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ENVIRONMENTAL PROTECTION
DIVISION OF FISH AND WILDLIFE

Notice of Administrative Change

Marine Fisheries

Removal of Mandatory V-notching of American Lobster and Modification of American Lobster Season and Commercial Trip Limits for Black Sea Bass and Summer Flounder

N.J.AC. 7:25-14.15 and N.J.A.C. 7:25-18.12

Take Notice that, pursuant to N.J.A.C. 7:25-14.19 and N.J.A.C. 7:25-18.12(o), the Commissioner of the Department of Environmental Protection, with approval of the New Jersey Marine Fisheries Council (Council) at its November 6, 2014 meeting, has removed mandatory v-notching of American Lobster, modified the American lobster season, modified the commercial trip limit for black sea bass and modified the commercial trip limit for summer flounder. These actions have been taken to comply with the Atlantic States Marine Fisheries Commission (ASMFC) management plans for American lobster, black sea bass and summer flounder, as well as for the optimal utilization of available quotas while at the same time constraining landings to prevent harvest that exceeds available quotas.

The ASMFC approved Addendum XVII to the American Lobster Fishery Management Plan during their November 2011 proceedings requiring states in the Southern New England Stock Management Area to implement conservation management measures that would achieve an overall 10 percent reduction in harvest. At its February 2012 meeting, the ASMFC approved New Jersey's proposal to achieve the required reduction by implementing a conservation equivalency option, published in the New Jersey Register on July 16, 2012, that combined a mandatory v-notching program of egg-bearing females along with a seasonal closure from February 1 - March 31. The changes approved at that time by ASMFC included provisions

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designed to allow for seasonal closure and opening compliance to be achieved in as undistruptive a manner as possible by allowing lobster fishermen a two-week period to remove traps after the season is closed and allowing them to begin placing traps back in the water during the week prior to the season reopening. The provisions specify that no lobsters may be harvested during these periods. Amendments reflecting these changes were codified at N.J.A.C. 7:25-14.15(b) and (c) (see 44 N.J.R. 1973(a)). After evaluation of these management measures for New Jersey by the ASMFC American Lobster Technical Committee, it was determined that New Jersey did not meet the 10 percent reduction as required under the American Lobster Addendum XVII; therefore, revisions to the New Jersey regulations for American lobster were required. In October 2014, the ASMFC American Lobster Management Board (Board) approved revised options for New Jersey in order to achieve the required 10 percent reduction. The Board approved changing the closed season to April 30 through May 31, a period of much higher commercial participation and harvest, and removing the mandatory v-notching of egg bearing females that did not achieve the desired reduction. Also, due to shorter closed season (one month versus two months) the Board decided to remove the provision that allowed a licensee to have a two-week period from when the season closes to accomplish removal of all lobster traps and added a provision that, consistent with the prohibition on harvest of lobster during the closed season, only allows unbaited lobster traps to be set one week prior to the season reopening. Therefore, the Council approved removing the mandatory v-notching of egg bearing females specified at N.J.A.C. 7:25-14.15(b) and modifying the closed period from February 1 through March 31 to a closed period of April 30 through May 31 as well as modifying provisions related to traps being in the water after the season closes and before the season reopens. The season and

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trap limitations had been specified at N.J.A.C. 7:25-14.15(c), which is now recodified to N.J.A.C. 7:25-14.15(b) as a result of removal of the v-notch requirements.

