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## **ENVIRONMENTAL PROTECTION**

### **DIVISION OF FISH AND WILDLIFE**

#### **Notice of Administrative Changes**

##### **Marine Fisheries**

#### **Modification of Recreational and Commercial Blueline Tilefish and Atlantic Coastal Shark Regulations**

##### **N.J.A.C. 7:25-18.1 and 18.12**

**Take notice** that, pursuant to N.J.A.C. 7:25-18.1(p) and 18.12(r), the Commissioner of the Department of Environmental Protection, with the approval of the New Jersey Marine Fisheries Council (Council) at its March 7, 2019, meeting, has modified the recreational season and possession limits and the commercial regulations for blueline tilefish and sharks. These actions have been taken to comply with the Mid-Atlantic Fishery Management Council (MAFMC) management plan for tilefish, the Atlantic States Marine Fisheries Commission (ASMFC) management plan for Atlantic coastal sharks, and for the optimal utilization of available quotas and the prevention of excessive harvesting and quota exceedances.

##### **Blueline Tilefish**

In February 2019, the National Marine Fisheries Service (NMFS) finalized recreational and commercial fishing specifications for the blueline tilefish fishery for the 2019 through 2021 fishing years (see 84 Fed. Reg. 3341). The specifications were set pursuant to the MAFMC's

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Tilefish Fishery Management Plan (tilefish FMP). The blueline tilefish fishery north of the North Carolina-Virginia border is managed by the MAFMC under the tilefish FMP, which outlines the MAFMC's process for establishing annual specifications for the fishery. The Plan requires MAFMC to recommend management measures to the NMFS for the commercial and recreational blueline tilefish fisheries to be in effect for up to three years at a time. The NMFS reviews the recommendations to ensure that they achieve the objectives of the Plan and publishes the final specifications in the Federal Register.

In August 2018, the MAFMC recommended specifications for the commercial and recreational blueline tilefish fisheries for the 2019 through 2021 fishing years. The recommendations included increasing the coastwide recreational total allowable landings (TAL) from 62,262 pounds to 71,912 pounds, and increasing the coastwide commercial TAL from 23,263 pounds to 26,889 pounds. The MAFMC also recommended increasing the commercial possession limit from 300 pounds per trip to 500 pounds per trip. However, to mitigate concerns that the commercial TAL may be landed too quickly, the MAFMC also recommended authorizing the NMFS to reduce the commercial possession limit to 300 pounds per trip if 70 percent of the TAL for a given fishing season is landed.

The NMFS accepted the MAFMC's recommendations and, as stated above, finalized its specifications in February 2019. In addition to the MAFMC's recommendations, the NMFS also implemented a recreational fishing season of May 1 through October 31, and set recreational possession limits for different types of fishing vessels. For private vessels that do not possess a

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Northeast open access golden tilefish party/charter vessel permit issued by the NMFS, each person may possess three tilefish. For party/charter vessels that are permitted by the NMFS, but have not been inspected by the U.S. Coast Guard, each person may possess five tilefish. Lastly, for party/charter vessels that are permitted by the NMFS and have been inspected by the U.S. Coast Guard, each person may possess seven tilefish. This tiered approach to possession limits was developed through extensive collaboration between stakeholders, the MAFMC, and the NMFS, in order to achieve the desired level of protection for the resource while considering the economic impacts on the for-hire tilefish fleet.

In accordance with the actions by the NMFS and MAFMC described above, the Council approved modifying the recreational season for blueline tilefish at N.J.A.C. 7:25-18.1(c) from an open season of January 1 through December 31 to an open season of May 1 through October 31. The Council also approved modifying the recreational possession limit for blueline tilefish from seven fish per person to three fish per person for an angler fishing from a vessel that is not fishing under a tilefish commercial or party/charter vessel permit issued by the NMFS, five fish per angler fishing onboard a for-hire vessel under a tilefish party/charter vessel permit issued by the NMFS, which has not been issued a valid U.S. Coast Guard Certificate of Inspection, or seven fish per angler fishing onboard a for-hire vessel under a tilefish party/charter vessel permit issued by the NMFS, which has been issued a valid U.S. Coast Guard Certificate of Inspection. The existing requirement that any party/charter vessel landing blueline tilefish from the Exclusive Economic Zone (Federal waters) must hold a valid Northeast open access

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golden tilefish party/charter vessel permit issued by the NMFS is recodified at N.J.A.C. 7:25-18.1(c)6i.

