

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 901(c & d), 903(e)(3) & 903(h) (7 Del.C. §§901(c & d), 903(e)(3) & 903(h))
7 DE Admin. Code 3507

PROPOSED

REGISTER NOTICE #2018-09

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

1. TITLE OF THE REGULATIONS:

7 DE Admin. Code 3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas.

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

This action is to adopt provisions consistent with the federal measures proposed for the recreational Black Sea Bass fishery in compliance with Addendum XXX to the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fishery Management Plan for Summer Flounder, Scup [and] Black Sea Bass. Specifically, the proposed action will eliminate Delaware's September 22 through October 21 closure and set the open season from May 15 through December 31 for the recreational Black Sea Bass fishery.

Black Sea Bass are cooperatively managed by the ASMFC and the Mid-Atlantic Fishery Management Council (MAFMC) through the joint Summer Flounder, Scup and Black Sea Bass Fishery Management Plan. The ASMFC and MAFMC jointly approved a coastwide 2018 recreational harvest limit (RHL) for Black Sea Bass of 3.66 million pounds. Addendum XXX uses a combination of exploitable biomass information from the latest stock assessment and historical harvest to allocate the coastwise RHL between three regions. The ASMFC's Black Sea Bass Management Board approved measures that require 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 MAFMC's recommended federal measures for the recreational fishery include a 15-fish possession limit, a 12.5-inch minimum size limit and an open season from May 15 through December 31. These measures, when combined with measures being implemented in the other regions (Massachusetts through New York and New Jersey), are predicted to constrain recreational Black Sea Bass landings at or below the 2018 coastwise RHL.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Del.C. §901 & §903(a), (b) & (e)

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

None

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed amendments to 7 DE Admin. Code 3507 *Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas* will open July 1, 2018. 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 amendments will be held in conjunction with a public hearing on proposed amendments to 7 DE Admin. Code 3511 *Summer Flounder Size Limits; Possession Limits; Season* on July 26, 2018 beginning at 6:00 PM in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901. Public comments will be received until close of business Friday, August 10, 2018.

7. PREPARED BY:

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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 (03/01/03)

6 DE Reg. 1360 (04/01/03)

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 (05/01/98)

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

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

4 DE Reg. 1665 (04/01/01)

4 DE Reg. 1859 (05/01/01)

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

6 DE Reg. 348 (09/01/02)

6 DE Reg. 1230 (03/01/03)

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 an 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 14, ~~and beginning at 12:01 a.m. September 22 and ending mid-night October 24.~~
- 12.1 It shall be unlawful for any recreational fisherman to have in possession more than 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 15 through ~~September 24 and during the period October 22 through~~ December 31.

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

6 DE Reg. 1230 (03/01/03)

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

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

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. 1090 (05/01/14)

19 DE Reg. 313 (10/01/15)

22 DE Reg. 21 (07/01/18) (Prop.)