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ENVIRONMENTAL PROTECTION

DIVISION OF FISH AND WILDLIFE

Notice of Administrative Change

Marine Fisheries

Modification of Commercial Cobia Possession Limit and Recreational Cobia Minimum Size and Possession Limit, Modification of Recreational Black Sea Bass Season and Possession Limit, and Modification of Summer Flounder Season

N.J.A.C. 7:25-18.1

Take notice that, pursuant to N.J.A.C. 7:25-18.1(p), the Commissioner of the Department of Environmental Protection, with the approval of the New Jersey Marine Fisheries Council (Council) at its April 5, 2018, meeting, has modified the commercial and recreational possession limits for cobia, the recreational minimum size for cobia, the recreational black sea bass seasons and possession limits, and the summer flounder recreational season. These actions have been taken to comply with the Atlantic States Marine Fisheries Commission (ASMFC) and Mid-Atlantic Fishery Management Council (MAFMC) management plans for cobia, black sea bass, and summer flounder.

Cobia

At its October 2017 meeting, the ASFMC approved the Interstate Fishery Management Plan for Atlantic Migratory Group Cobia. The plan establishes both commercial and recreational limits for the harvest of cobia. While all states are required to establish the same

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commercial size, possession and per vessel limits, the recreational limits applicable to a covered state depend upon whether the state is classified as a *de minimis* or a non-*de minimis* state.

Under the plan, a state is classified as *de minimis* where “...under the existing condition of the stock and scope of the fishery, conservation, and enforcement actions taken [the state] would be expected to contribute insignificantly to a coastwide conservation program required by a Fishery Management Plan or amendment” (see http://asmfc.org/uploads/file/5a3c2a60CobiaFMP_Nov2017.pdf).

Accordingly, to be classified as *de minimis*, a state must demonstrate that its recreational cobia landings for two of the previous three years constitute less than one percent of the coastwide recreational cobia landings for the same period. If a state is approved as meeting the criteria for *de minimis* status, the state may choose to comply with the plan’s recreational fishery requirements in one of two ways. The *de minimis* state may choose to implement either a 32 inch minimum size limit tip of the snout to the tip of the tail (29 inch fork length) and one cobia per vessel possession limit, or it may choose to implement the size, season, and possession limit of an adjacent non-*de minimis* state (or the nearest non-*de minimis* state if no state adjacent to the *de minimis* state is classified as non-*de minimis*).

As New Jersey’s recreational harvests, in weight, totaled less than one percent of the coastwide recreational landings for a minimum of two out of the three years from 2014 through 2016, the State qualifies for *de minimis* status under the plan. Accordingly, the Council voted to approve recreational regulations for cobia that are identical to those of Virginia, which is the closest non-*de minimis* state. As a result, the recreational regulations for cobia are

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amended from a season of January 1 through December 31, a minimum size of 37 inches, and a possession limit of two cobia per person with no maximum possession limit per vessel to a season of June 1 through September 30, a minimum size of 40 inches, and a possession limit of one cobia per person with a maximum possession limit of three cobia per vessel.

Additionally, a new commercial maximum possession limit is applied to vessels. While the previously applicable commercial possession limit of two cobia per person per day is continued, a maximum possession limit of six cobia per vessel is now applicable.

Summer Flounder

At a meeting in December 2017, the ASFMC and the MAFMC continued the provisions of Addendum XXVIII to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which allow the use of conservation equivalent measures to achieve the coastwide recreational harvest limit for summer flounder. The ASMFMC and MAFMC have approved a 17 percent increase in the recreational harvest limit relative to the 2017 projected coastwide harvest of 3.23 million pounds. Based upon this increase, the Department submitted a conservation equivalency proposal to the ASMFC in February 2018, which was approved for the 2018 fishing season. Accordingly, the Council voted to approve modifying the recreational season for summer flounder in all marine waters of the State from May 25 through September 5 to May 25 through September 22, while continuing all other previously approved conservationally equivalent measures.

Black Sea Bass

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At its February 2018 meeting, the ASMFC approved Addendum XXX to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan. The addendum creates within the coastwide recreational black sea bass fishery three management regions for allocation of the recreational harvest limit. The northern region includes the waters of Massachusetts southward to New York and the southern region includes the waters of Delaware southward to Cape Hatteras, North Carolina. New Jersey waters comprise the entirety of the third region.