For the commercial blueline tilefish fishery, the Council approved changing the maximum possession limit from 300 pounds, whole weight, of blueline tilefish to the possession limit set by NMFS as published in the Federal Register. Blueline tilefish possession limits can change in season depending on how far along the season is and how much of the commercial TAL has been landed. As the Department is required to maintain consistency with the possession limits established by NMFS, to avoid the need to modify the specific possession limit each time the NMFS makes an in-season adjustment, rather than replacing the previous 300 pound possession limit with the current 500 pound per-trip possession limit established by NMFS, the Council approved amendments in the Marine Fisheries rules at N.J.A.C. 7:25-18.12(m) that removes the existing 300 pounds possession limit and replaces the numeric possession limit with an indication that the possession limit for blueline tilefish is the possession limit determined by NMFS and published in the Federal Register. Additionally, the Council approved amendments to the commercial blueline tilefish regulations at N.J.A.C. 7:25-18.12(m)2 which will automatically close New Jersey waters to the commercial harvest of blueline tilefish as required by the tilefish FMP in the event that NMFS enacts a closure of the commercial blueline tilefish fishery in adjacent Federal waters or in any area that includes New Jersey marine waters. The Commissioner, or his or her designee, shall give public notice of any such closure.

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### Atlantic Coastal Sharks

In October 2018, the ASMFC Atlantic Coastal Sharks Board (Board) approved Addendum V to the Interstate Fishery Management Plan for Atlantic Coastal Sharks (coastal shark FMP).

Addendum V was developed and approved in order to allow the Board to respond to changes in the stock status of coastal shark populations and adjust regulations through Board action rather than an addendum, ensuring greater consistency between state and Federal shark regulations.

Addendum V notes the coastal shark FMP allows for commercial quotas, possession limits and seasons to be set on an annual basis in accordance with any changes by the National Oceanic and Atmospheric Administration (NOAA Fisheries) to those specifications. However, all other changes to management measures for the commercial fishery and all changes to any management measure for the recreational fishery must be accomplished through either an addendum to the coastal shark FMP, or an emergency action. In order to better and timelier respond to new scientific information or management changes in Federal water, Addendum V permits the Board to change the following management measures via Board action: area closures, gear specifications, commercial quotas, commercial possession limits, commercial seasons, recreational size and possession limits, and recreational seasons.

Additionally, in November 2018 the Board voted to approve the implementation in states' waters of the 2019 shark specifications as approved by the NMFS in accordance with the NOAA Fisheries Highly Migratory Species Fishery Management Plan.

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In accordance with the Board's actions, the Council approved changing the minimum size limit of any of the species of sharks in the shark groups listed at N.J.A.C. 7:25-18.1(b) and the minimum size, open season, and possession limit of any species in the shark groups listed at N.J.A.C. 7:25-18.12(c) to the minimum size limits, open seasons, and possession limits as determined by the NMFS as published in the Federal Register and posted on the NOAA Fisheries website at <https://www.fisheries.noaa.gov/rules-and-announcements/notices-and-rules>

The Council also approved changing the maximum possession limit of any of the species of sharks in the shark groups listed at N.J.A.C. 7:25-18.12(d)1 from an unlimited number of sharks from the Non-Blacknose, Small Coastal, Blacknose, and Pelagic shark species groups to the maximum possession limit determined by the NMFS as published in the Federal Register. In accordance with the NMFS's adoption of the Consolidated Highly Migratory Species Fishery Management Plan and multiple subsequent amendments, the NMFS sets the quotas, seasons, minimum sizes, and maximum possession limits for the shark species groups annually and may make in-season adjustments to the maximum possession limits in order to avoid exceeding any of the shark species groups' quotas for that year. Similar to the changes for the blueline tilefish fishery discussed above, and to maintain consistency with the possession limits established by the NMFS, the Council approved these changes to avoid modifying the specific possession limit each time the NMFS makes an in-season adjustment to the maximum possession limit of the various shark species groups. Notice of these in-season adjustments will be posted to the Department's website and sent via an email or first-class mail to all holders of a New Jersey commercial fishing license issued for a gear that is allowed in the commercial shark fishery.

