

# 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 3511

### PROPOSED

REGISTER NOTICE SAN#: 2014-02

#### 3511 Summer Flounder Size Limits; Possession Limits; Season

**1. TITLE OF THE REGULATIONS:**

3511 Summer Flounder Size Limits; Possession Limits; Season

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

This action is to consider amending Delaware's summer flounder (*Paralichthys dentatus*) regulation for consistency with Addendum XXV to the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fishery Management Plan for Summer Flounder, Scup, and Black Sea Bass. It is anticipated that the amendment will include a liberalization of the recreational 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 joint Summer Flounder, Scup and Black Sea Bass Fishery Management Plan and its subsequent addenda. The ASMFC and MAFMC jointly approved a coastwide recreational summer flounder harvest limit for 2014 of 7.01 million pounds (2,421,720 fish) at their December 11, 2013 meeting. The ASMFC approved a regional management approach for states under Addendum XXV at its February 4, 2014 meeting.

Under the regional management approach, states within a region are required to establish the same size and possession limits. Delaware is in a region with Maryland and Virginia. It is anticipated that Delaware will be required to change its existing recreational 17-inch minimum size limit to a 16-inch recreational minimum size limit. Further, it is anticipated that there will be no change in Delaware's present four fish recreational possession limit or year-round recreational summer flounder season. Although unlikely, it should be noted that these proposed measures are subject to change pending the release of additional recreational landings data.

**3. POSSIBLE TERMS OF THE AGENCY ACTION:**

None

**4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:**

7 Del.C. §§901(c), 901(d), 903(e)(2)a, and 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 §3511 Summer Flounder Size Limits; Possession Limits 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 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, in conjunction with the public hearing on a proposed black sea bass amendment, on March 26, 2014 beginning at 6:00 PM in the Dover Public Library, located at 35 Loockerman Plaza, Dover, DE 19901.

**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 ~~seventeen (17)~~ sixteen (16) inches between the tip of the snout and the furthest tip of the tail.

**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)**

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

3.0 It shall be unlawful for any person, to have in possession any part of a summer flounder that measures less than ~~seventeen (17)~~ sixteen (16) 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)**

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 (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. 1283 (06/01/13)  
17 DE Reg. 904 (03/01/14) (Prop.)