

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL
CONTROL**

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 903(e)(2)(a) (7 **Del.C.** §903(e)(2)(a))
7 **DE Admin. Code** 3511

PROPOSED

REGISTER NOTICE SAN# 2010-01

1. Title of the Regulations:

Tidal Finfish Regulations

2. Brief Synopsis of the Subject, Substance and Issues:

The Summer Flounder Fishery Management Plan details the annual process that the Summer Flounder Fishery Management Board, the Mid Atlantic Fishery Management Council and the National Marine Fisheries Service are to use for conservation equivalency in the recreational summer flounder fishery. These agencies agreed at their joint meeting on December 8, 2009 that the states would implement conservation equivalent measures rather than a coastwide management program for summer flounder in 2010. The total allowable harvest quota has been increased for 2010 based on the latest scientific data that indicates that the stock is not overfished and overfishing is not occurring. Delaware's harvest cap for 2010 will be 80,000 fish which is higher than the 65,000 fish target in 2009. In addition, it is estimated, based on the Marine Recreational Fisheries Statistics survey data, that approximately 82,000 summer flounder were harvested in Delaware during the 2009 fishing season. As such, a number of options will be considered that are designed to restrain the harvest at or below the harvest cap for 2010. These measures may include size limits that range from 18.5 inches to 19.5 inches in conjunction with creel limits that could range from two to eight fish. In addition, management options may include a partial harvest season closure designed to restrain the harvest for 2010 at or below the 80,000 fish target.

3. Possible Terms of the Agency Action:

Delaware is required to comply with specific Fishery Management Plans approved by the Atlantic States Marine Fisheries Commission. Failure to do so could result in complete closure of a specific fishery in Delaware.

4. Statutory Basis or Legal Authority to Act:

7 **Del.C.** § 903, (e)(2)(a)

5. Other Regulations That May Be Affected By The Proposal:

None

6. Notice of Public Comment:

Individuals may present their comments or request additional information by contacting the Fisheries Section, Division of Fish and Wildlife, 89 Kings Highway, Dover, DE 19901, (302) 739-9914. A public hearing on these proposed amendments will be held on March 23, 2010 at 7:00 P.M. in the DNREC Auditorium, 89 Kings Highway, Dover, DE 19901. The record will remain open for written comments until 4:30 PM, March 31, 2010.

7. Prepared By:

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3500 Tidal Finfish

3511 Summer Flounder Size Limits; Possession Limits

(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. (Note: creel limit to be determined in combination with size limit and season.)
- 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 and one half (18.5)~~ inches between the tip of the snout and the furthest tip of the tail. (Note: creel limit to be determined in combination with size limit and season.)

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

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

- 3.0 It shall be unlawful for any person while on board a vessel, to have in possession any part of a summer flounder that measures less than ~~eighteen and one half (18.5)~~ 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: creel limit to be determined in combination with size limit and season.)
- 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. (Note: creel limit to be determined in combination with size limit and season.)

Note: Proposed options for creel limits and minimum size limits and seasons to restrict the recreational summer flounder harvest in Delaware during 2010.

Option	Season Closure	Number of Open Days	Bag Limit	Minimum Size-inches
1	Oct 13 - Dec 31	285	4	18.5
2	Oct 26 - Dec 31	298	3	18.5
3		365	2	18.5
4		365	4	19.0

- 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. 1183 (03/01/10) (Prop.)