The Mid-Atlantic Fishery Management Council (MAFMC) and the ASMFC Summer Flounder, Scup and Black Sea Bass Board met jointly in August 2014 to discuss black sea bass commercial quotas for 2015. The MAFMC and ASMFC recommended maintaining the 2014 black sea bass quota for 2015. This results in a preliminary 2015 commercial quota of 434,000 pounds of black sea bass for New Jersey. The Council approved modifying the seasonal trip limits in order to benefit the various commercial black sea bass gear types and better utilize the seasonal quotas, which have not been fully harvested the last four years. The commercial black sea bass trip limits from January 1 through April 15, codified at N.J.A.C. 7:25-18.12(h)8iii(1), have resulted in harvest in past years at a rate that results in the quota for this portion of the season being taken early in the season, with the season closed early and market prices depressed due to an over-supply of fish during the early part of the season. To address this and achieve better utilization of the portion of the quota attributable to this season, trip limits are changed as follows: instead of a 1,000-pound trip limit four days per week, 2,000 pound trip limit two days per week or 4,000 pound trip limit one day per week, vessels may land 1,000 pounds three times every two week period or 1,500 pounds twice every two week period or 3,000 pounds once every two week period. As all black sea bass landing limits under N.J.A.C. 7:25-18.12(h)8iii are based upon periods beginning on a Sunday and ending on a Saturday and this season begins on January 1, which will normally not fall on a Sunday, the rule is clarified to reflect that the first 'two week' period will in most years include more than 14 days.

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For similar reasons to those described above for the January 1 to April 15 season, the commercial black sea bass trip limits from April 16 through June 30, codified at N.J.A.C. 7:25-18.12(h)8iii(2), are changed as follows: instead of a 3,000-pound trip limit one day per week, a 1,500-pound trip limit two days per week or a 1,000-pound trip limit three days per week, vessels may land 1,500 pounds once per week or 500 pounds three times per week. The commercial black sea bass trip limits from July 1 through September 30 will remain unchanged.

The commercial black sea bass trip limits from October 1 through December 31, codified at N.J.A.C. 7:25-18.12(h)8iii(4), have not resulted in the quota applicable to that season being fully utilized. To address this, the trip limits are changed as follows: instead of a 2,500 pound trip limit one day per week, a 1,250 pound trip limit two days per week or a 500-pound trip limit five days per week, vessels may land 3,000 pounds once per week or 1,000 pounds three times per week.

Also at the August 2014 meeting, the MAFMC and ASMFC recommended an increase in the 2015 summer flounder quota (five percent increase in 2015 over 2014 quotas). This results in a preliminary 2015 commercial quota of 1,796,264 pounds of summer flounder for New Jersey. Even though the overall quota for New Jersey is increasing for the 2015, the existing trip limits for the January-February season have consistently resulted in an early closing, by January 27 on average over the last five years. This early closure has led to poor market prices due to the high landings during a short period of time. The Council approved the following changes to account for the higher 2015 quota to better utilize the available resource. The approved changes are as follows; for the January-February season instead of a 2,500 pound trip limit two days per week or a 5,000 pound trip limit one day per week, vessels may land 2,500 pounds twice over a

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two week period or 5,000 pounds once over a two week period. The other seasons summer flounder seasons remained unchanged for 2015.

These changes will be reflected in the Division of Fish and Wildlife rules N.J.A.C. 7:25-14.15(b) and (c), and N.J.A.C. 7:25-18.12(h) and (i). As required in N.J.A.C. 7:25-14.19, changes to N.J.A.C. 7:25-14.15(b) and (c) have published in the New Jersey Register and the Division's commercial regulation publication. As required in N.J.A.C. 7:25-18.12(o), changes to N.J.A.C. 7:25-18.12(h) and (i) are being published in the New Jersey Register.

Full text of the changed rules follows (additions indicated in boldface **thus**, deletions indicate in brackets [thus]):

7:25-14.15 Prohibitions

(a) (No Change.)

[(b) Effective July 1, 2012, all commercial lobster permit holders authorized to fish in LMA 4 and/or 5 must, prior to discarding, apply a v-shaped notch in the base of the tail flipper of each egg-bearing female American lobster. The v-shaped notch must be at least 1/4 inch deep and placed in the base of the pelvic flipper immediately to the right of the center flipper as viewed from the back of the lobster.]