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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), 18.1(c), 18.12(d), and 18.12(m). As required in N.J.A.C. 7:25-18.1(p), changes to N.J.A.C. 7:25-18.1(b) and 18.1(c) are being 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. As required in N.J.A.C. 7:25-18.12(r), changes to N.J.A.C. 7:25-18.12(d) and (m) are being published in the New Jersey Register.

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

#### SUBCHAPTER 18. MARINE FISHERIES

##### 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

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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.

<u>Species</u>	<u>Minimum Size</u> <u>(inches)</u>
• • •	
Shark	<b>As specified at (b)4 below</b>
Aggregate Large Coastal Group	[No Limit]
Hammerhead Group	[No Limit]
Non-Blacknose Small Coastal Group	[No Limit]
Blacknose Group	[No Limit]
Pelagic Group	[No Limit]
Smoothhound Group	[No Limit]
• • •	

1. – 3. (No change.)

**4. A person commercially fishing for shark under a valid annual vessel permit for sharks issued by the National Marine Fisheries Service or a New Jersey commercial fishing license issued for a gear allowed in the commercial shark fishery shall not possess a shark from the shark groups**



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**listed at (d)1 above smaller than the minimum size limit determined by the National Marine Fisheries Service as published in the Federal Register.**

(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>
• • •			
Blueline Tilefish	No Limit	[Jan. 1 – Dec. 31] <b>May 1 – Oct. 31</b>	[7] <b>3, 5, or 7 as specified at</b> <b>(c)6 below</b>
• • •			

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Shark	As specified in (c)2 below	As specified in (c)2 below [1 per vessel, a]As specified in (c)2 below
Aggregate Large	[54]	[Jan. 1--May 14, and
Coastal Group		July 16--Dec. 31]
Hammerhead Group	[78]	[Jan. 1--May 14, and
		July 16--Dec. 31]
Non-Blacknose	[No Limit]	[Jan.1--Dec. 31]
Small Coastal Group		
Blacknose Group	[No Limit]	[Jan. 1--Dec. 31]
Pelagic Group	[54]	[Jan. 1--Dec. 31]
Smoothhound Group	[No Limit]	[Jan. 1--Dec. 31] [No Limit]
• • •		

1. (No change.)

2. Shark length shall be measured from the tip of the snout to the V shaped indentation between the two separate tail segments (fork length) forming the caudal fin. Sharks may be harvested in the recreational fishery only by angling with a hand line, or rod and reel. The **minimum size, open season, and possession limit** for shark, as listed at (a) above, shall be a **minimum size, open season, and possession limit as determined by the National Marine Fisheries Service as**

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published in the Federal Register and posted at <https://www.fisheries.noaa.gov/rules-and-announcements/notices-and-rules> [maximum harvest of one shark from the Aggregate Large Coastal, Hammerhead, Non-Blacknose Small Coastal, Blacknose, or Pelagic species group on a per vessel basis regardless of the number of individuals on board said vessel. In addition, each recreational angler fishing from a boat may harvest one bonnethead and one Atlantic sharpnose per trip. If a person is fishing from shore or a land based structure, the possession limit shall be a maximum harvest of one shark from the Aggregate Large Coastal, Hammerhead, Non-Blacknose Small Coastal, Blacknose, or Pelagic species group per calendar day on a per person basis. In addition, each recreational angler fishing from the shore or a land based structure may harvest one bonnethead and one Atlantic sharpnose per calendar day].

3. – 5. (No change.)

