

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

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

7 DE Admin. Code 3511

PROPOSED

REGISTER NOTICE

SAN #2017-05

3511 Summer Flounder Size Limits; Possession Limits; Season

1. TITLE OF THE REGULATIONS:

Amend 7 DE Admin. Code 3511 Summer Flounder Size Limits; Possession Limits; Seasons

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

The Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder, Scup and Black Sea Bass Management Board approved Addendum XXVIII to the Summer Flounder, Scup, [and] Black Sea Bass Fishery Management Plan (FMP) on February 2, 2017, maintaining regional management for the 2017 recreational Summer Flounder fishery. Addendum XXVIII required that each region increase their Summer Flounder minimum size limit by one inch and adopt a no more than four fish possession limit to stay within the 2017 recreational harvest limit (RHL). The Department consulted with the other states within our ASMFC-defined region (Maryland and Virginia) and committed to adopting the regional measures by April 1, 2017. The Department increased its minimum recreational size limit from 16 inches to 17 inches through emergency action (Secretary's Order No. 2017-F-0012) to meet the agreed timeline, remain compliant with the FMP, prevent overfishing of the Summer Flounder resource and provide sufficient time for Delaware's fishing-dependent businesses and their clients/customers to plan for this important fishery. The present action is necessary to adopt the required minimum Summer Flounder recreational size limit through the normal regulatory process. Failure to adopt these measures may result in a federal closure of the fishery in accordance with the Atlantic Coastal Fisheries Cooperative Management Act. No change to Delaware's existing four fish possession limit or 365 day season is required.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Del.C. §901(c & d) and §903(e)(2)a

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

None

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed changes to 7 DE Admin. Code 3511 Summer Flounder Size Limits; Possession Limits; Seasons will open June 1, 2017. 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 June 29, 2017 beginning at 6:00 PM in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901.

7. PREPARED BY:

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3511 Summer Flounder Size Limits; Possession Limits; Season

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It shall be unlawful for any recreational fisherman to have in possession more than four (4) summer flounder at or between the place where said summer flounder were caught and said recreational fisherman's personal abode or temporary or transient place of lodging.

- 2.0 It shall be unlawful for any person, other than qualified persons as set forth in section 4.0 of this regulation, to possess any summer flounder that measure less than ~~sixteen (16)~~ seventeen (17) inches between the tip of the snout and the furthest tip of the tail.

7 DE Reg. 1575 (05/01/04)

12 DE Reg. 1430 (05/01/09)

13 DE Reg. 1468 (05/01/10)

14 DE Reg. 1235 (05/01/11)

16 DE Reg. 1283 (06/01/13)

17 DE Reg. 1091 (05/01/14)

- 3.0 It shall be unlawful for any person, to have in possession any part of a summer flounder that measures less than ~~sixteen (16)~~ seventeen (17) inches between said part's two most distant points unless said person also has in possession the head, backbone and tail intact from which said part was removed.

13 DE Reg. 1468 (05/01/10)

14 DE Reg. 1235 (05/01/11)

16 DE Reg. 1283 (06/01/13)

17 DE Reg. 1091 (05/01/14)

- 4.0 Notwithstanding the size limits and possession limits in this regulation, a person may possess a summer flounder that measures no less than fourteen (14) inches between the tip of the snout and the furthest tip of the tail and a quantity of summer flounder in excess of the possession limit set forth in this regulation, provided said person has one of the following:

- 4.1 A valid bill-of-sale or receipt indicating the date said summer flounder were received, the amount of said summer flounder received and the name, address and signature of the person who had landed said summer flounder;
- 4.2 A receipt from a licensed or permitted fish dealer who obtained said summer flounder; or
- 4.3 A bill of lading while transporting fresh or frozen summer flounder.
- 4.4 A valid commercial food fishing license and a food fishing equipment permit for gill nets.

- 5.0 It shall be unlawful for any commercial finfisherman to sell, trade and or barter or attempt to sell, trade and or barter any summer flounder or part thereof that is landed in this State by said commercial fisherman after a date when the de minimis amount of commercial landings of summer flounder is determined to have been landed in this State by the Department. The de minimis amount of summer flounder shall be 0.1% of the coast wide commercial quota as set forth in the Summer Flounder Fishery Management Plan approved by the Atlantic States Marine Fisheries Commission.

- 6.0 It shall be unlawful for any vessel to land more than 200 pounds of summer flounder in any one day in this State.

- 7.0 It shall be unlawful for any person, who has been issued a commercial food fishing license and fishes for summer flounder with any food fishing equipment other than a gill net, to have in possession more than four (4) summer flounder at or between the place where said summer flounder were caught and said person's personal abode or temporary or transient place of lodging.

1 DE Reg. 1767 (05/01/98)

2 DE Reg. 1900 (04/01/99)

3 DE Reg. 1088 (02/01/00)

4 DE Reg. 1552 (03/01/01)

5 DE Reg. 462 (08/01/01)

5 DE Reg. 2142 (05/01/02)

6 DE Reg. 1358 (04/01/03)

7 DE Reg. 1575 (05/01/04)

8 DE Reg. 1488 (04/01/05)

9 DE Reg. 1759 (05/01/06)

10 DE Reg. 1722 (05/01/07)

11 DE Reg. 1493 (05/01/08)

12 DE Reg. 1430 (05/01/09)

13 DE Reg. 1468 (05/01/10)

14 DE Reg. 1235 (05/01/11)
16 DE Reg. 1283 (06/01/13)
20 DE Reg. 952 (06/01/17) (Prop.)