

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 903(e)(2)a.1 (7 **Del.C.** §903(e)(2)a.1)
7 **DE Admin. Code** 3516

FINAL

Secretary's Order No.: 2020-F-0015

**RE: Approving Final Regulation, pursuant to 7 *Del. C.* §903(e)(2)a.1,
to Amend 7 DE Admin. Code 3516: *Bluefish***

Date of Issuance: May 13, 2020

Effective Date: May 15, 2020

3516 Bluefish Possession Limits

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), and pursuant to 7 *Del. C.* §903(e)(2)a.1, and all other relevant statutory authority, the following findings of fact, based on the reasons and conclusions set forth herein, 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, 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 and Findings of Fact

This order amends 7 DE Admin. Code 3516: *Bluefish* to reduce fishing mortality on Bluefish by adopting specified management measures approved and mandated by the Atlantic States Marine Fisheries Commission's ("ASMFC") Bluefish Management Board to remain compliant with the Interstate Fishery Management Plan for Bluefish. Specifically, this order adopts new possession limits for Bluefish for the recreational fishery.

The 2019 Bluefish operational stock assessment and peer review conducted by the Northeast Regional Stock Assessment Workshop found that Bluefish are being overfished (and thus the current population is below its minimum acceptable level), but are not experiencing overfishing (so that current mortality due to fishing is below its maximum acceptable level). The ASMFC and Mid-Atlantic Fishery Management Council, which jointly manage Bluefish under Amendment 1 to the Fishery Management Plan for the Bluefish Fishery (1998), approved an acceptable biological catch limit of 16.28 million pounds for the 2020 fishing season, an approximate 25% decrease from 2019 levels, in response to the findings of the 2019 Bluefish operational stock assessment.

The specified management measures adopted for the recreational fishery are a coastwide 3-fish daily bag limit for private anglers and shore-based anglers, and a 5-fish daily bag limit for anglers on for-hire charter or head boats.

The Department has the statutory basis and legal authority to act with regard to promulgation of the proposed amendments to 7 DE Admin. Code 3516: *Bluefish*, pursuant to 7 *Del. C.* §§901 (c & d) and 903(e)(2)a.1. The specific management measures are required by ASMFC Bluefish Management Board action taken on December 11, 2019.

EFFECTIVE DATE OF ORDER

In accordance with 7 *Del. C.* §903(e)(2)a.2, this order shall take effect 48 hours following publication of public notice of the Secretary's Order and regulation on the Department's website. The Secretary's Order and finalized regulation will further be filed in the next issue of the *Delaware Register of Regulations*.

ORDER

It is hereby ordered, this 13th day of May, 2020 that the above referenced amendments to 7 DE Admin. Code 3516: *Bluefish*, a copy of which is hereby attached, are adopted pursuant to 7 *Del. C.* §903(e)(2)a.1, and are supported by the evidence contained herein.

Shawn M. Garvin
Secretary

3500 Tidal Finfish Bluefish

3516 Bluefish Possession Limits.

(Penalty Section 7 **Del.C.** §936(b)(2))

- 1.0 Unless otherwise authorized, it shall be unlawful for any recreational fisherman to have in possession more than ~~ten (10)~~ five (5) bluefish (*Pomatomus saltatrix*) if fishing from a charter or headboat or three (3) if fishing from any other vessel or from shore at or between the place caught and his/her personal abode or temporary or transient place of lodging) lodging.

4 DE Reg. 1552 (03/01/01)

23 DE Reg. 1043 (06/01/20) (Final)