6. [Any party/charter vessel landing blueline tilefish from the Exclusive Economic Zone (Federal waters) must hold a valid Northeast open access golden tilefish party/charter vessel permit, issued by the NMFS.]**The following provisions are applicable to the recreational harvest of blueline tilefish:**

**i. Any party/charter vessel landing blueline tilefish from the Exclusive Economic Zone (Federal waters) must hold a valid Northeast open access golden tilefish party/charter vessel permit, issued by the National Marine Fisheries Service.**

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ii. Any person fishing from a vessel that is not fishing under a valid Northeast open access golden tilefish commercial or party/charter vessel permit issued by the National Marine Fisheries Service, may land up to three blueline tilefish per trip.

iii. Any person fishing from a for-hire vessel under a valid Northeast open access golden tilefish party/charter vessel permit issued by the National Marine Fisheries Service that has not been issued a valid U.S. Coast Guard Certificate of Inspection may land up to five blueline tilefish per person per trip.

iv. Any person fishing from a for-hire vessel under a valid Northeast open access golden tilefish party/charter vessel permit issued by the National Marine Fisheries Service that has been issued a valid U.S. Coast Guard Certificate of Inspection may land up to seven blueline tilefish per person per trip.

(d) – (r) (No change.)

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

(a) – (c) (No change.)

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(d) The following provisions are applicable to the commercial harvest of sharks:

1. A person shall not possess more sharks than the number specified in the possession limit at N.J.A.C. 7:25-18.1(c) without a valid annual vessel permit for sharks issued by the National Marine Fisheries Service or a New Jersey commercial fishing license issued for the gear allowed in the commercial shark fishery. With a valid annual vessel permit or a New Jersey commercial fishing license, the maximum possession limit of sharks from the Aggregated Large Coastal shark species group and the Hammerhead shark species group combined, [is the number determined by the National Marine Fisheries Service as published by notice in the Federal Register, an unlimited number of sharks from] the Non-Blacknose Small Coastal shark species group, [an unlimited number of sharks from] the Blacknose shark species group, and [an unlimited number of sharks from] the Pelagic shark species group **is the number determined by the National Marine Fisheries Service as published by notice in the Federal Register and posted at <https://www.fisheries.noaa.gov/rules-and-announcements/notices-and-rules>**. The Commissioner, or his or her designee, shall provide notice of any changes to the maximum possession limit for the Aggregated Large Coastal shark species group and the Hammerhead shark species group combined, **the Non-Blacknose Small Coastal shark species group, the Blacknose shark species group, or the Pelagic shark species group** as determined by the National Marine Fisheries Service and published by notice in the Federal Register. Public notice shall include posting of a notice on the Department's website and either an e-mail or first-class mail to all holders of a valid annual vessel permit for sharks issued by the National Marine Fisheries Service or a New Jersey commercial fishing license. A person shall not sell or attempt

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to sell any sharks without a valid permit for sharks issued by the National Marine Fisheries Service or a New Jersey commercial fishing license issued for the gear allowed in the commercial shark fishery.

i. (No change.)

2. – 7. (No change.)

(m) The following provisions are applicable to the commercial harvest of tilefish:

1. A vessel shall not possess or land from the Exclusive Economic Zone (Federal waters) in any one day more than **the possession limit determined by the National Marine Fisheries Service as published by notice in the Federal Register and posted at**

<https://www.fisheries.noaa.gov/rules-and-announcements/notices-and-rules> [300 pounds,

whole weight], of blueline tilefish during the open season of January 1 to December 31. Any vessel landing blueline tilefish from the Exclusive Economic Zone (Federal waters) must hold a valid Northeast open access golden tilefish commercial vessel permit, issued by the [NMFS] **National Marine Fisheries Service.**

**2. Any closure of the commercial blueline tilefish fishery by the National Marine Fisheries Service in adjacent Federal waters or in any area that includes New Jersey marine waters will**

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**automatically close New Jersey waters to the commercial harvest of blueline tilefish. The Commissioner, or his or her designee, shall give public notice of any such closure. Public notice shall include posting of a notice on the Department's website.**

(n) – (y) (No change.)