

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 901(c) and (d), 903(e)(2)a and (e)(3);
(7 Del.C. §§901(c) and (d), 903(e)(2)a and (e)(3))
7 DE Admin. Code 3507

PROPOSED

REGISTER NOTICE SAN#: 2014-01

3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas

1. TITLE OF THE REGULATIONS:

3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas (12.0 & 12.1)

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

This action is to adopt provisions consistent with the proposed federal rule for the recreational black sea bass fishery and remain compliant with Addendum XXV to the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fishery Management Plan for Summer Flounder, Scup and Black Sea Bass.

Black sea bass 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 the joint Summer Flounder, Scup and Black Sea Bass Fishery Management Plan. The ASMFC and MAFMC jointly approved a coastwide recreational black sea bass harvest limit for 2014 of 2.26 million pounds (1,189,474 fish) at their December 11, 2013 meeting. The ASMFC approved the continuation of ad hoc regional management measures under Addendum XXV at their February 4, 2014 meeting.

Addendum XXV requires the southern region states (Delaware to North Carolina) to implement recreational fishery management measures for black sea bass consistent with those measures required for federal waters. The National Oceanic and Atmospheric Administration's (NOAA) recommended federal recreational black sea bass measures for 2014 include a 12.5 inch minimum size limit, a 15 fish possession limit and open seasons from May 19 - September 18 and October 18 - December 31. These measures when combined with measures being implemented in the northern region (Massachusetts through New Jersey) will achieve the 2014 coastwide recreational harvest limit.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

N/A

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Del.C. §§901 (c), 901(d), 903(e)(2)a, & 903 (e)(3)

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

N/A

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed changes to the black sea bass regulation will be open March 1, 2014. Individuals may submit written comments regarding the proposed changes via e-mail to Lisa.Vest@state.de.us or via 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, in conjunction with the public hearing on a proposed summer flounder amendment, on March 26, 2014 beginning at 6:00 PM in the Dover Public Library, located at 35 Lookerman Plaza, Dover, DE 19901.

7. PREPARED BY:

Stewart Michels Stewart.Michels@state.de.us (302) 739-9914

David E. Saveikis, Director

3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It shall be unlawful for any commercial person to have in possession any black sea bass (*Centropristis striata*) that measures less than eleven (11) inches, total length excluding any caudal filament.

2.0 It shall be unlawful for any recreational person to have in possession any black sea bass that measures less than twelve and one-half (12.5) inches total length excluding any caudal filament.

6 DE Reg. 1230 (3/1/03)

6 DE Reg. 1360 (4/1/03)

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

14 DE Reg. 1382 (06/01/11)

3.0 It shall be unlawful for any commercial fisherman to land, to sell, trade and or barter any black sea bass in Delaware unless authorized by a black sea bass landing permit issued by the Department. The black sea bass landing permit shall be presumed to transfer with the vessel whenever it is bought, sold, or otherwise transferred to an eligible transferee as defined in 7 **Del.C.** §2903, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel.

17 DE Reg. 542 (11/01/13)

4.0 The black sea bass pot fishery and the black sea bass commercial hook and line fishery shall be considered separate black sea bass fisheries. The total pounds allocated to each fishery by the Department shall be as follows: 96 percent of the State's commercial quota, as determined by the ASMFC, for the pot fishery; 4 percent for the commercial hook and line fishery.

5.0 The Department may only issue a black sea bass landing permit for the pot fishery to a person who is the owner of a vessel permitted by the National Marine Fisheries Service in accordance with 50 CFR §§ 648.4 pertaining to black sea bass and was either issued a black sea bass landing permit by the Department in 2013 or was the transferee of black sea bass landing permit issued by the Department as per 3507 (3.0). The number of black sea bass landings permits issued by the Department for the pot fishery in any year will not exceed six.

17 DE Reg. 542 (11/01/13)

6.0 The Department may only issue a black sea bass landing permit for the commercial hook and line fishery to a person who has applied for and secured from the Department a commercial food fishing license and a fishing equipment permit for hook and line and was either issued a black sea bass landing permit by the Department in 2013 or was the transferee of black sea bass landing permit issued by the Department as per 3507 (3.0). The number of black sea bass landings permits issued by the Department for the commercial hook and line fishery in any year will not exceed thirteen.

1 DE Reg. 1767 (5/1/98)

2 DE Reg. 1900 (4/1/99)

3 DE Reg. 1088 (2/1/00)

4 DE Reg. 1665 (4/1/01)

4 DE Reg. 1859 (5/1/01)

5 DE Reg. 2142 (5/1/02)

6 DE Reg. 348 (9/1/02)

6 DE Reg. 1230 (3/1/03)

17 DE Reg. 542 (11/01/13)

7.0 Any overage of the State's commercial quota will be subtracted by the Atlantic States Marine Fisheries Commission from the next year's commercial quota.

Any overage of an individual's allocation will be subtracted from that individual's allocation the next year and distributed to those individuals in the appropriate fishery that did not exceed their quota.

8.0 Each participant in a black sea bass fishery shall be assigned a equal share of the total pounds of black sea bass allotted by the Department for that particular fishery. A share shall be determined by dividing the number of pre-registered participants in one of the two recognized fisheries into the total pounds of black sea bass allotted to the fishery by the Department. In order to pre-register an individual must indicate their intent in writing to participate in this fishery.

9.0 Individual shares of the pot fishery quota may be transferred to another participant in the pot fishery. Any transfer of black sea bass individual pot quota shall be limited by the following conditions:

9.1 A maximum of one transfer per year per person.

9.2 No transfer of shares of the black sea bass pot fishery quota shall be authorized unless such transfer is documented on a form provided by the Department and approved by the Secretary in advance of the actual transfer.

- 10.0 Individual shares of the commercial hook and line fishery quota may be transferred to another participant in the commercial hook and line fishery. Any transfer of black sea bass individual commercial hook and line quota shall be limited by the following conditions:
- 10.1 A maximum of one transfer per year per person.
 - 10.2 No transfer of shares of the black sea bass commercial hook and line quota shall be authorized unless such transfer is documented on a form provided by the Department and approved by the Secretary in advance of the transfer.
- 11.0 Each commercial food fisherman participating in a black sea bass fishery shall report to the Department, via the interactive voice phone reporting system operated by the Department, each days landings in pounds at least one hour after packing out their harvest.
- 12.0 It shall be unlawful for any recreational fisherman to take and reduce to possession or to land any black sea bass beginning at 12:01 a.m. January 1, and ending midnight May 18, and beginning at 12:01 a.m. ~~October 15~~ September 19 and ending mid-night October ~~31~~ 17.
- 12.1 It shall be unlawful for any recreational fisherman to have in possession more than ~~20~~ 15 black sea bass at or between the place where said black sea bass were caught and said recreational fisherman's personal abode or temporary or transient place of lodging during the period May 19 through ~~October 14~~ September 18 and during the period ~~November 4~~ October 18 through December 31.

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

6 DE Reg. 1230 (3/1/03)

8 DE Reg. 1488 (4/1/05)

9 DE Reg. 1759 (5/1/06)

11 DE Reg. 1662 (06/01/08)

14 DE Reg. 113 (08/01/10)

16 DE Reg. 431 (10/01/12)

17 DE Reg. 543 (11/01/13)

17 DE Reg. 901 (03/01/14) (Prop.)