

# DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

## DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 901(c) and (d) and 903(e)(2)a (7 Del.C. §§901(c) and (d) & 903(e)(2)a)

7 DE Admin. Code 3550

### FINAL

Secretary's Order No: 2025-F-0012

RE: Approving Final Regulation, pursuant to 7 Del.C. § 903(e)(2)a.1, to Amend 7 DE Admin. Code 3550 *Cobia* (*Rachycentron canadum*)

Date of Issuance: February 23, 2025

Effective Date of the Amendment: 48 hours following publication of this Secretary's Order and regulation on the Department's website: <https://de.gov/dnrecorders>

#### 3550 Cobia (*Rachycentron canadum*)

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), pursuant to 7 Del.C. §903(e)(2)a.1, and all other relevant statutory authority, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory amendment.

Notwithstanding 29 Del.C. Ch. 101 (which sets forth the standardized procedures whereby a state agency shall promulgate regulations), the Department also has the statutory authority under 7 Del.C. §903(e)(2)a.1 to promulgate certain regulations in order to adopt a specified management measure for finfish, subject to 7 Del.C. Ch.9, *Finfishing in Tidal Waters*, by the issuance of a Secretary's Order. The Department is allowed to follow this abbreviated regulatory promulgation process only in instances where the management measures are specified by, and ensures compliance or maintains consistency with, a fisheries management plan or rule established by the Atlantic States Marine Fisheries Commission ("ASMFC"), the *Atlantic Coastal Fisheries Cooperative Management Act*, the Mid-Atlantic Fishery Management Council, or the National Marine Fisheries Service.

Whenever the Department promulgates a regulation pursuant to 7 Del.C. §903(e)(2)a.1, it shall also (1) publish on its website a public notice with a copy of the Secretary's Order and final regulation that implements the specific management measure; and (2) file the Secretary's Order and regulation that implements the specified management measure in the next available issue of the Delaware *Register of Regulations*. The final regulation becomes effective 48 hours after the Department has published the aforementioned public notice on its website, as mandated by 7 Del.C. § 903(e)(2)a.2.

#### Background, Procedural History and Findings of Fact

This order amends 7 DE Admin. Code 3550 *Cobia* (*Rachycentron canadum*) as part of an effort to reduce Cobia mortality in the recreational and commercial fisheries by adopting the specified management measures approved by the ASMFC Coastal Pelagics Management Board ("Board"). Specifically, this amendment increases the minimum size of Cobia that can be possessed by Delaware's recreational and commercial fishermen from 37 to 43 inches and increases the recreational daily possession limit from one to two Cobia. This order is required for Delaware to remain compliant with ASMFC Addendum II to Amendment 1 of the Atlantic Cobia Interstate Fishery Management Plan ("FMP"). The Board approved this management requirement by consent on January 31, 2025.

The Board determined that the Northern Cobia Management Region, which includes Delaware, was likely to exceed its target Cobia harvest in 2025 unless management action was taken to reduce harvest. Although this action increases the possession limit, the increase in the size limit and the seasonal restrictions on harvest for non-*de minimis* states (NC, VA, and MD) are anticipated to reduce harvest for the region by over 20% in 2025 and 2026.

The Department has the statutory basis and legal authority to act with regard to promulgation of the proposed amendment to 7 DE Admin. Code 3550 *Cobia* (*Rachycentron canadum*) pursuant to 7 Del.C. §§ 901 (c & d) and 903(e)(2)a.1.

### ORDER

In accordance with 7 Del.C. § 903(e)(2)a.1, it is hereby ordered, this 23<sup>rd</sup> day of February, 2025 that the above referenced amendments to 7 DE Admin. Code 3550 *Cobia (Rachycentron canadum)*, a copy of which is hereby attached, are supported by the evidence contained herein and are hereby adopted. The above referenced amendment shall take effect 48 hours following publication of this Secretary's Order and regulation on the Department's website in accordance with 7 Del.C. § 903(e)(2)a.2.

Gregory Patterson  
Secretary  
Feb. 23, 2025

### **3550 Cobia (*Rachycentron canadum*)**

#### **1.0 Recreational Possession Limits**

- 1.1 It is unlawful for a recreational fisherman to possess more than ~~one~~ two Cobia per day or per trip, whichever is longer.
- 1.2 Except in accordance with Section 3.0 of this regulation, it is unlawful to have aboard any vessel more than ~~one~~ two Cobia.

**25 DE Reg. 297 (09/01/21)**

#### **2.0 Recreational Size Limit**

It is unlawful for a recreational fisherman to possess any Cobia that measures less than ~~37~~ 43 inches in total length.

**25 DE Reg. 297 (09/01/21)**

#### **3.0 Commercial Possession Limits**

- 3.1 A commercial fisherman may take and reduce to possession no more than two Cobia per day or per trip, whichever is longer, using commercial fishing gear for which said fisherman is lawfully permitted.
- 3.2 It is unlawful for a commercial fisherman to possess more than two Cobia per day or per trip, whichever is longer.
- 3.3 Notwithstanding subsections 3.1 and 3.2, a commercial fishing vessel may have up to six Cobia per day or per trip, whichever is longer, onboard provided the number of Cobia does not exceed twice the number of commercial fishermen onboard that vessel.

**25 DE Reg. 297 (09/01/21)**

#### **4.0 Commercial Size Limit**

It is unlawful for a commercial fisherman to possess, trade, barter or sell or attempt to trade, barter or sell any Cobia that measure less than ~~37~~ 43 inches in total length.

**23 DE Reg. 936 (05/01/20)**

**25 DE Reg. 297 (09/01/21)**

**28 DE Reg. 739 (04/01/25) (Final)**