

**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 #2011-04**

**3511 Summer Flounder Size Limits; Possession Limits**

**1. TYPE OF ACTION:**

Amend Tidal Finfish Regulation 3511

**2. PURPOSE OF ACTION:**

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 15, 2010 that the states would implement conservation equivalent measures rather than a coastwide management program for summer flounder in 2011. The total allowable harvest quota has been increased for 2011 based on the latest scientific data that indicates that the stock is not overfished and overfishing is not occurring. Delaware's harvest cap for 2011 will be 107,000 fish which is higher than the 80,000-fish target in 2010. In addition, it is estimated, based on the Marine Recreational Fisheries Statistics survey data, that approximately 76,000 summer flounder were harvested in Delaware during the 2010 fishing season. Two options have been approved and will be considered at public hearing with the following size limits, creel limits and season.

Option A	18.5" minimum TL	4 fish creel	All Year
Option B	18.0" minimum TL	4 fish creel	Jan.1 – Oct.23

These two approved options are designed to restrain the harvest at or below the harvest cap of 107,000 fish.

Currently, 3511 subsection 3.0 is a flounder dismemberment clause that makes it unlawful for anyone to have in possession any part of a flounder that is less than the minimum size unless they also have the head and backbone and tail (rack) to go along with it. This regulation was intended to cover all anglers. The Division plans to amend subsection 3.0 to allow for better shore-based enforcement.

**3. STATUTORY BASIS:**

§903(e)(2)a, 7 Delaware Code

**4. LIKELY AFFECTED PUBLIC:**

Recreational fishermen, bait and tackle dealers.

**5. PROPOSED SCHEDULE OF ACTIVITIES:**

The public hearing on the proposed amendment will be held on March 24, 2011 beginning at 6 pm in DNREC's R & R Building, Auditorium, located at 89 Kings Highway, Dover, DE 19901.

**6. REVIEW COMMITTEE:**

Advisory Council on Tidal Finfisheries

**7. RESPONSIBLE STAFF MEMBER(s):**

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**8. Synopsis**

The size limit, possession limit, and open season of the existing summer flounder regulations below will be amended based on the approved options established by the Summer Flounder Technical Committee, and the Summer Flounder Management Board of ASMFC. The two options include an 18-inch minimum size with a season ending October 23, or

18.5-inch minimum with no closed season. The final options will be selected following a public hearing scheduled for March 24, 2011 at 6PM in the DNREC auditorium. Additionally, subsection 3.0 is proposed to be amended to remove the ambiguous language regarding flounder dismemberment thereby improving enforcement of this regulation.

### **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.
- 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 1/2)~~ 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)**

- 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 1/2) inches~~ the current minimum size limits 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)**

- 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 13 and ending 12:00 p.m. December 31 next ensuing.~~ (Note: creel limit to be determined in combination with size limit and season.)

**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)

**3512 Winter Flounder Size Limit; Possession Limit; Seasons.**

(Penalty Section 7 **Del.C.** §936(b)(2))

- 1.0 It shall be unlawful for any person to possess any winter flounder, (*Pseudopleuronectes americanus*), that measure less than twelve (12) inches, total length.
- 2.0 It shall be unlawful for any recreational fisherman to have in possession more than two (2) winter flounder per day (a day being 24 hours) at or between the place where said winter flounder were caught and said recreational fisherman's personal abode or temporary or transient place of lodging.
- 3.0 It shall be unlawful for any recreational fisherman to take and reduce to possession any winter flounder before 12:01 AM February 11 or after midnight April 10 in any given calendar year.
- 4.0 It shall be unlawful for any non-federally licensed commercial fishermen to harvest, land or possess more than 50 pounds of winter flounder per day. Federally licensed commercial fishermen are subject to current federal winter flounder harvest, landing, and possession limits.

**8 DE Reg. 1718 (6/1/05)**

**13 DE Reg. 672 (11/01/09)**

**14 DE Reg. 859 (03/01/11) (Prop.)**