



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

OFFICE OF THE  
SECRETARY

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**SECRETARY'S ORDER**

*Pursuant to 29 Del. C. § 10119 and 7 Del. C. § 903(h)*

**Order No. 2016-F-0027**

**AUTHORITY:**

Pursuant to 29 Del. C. § 10119, the Department of Natural Resources and Environmental Control is adopting amendments to Tidal Finfish Regulation 3504 without prior notice or public hearing to assure that Delaware's commercial Striped Bass harvesters are not burdened with an unnecessary harvest constraint that also results in unintended wanton waste of fish, which collectively pose an actual and imminent danger to this fishing resource and its associated businesses. 7 Del. C. § 903(h) authorizes the Department to adopt emergency regulations when such regulations are necessary to deal with an actual or imminent public health threat or danger to a fishing resource or habitat involving finfish.

**REASON FOR THE EMERGENCY ORDER**

The Atlantic States Marine Fisheries Commission approved in 2014 Addendum IV to Amendment 6 to the Interstate Fisheries Management Plan for Atlantic Striped Bass (the Addendum) that imposed a 25% commercial quota poundage reduction on all states with commercial Striped Bass fisheries, resulting in Delaware reducing in 2015 its commercial quota poundage by 25%. The Addendum also required all states to reduce their recreational Striped Bass harvest by 25%, resulting in Delaware changing in 2015 its recreational Striped Bass size limit from a 28" minimum length to a slot size limit of 28" to 37" and 44" or greater. The regulation change implementing the new slot size limits for the recreational fishery inadvertently required the Striped Bass commercial hook and line fishery and commercial fall gill fishery to abide by these new recreational slot size limits. This presents a hardship for these two commercial fisheries as an additional and unnecessary constraint to their harvest within the already required 25% commercial poundage quota reduction.

If Delaware does not use an emergency order to change the size limits for its Striped Bass current commercial hook and line fishery and upcoming fall commercial gill net fishery, these two fisheries, which already had their harvest reduced by 25% due to the 2015 commercial quota reductions, face a continued unintended and unnecessary harvest constraint of restrictive recreational fishery slot size limits that require greater effort to fill or prevent filling their reduced

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harvest quotas. This harvest constraint also threatens the Striped Bass population by increasing the number of Striped Bass that these two fisheries catch to reach or attempt to reach their harvest quota, with catches not meeting the slot size limits released (discarded) as a substantial portion of dead or dying fish (wonton waste).

The change is needed immediately since there is insufficient time to promulgate and adopt the regulation change through the Administrative Procedures Act during the ongoing commercial hook and line fishery or before the upcoming commercial fall gill net fishery. Therefore, this action is being taken 'to deal with an actual or imminent public health threat or danger to a fishing resource or habitat involving finfish' by returning the Striped Bass size limit for the commercial hook and line fishery and fall gill net fishery to the 28" minimum length.

### **EFFECTIVE DATE OF ORDER**

This Emergency Order shall take effect at 12:01 a.m. on June 15, 2016, and shall remain in effect for 90 days.

### **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 and Wildlife, 89 Kings Highway, Dover, Delaware, 19901.

### **ORDER**

It is hereby ordered, the 13<sup>th</sup> day of June, 2016, that the above referenced amendment to Tidal Finfish Regulation 3504, a copy of which is hereby attached, are adopted pursuant to 29 Del. C. § 10119 and 7 Del. C. § 903(h) and supported by the evidence contained herein.

Date: \_\_\_\_\_

6/13/16



David S. Small, Secretary  
Department of Natural Resources  
and Environmental Control