing Seasons; Quotas; Tagging and Reporting Requirements

The Fisheries Section has considered the public comment received regarding the proposed amendment to 7 DE Admin. Code 3505 Striped Bass Commercial Fishing Seasons; Quotas; Tagging and Reporting Requirements and determined that the proposed amendment should be revised as recommended by several commentors and the Advisory Council on Tidal Finfisheries. Ten written comments were received. Several commentors made similar points so each major point pertaining to the regulation will be addressed. Full comments can be found in the public comments posted on the DNREC webpage.

The spring anchor gill net season should remain as currently written in the regulation with a season of March 1 through May 10. Made by three commentors.

DNREC Division of Fish and Wildlife (DFW) only undertook this regulatory effort to modify the start and end dates of the spring anchor gill net season at the behest of Advisory Council on Tidal Finfisheries (Council) at its September 19, 2023 meeting, which approved a motion unanimously to recommend DFW take this regulatory action. That the Council would be discussing the spring anchor gill net season was stated clearly on the meeting agenda as ‘Modifying the Dates of the Spring Commercial Gill Net Season’. The meeting was publicized widely and was on the State of Delaware Public Meeting Calendar. The Councilors representing commercial fisheries all spoke in favor of modifying the season at the Council meeting. The

members of the public attending the meeting included some commercial fishermen and none spoke against this action. DFW currently renews 111 commercial gill net licenses annually and recognizes that there is unlikely to be any modification to the spring anchor gill net season that will satisfy all license holders, but the Council assured DFW that this recommended season revision had wide support. While DFW respectfully acknowledges the commentors' preference for maintaining the current season, DFW only received these three comments in favor of the status quo and cannot assume this opinion is widely held among all gill net permit holders.

The current spring anchor gill net season should be extended for the two weeks in February without reducing the length of the season. Made by three commentors.

DFW clearly stipulated to the Council that it would consider changing the start and end dates of the spring anchor gill net season but would not consider adding days to the anchor gill net season because of the impacts of anchor gill netting on striped bass, other fish species, and other animals. Delaware's striped bass fishery is controlled by a quota, so the concern is not that allowing more days of anchor netting would lead to more striped bass harvest. Rather, DFW's concern is that more days of anchor netting would lead to more days with anchor nets fishing, which would lead to more dead discarded striped bass, more dead of other fish species, including species with populations already under stress, such as the Endangered Species Act-listed (ESA-listed) Atlantic sturgeon, and more dead of other animals, such as water birds. Anchor nets account for nearly 90% of Delaware's striped bass harvest in most years. Netters prefer to use anchor nets because of their efficiency as the nets fish twenty-four hours a day while deployed, can be harvested daily then reset and, while the time required to harvest is dependent on the number of fish caught, it usually results in the most fish a gill netter can harvest per hour on the gill netter is on the water. In contrast, a drift net must be tended while it drifts so the time a drift net fishes daily is limited to the amount of time the netter can spend on the water and harvest per hour the gill netter is on the water is usually less than for an anchor net. However, the ability of the anchor net to fish continuously during the time it is deployed accounts for its high mortality of discarded striped bass, other fish species and other animals. Survival of most fish and other animals caught in any gill net decreases with time caught in the net and, as stated, an anchor net will catch fish for many more hours in a day than a drift net. DFW found that mortality for striped bass discarded from anchor gill nets was 41% (Clark and Kahn 2009). That DFW study did not observe any discard mortality from drift gill nets, but an earlier DFW study found mortality for striped bass discarded from drift gill nets was only 8% (Seagraves and Miller 1989), demonstrating that the potential of anchor gill nets to kill striped bass was much greater than drift nets. Gill nets are only selective for size of fish or animal, not species, and DFW has recorded dead ESA-listed Atlantic sturgeon and dead waterbirds in anchor gill nets but not in drift gill nets (DFW unpublished data). DFW was not provided any information by the commentors that would lead DFW to reconsider increasing the duration of the spring anchor gill net season.

The current spring anchor gill net season should be modified to begin February 20 and end on May 2 as recommended by the Council at the Council's January 17, 2024 meeting. First choice of four commentors, second choice of two commentors whose first choice was to add two weeks to the anchor net season.

The Council discussed this proposed regulatory amendment to modify the dates of the spring striped bass anchor net season during its January 17, 2024 meeting. Several members of the audience opposed modifying the season, several wanted to lengthen the season, and several supported modifying the season. After much discussion, the Council put forward a compromise of shifting the dates in the proposed amendment by five days to open the spring striped bass anchor gill net season on February 20 rather than February 15 and end the season on May 2 rather than April 27. Those in the audience that still opposed changing the dates from the current March 1 through May 10 agreed that February 20 through May 2 was better than the February 15 through April 27. The Council then approved a motion unanimously to recommend that DFW revise the dates in the proposed amendment to February 20 through May 2. DFW explained that the Council's recommendation was not the same as a public comment received but stated that it would attempt to make this revision to the proposed amendment if the comments received during the public comment period on the proposed amendment supported the Council recommendation. This revision to the season modification had the most support among commenters.

DFW, on consideration of all comments received, supports revising the proposed amendment to start the spring striped bass anchor gill net season on February 20 and end the season on May 2.

References

Clark, J. H. and D. M. Kahn. 2009. Amount and Disposition of Striped Bass Discarded in Delaware's Spring Striped Bass Gill-Net Fishery during 2002 and 2003: Effects of Regulations and Fishing Strategies. *North American Journal of Fisheries Management*, 29:3, 576-585

Seagraves, R. J. and R. W. Miller. 1989. Striped bass bycatch in Delaware's commercial shad fishery. Delaware Division of Fish and Wildlife, Dover.