

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 901(c & d) (7 Del.C. §901(c & d))
7 DE Admin. Code 3511

PROPOSED

3511 Summer Flounder Size Limits; Possession Limits

REGISTER NOTICE #2013 - 02

1. TITLE OF THE REGULATION:

3511 Summer Flounder Size Limits; Possession Limits

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

This action is to consider amending the summer flounder (*Paralichthys dentatus*) regulation, with possible changes to the season and minimum size limit.

Summer flounder are managed cooperatively by the Atlantic States Marine Fisheries Commission (ASMFC), the Mid-Atlantic Fishery Management Council (MAFMC) and the National Marine Fisheries Service through Amendment 13 to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan and its subsequent addenda. The ASMFC and MAFMC approved a coastwide recreational summer flounder harvest limit for 2013 resulting in recreational summer flounder allocation of 78,512 fish to Delaware. Although this is a reduction from the 2012 allocation (87,536 fish), the 2013 quota represents a 104% increase relative to Delaware's 2012 recreational harvest (38,470 fish). As such, Delaware may liberalize its management measures for the 2013 summer flounder fishery, provided the management measures are approved by the ASMFC's Summer Flounder, Scup and Black Sea Bass Management Board following established criteria.

Four options were developed and subsequently approved by the ASMFC's Summer Flounder, Black Sea Bass and Scup Technical Committee at their January 22, 2013 meeting (Table). These options will serve as the basis for the proposed regulatory change.

Table. Approved management options for proposed changes to 7 DE Admin. Code §3511
(Summer Flounder Size Limits; Possession Limits).

| Option | Minimum Size | Possession Limit | Closed Season | Estimated Increase in Harvest |
|--------|--------------|------------------|------------------|-------------------------------|
| 1 | 18.0 inches | 4 | Oct. 24 - Dec 31 | 0 (<i>status quo</i>) |
| 2 | 17.5 inches | 4 | None | 10.1% |
| 3 | 17.0 inches | 4 | None | 40.1% |
| 4 | 16.5 inches | 4 | None | 81.8% |

It should be noted that as the estimated harvest for each option increases, the risk of exceeding the allowable catch increases. Exceeding allowable catch will result in a corresponding reduction in the following year's allowable catch.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Delaware Code, Section 901(c & d) and Section 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 proposed changes to §3511 Summer Flounder Size Limits; Possession Limits will be open March 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 March 21, 2013 beginning at 6:30 pm in the

7. PREPARED BY:

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David E. Saveikis, Director

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 ~~eighteen (18)~~ inches between the tip of the snout and the furthest tip of the tail.

Note: Size to be determined in combination with closed season, but is limited to options one through four listed in the below "Table of Management Options"

7 DE Reg. 1575 (5/1/04)

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

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

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

- 3.0 It shall be unlawful for any person, to have in possession any part of a summer flounder that measures less than eighteen (18) 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.

Note: Size to be determined in combination with closed season, but is limited to options one through four listed in the below "Table of Management Options"

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

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

- 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.

8.0 Notwithstanding section 4.0 of this regulation, it shall be unlawful for any recreational or commercial hook and line fisherman to take and reduce to possession or to land any summer flounder during the closed season beginning 12:01 a.m. October 24 and ending 12:00 p.m. December 31 next ensuing.

Note: Closed season to be determined in combination with minimum size, but it is limited to options one through four listed in the below "Table of Management Options"

- 1 DE Reg. 1767 (5/1/98)
- 2 DE Reg. 1900 (4/1/99)
- 3 DE Reg. 1088 (2/1/00)
- 4 DE Reg. 1552 (3/1/01)
- 5 DE Reg. 462 (8/1/01)
- 5 DE Reg. 2142 (5/1/02)
- 6 DE Reg. 1358 (4/1/03)
- 7 DE Reg. 1575 (5/1/04)
- 8 DE Reg. 1488 (4/1/05)
- 9 DE Reg. 1759 (5/1/06)
- 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. 929 (03/01/13 (Prop.))

Table of Management Options

| <u>Option</u> | <u>Minimum Size</u> | <u>Possession</u> | <u>Closed Season</u> |
|---------------|---------------------|-------------------|-----------------------------------|
| | | <u>Limit</u> | |
| <u>1</u> | <u>18.0 inches</u> | <u>4</u> | <u>Oct. 24 - Dec 31 (69 days)</u> |
| <u>2</u> | <u>17.5 inches</u> | <u>4</u> | <u>None</u> |
| <u>3</u> | <u>17.0 inches</u> | <u>4</u> | <u>None</u> |
| <u>4</u> | <u>16.5 inches</u> | <u>4</u> | <u>None</u> |