



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL**

OFFICE OF THE
SECRETARY

89 KINGS HIGHWAY
DOVER, DELAWARE 19901

PHONE: (302) 739-9000
FAX: (302) 739-6242

EMERGENCY SECRETARY'S ORDER

Pursuant to 29 Del.C. § 10119 and 7 Del.C. § 903(h)

Order No. 2017-F-0016

7 DE Admin. Code 3511: *Summer Flounder Size Limits; Possession Limits; Seasons.*

AUTHORITY:

Pursuant to 29 Del.C. §10119 and 7 Del.C. §903(h), the Department of Natural Resources and Environmental Control is renewing amendments to 7 DE Admin. Code 3511: Summer Flounder Size Limits; Possession Limits; Seasons, as initially provided by Emergency Secretary's Order No. 2017-F-0012, without prior notice or public hearing. 29 Del.C. §10119 authorizes emergency regulations and provides for a one-time renewal where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 Del.C. §10115. 7 Del.C. §903(h) authorizes the Department to adopt emergency regulations, and provides for a one-time renewal when such regulations are necessary to deal with an actual or imminent public health threat or danger to a fishing resource or habitat involving finfish. It is the determination of the agency that renewal of the amendment is immediately necessary to ensure compliance with Addendum XXVIII to the Summer Flounder, Scup, [and] Black Sea Bass Fishery Management Plan to prevent overfishing of the Summer Flounder resource, and to provide for the welfare of those individuals and businesses dependent on the Summer Flounder recreational fishery.

REASON FOR THE EMERGENCY ORDER:

The Atlantic States Marine Fisheries Commission's ("ASMFC") Summer Flounder, Scup and Black Sea Bass Management Board approved Addendum XXVIII to the Summer Flounder, Scup, [and] Black Sea Bass Fishery Management Plan ("FMP") on February 2, 2017, maintaining regional management for the 2017 recreational Summer Flounder fishery. Addendum XXVIII requires each region to increase their Summer Flounder minimum size limit by one inch and adopt a no more than four fish possession limit to stay within the 2017 recreational harvest limit ("RHL"). This action only affects Delaware's existing 16-inch minimum size limit, as Delaware's existing recreational Summer Flounder possession limit is four fish. The Department consulted with the other states (Maryland & Virginia) within our ASMFC-defined region, and both states have

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adopted a 17-inch minimum size limit and a four fish possession limit. Renewal of the emergency regulation is necessary to provide for adoption of the amendment through the normal regulatory process, remain compliant with the FMP and to protect the Summer Flounder resource from overfishing. Furthermore, this action will allow Delaware's fishing-dependent businesses and their clients/customers to plan and participate in this important fishery. Failure to adopt these measures in a timely fashion may result in a federal closure of the fishery in accordance with the Atlantic Coastal Fisheries Cooperative Management Act.

EFFECTIVE DATE OF ORDER


This Emergency Order shall take effect at 12:01 a.m. on June 30, 2017, and shall remain in effect for 90 days.

PETITION FOR RECOMMENDATIONS

The Department will receive, consider and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Fisheries Section, Division of Fish & Wildlife, 89 Kings Highway, Dover, DE 19901.

ORDER

It is hereby ordered, this 2nd day of June, 2017 that the above referenced amendment to 7 DE Admin.Code 3511: *Summer Flounder Size Limits; Possession Limits; Season*, a copy of which is hereby attached, is adopted, pursuant to 29 Del.C. § 10119 and 7 Del.C. § 903(h), and supported by the evidence contained herein.



Shawn M. Garvin
Secretary