Under the addendum, New Jersey was allocated 1,107,352 pounds of the coastwide recreational harvest limit for black sea bass for the 2018 fishing season, representing a 46 percent increase from 2017. Accordingly, the Council has voted to approve modifying the recreational seasons for black sea bass. The 2017 recreational black sea bass season was broken into three segments with the following limits: May 26 through June 18 with a minimum size of 12.5 inches and a ten fish possession limit, July 1 through August 31 with a minimum size of 12.5 inches and a two fish possession limit, and October 22 through December 31 with a minimum size of 12.5 inches and a 15 fish possession limit. As a result of the modifications approved by the Council, the 2018 recreational season consists of the four segments with the following limits: May 15 through June 22 with a minimum size of 12.5 inches and a ten fish possession limit, July 1 through August 31 with a minimum size of 12.5 inches and a two fish possession limit, October 8 through October 31 with a minimum size of 12.5 inches and a ten fish possession limit, and November 1 through December 31 with a minimum size of 13 inches and a 15 fish possession limit.

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These changes will be reflected in the Division of Fish and Wildlife rules at N.J.A.C. 7:25-18.1(b) and (c). As required in N.J.A.C. 7:25-18.1(p), notice of the changes to N.J.A.C. 7:25-18.1(b) and (c) shall be published in the New Jersey Fish and Wildlife Digest, the New Jersey Register, and through a news release to individuals on the Division outdoor writers' mailing list.

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

7:25-18.1 Size, season, and possession limits

(a) (No change.)

(b) A person shall not purchase, sell, offer for sale, expose for sale, barter, trade, or exchange for money or for any other thing of value, or attempt to purchase, sell, offer for sale, barter, trade, or exchange for money or for any other thing of value, any species listed below less than the minimum length, measured in inches, except as may be provided elsewhere in this subchapter, and subject to the specific provisions of any such section. Any commercially licensed or permitted vessel or person shall be presumed to possess the following species for sale purposes and shall comply with the minimum sizes below. Fish length shall be measured from the tip of the snout to the tip of the tail (total length), except as noted below.

Species

Minimum Size (inches)

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• • •

1. – 2. (No change.)

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3. A person shall not take in any one day or possess more than the possession limit specified below for each species listed, except as may be provided elsewhere in this subchapter, and subject to the specific provisions of any such section.

| <u>Species</u> | <u>Possession Limit</u> |
|----------------|--|
| Cobia | 2 per person, no more than 6 per vessel |
| Red Drum | 1, no more than 27 inches |

(c) A person angling with a hand line or with a rod and line or using a bait net or spearfishing shall not have in his or her possession any species listed below less than the minimum length, nor shall such person take in any one day or possess more than the possession limits as provided below, nor shall such person possess any species listed below during the closed season for that species. Exceptions to this section as may be provided elsewhere in this subchapter shall be subject to the specific provisions of any such section. Fish length shall measure from the tip of the snout to the tip of the tail (total length), except as noted below:

| <u>Species</u> | <u>Minimum Size</u> <u>In Inches</u> | <u>Open Season</u> | <u>Possession Limit</u> |
|----------------|---|---|-------------------------|
| • • • | | | |
| Black Sea Bass | 12.5 | May [26] 15 – June [18] 22 | 10 |
| | | July 1 – Aug. 31 | 2 |
| | | Oct. [22] 8 – [Dec. 31] Oct. 31 | [15] 10 |

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| | 13 | Nov. 1 – Dec. 31 | 15 |
|---|----------------|--|---|
| Cobia | [37] 40 | [Jan. 1 – Dec. 31] June 1 – Sept. 30 | [2] 1 per person, not more than 3 per vessel |
| Summer Flounder (Fluke) | | | |
| Delaware Bay and tributaries | 17 | May 25 – Sept. [5] 22 | 3 |
| Island Beach State Park | 16 | May 25 – Sept. [5] 22 | 2 |
| (shore mode fishing only as provided at (c)5iv below) | | | |
| All other marine waters | 18 | May 25 – Sept [5] 22 | 3 |

• • •

1. – 6. (No change.)

(d) – (r) (No change.)