[(c)] **(b)** A person fishing in ASMFC Lobster Management Area (LMA) 4 and/or 5 or that has designated LMA 4 and/or 5 for fishing on their Federal Fisheries or State Lobster Pot Permit shall not take or attempt to take, land, have in his or her possession, sell, or offer to sell any American lobster during the closed season of **April 30** [February 1] through **May 31** [March 31],

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inclusive. During the closed season, no dealer shall accept, have in his or her possession, buy or offer to buy, sell, or offer to sell any American lobster harvested from LMA 4 and/or 5. During the closed season, all lobster traps in LMA 4 and/or 5 must be removed from the water. [However, a licensee shall have a two-week period from when the season closes to accomplish removal of all lobster traps.] In addition, **unbaited** lobster traps may be set one week prior to the season reopening. If the license holder is harvesting other species with lobster trap gear, the lobster trap gear does not need to be removed; however, it shall be tended at least every 30 days.

Recodify existing (d) - (e) as (c) – (d) (No change in text)

7:25-18.12 Commercial fishing seasons, quotas, and trip limits

(a) - (g) (No change.)

(h) The following provisions are applicable to the commercial harvest of black sea bass:

1. - 7. (No change.)

8. Annual and seasonal black sea bass quotas and daily trip limits shall be determined by the Mid-Atlantic Fishery Management Council and implemented by the National Marine Fisheries Service or determined by the Atlantic States Marine Fisheries Commission.

i. - ii. (No change.)

iii. The balance of the New Jersey annual quota for the black sea bass fishery remaining after deducting the by-catch allowance specified in (h)8ii above shall be divided into seasons, percentage of the annual quota apportioned into each season, daily trip limits and number of allowable landing days in each **one or two week period** (Sunday through Saturday) as follows:

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(1) January 1 - April 15: 38.8 percent, 1,000 pound trip limit and a maximum of **three** [four] days per **two** week **period** that a vessel may land black sea bass, **1,500** [2,000] pound trip limit and a maximum of two days per **two** week **period** that a vessel may land black sea bass or **3,000** [4,000] pound trip limit and a maximum of one day per **two** week **period** that a vessel may land black sea bass. **The first period shall begin on January 1 and end the second Saturday following January 1. Each two week period will run consecutively from Sunday to the second Saturday thereafter.**

(2) April 16 - June 30: 20.6 percent, [3,000 pound trip limit and a maximum of one day per week that a vessel may land black sea bass,] 1,500 pound trip limit and a maximum of **one** [two] day[s] per week that a vessel may land black sea bass, or **a 500** [1,000] pound trip limit and a maximum of three days per week that a vessel may land black sea bass;

(3) (No change.)

(4) October 1 - December 31: 27.1 percent, **3,000** [2,500] pound trip limit and a maximum of one day per week that a vessel may land black sea bass, **or 1,000** [1,250] pound trip limit and a maximum of **three** [two] days per week that a vessel may land black sea bass. [, or 500 pound trip limit and a maximum of five days per week that a vessel may land black sea bass.]

(5) - (6) (No change.)

iv. - x. (No change.)

9. - 13. (No change.)

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(i) The following provisions are applicable to the commercial harvest of summer flounder:

1. (No change.)

2. The annual summer flounder harvest quota for New Jersey shall be determined by the Mid-Atlantic Fishery management Council as implemented by the National marine Fisheries Service. All landings of summer flounder in New Jersey shall be applied to the New Jersey annual summer flounder quota unless New Jersey enters into an agreement with another state(s) to transfer or combine summer flounder commercial quotas, as provided for pursuant to (i)3 below and such agreement indicated otherwise.

i. (No change.)

ii. The balance of the New Jersey annual quota for the summer flounder fishery remaining after the by-catch allowance specified in (i)2i above shall be divided into seasons, percentage of the annual quota apportioned to each season, daily to trip limits and number of allowable landing days in each week (Sunday through Saturday) as follows:

(1) January – February: 28 percent, 2,500 pound trip limit and a maximum of two days **per two** [a] week **period** that a vessel may land summer flounder, or 5,000 pound trip limit and a maximum of one day **per two** [a] week **period** that a vessel may land a summer flounder. **Each two week period shall begin on Sunday and end on the second Saturday with the first two week period beginning on the first Sunday of January.**

(2) - (7) (No change.)

iii. - xiii. (No change.)

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3. - 9. (No change.)

(j) – (t) (No change.)