

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

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

PROPOSED

REGISTER NOTICE

SAN #2019-07

Hearing Docket No.: 2020-R-F-0002

3550 Cobia (*Rachycentron canadum*)

1. TITLE OF THE REGULATIONS:

Amend 7 DE Admin. Code 3500 Tidal Finfish to include a new 3550 Cobia (*Rachycentron canadum*).

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The Atlantic States Marine Fisheries Commission adopted the Interstate Fishery Management Plan for Atlantic Migratory Group Cobia (FMP) in November 2017. The most recent stock assessment indicated that Cobia biomass has declined over the past two decades, but the stock is not overfished and overfishing is not occurring. The FMP requires that states adopt the precautionary management measures contained in the FMP to prevent overfishing.

Cobia presence in Delaware waters is sporadic, but they are targeted by anglers when known to be present. Delaware had no reported commercial or recreational Cobia landings in the three years preceding adoption of the FMP. Therefore, Delaware qualifies for *de minimis* status under the FMP criteria and may adopt either of the following two management options:

Delaware's proposed Cobia management options.

	Option 1 <i>De Minimis</i>		Option 2 Nearest Non- <i>De Minimis</i>	
	Recreational	Commercial	Recreational	Commercial
Min. Length	32	37	40	37
Possession Limit	1	2	1	2
Vessel Limit	1	6	3	6
Open Season	All Year	All Year	June 1 - Sept. 15	All Year

Option 1 reflects the *de minimis* management measures outlined in the FMP and Option 2 reflects the management measures in place for the nearest non-*de minimis* jurisdiction (VA). The commercial fishing management measures are identical in both options; however, the recreational management measures differ by the minimum length, maximum vessel limit and season.

Adoption of either option will ensure compliance with the FMP, as required by the Atlantic Coastal Fisheries Cooperative Management Act (16 USC §§5101, *et seq.*). The proposed action is expected to complement federal management in a consistent manner throughout the management unit and provide for the long-term stability of the stock. Given the sporadic occurrence of Cobia in Delaware waters, it is unlikely that the proposed action will have significant, measurable or predicable costs to the affected Delaware fisheries or their dependent businesses.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

N/A

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Del.C. §901 & §903(a), (b) & (e)

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

N/A

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed changes to 7 DE Admin. Code 3500 Tidal Finfish to include a new 3550 Cobia opens February 1, 2020 (Hearing Docket No. 2019-R-F-0002). A public hearing on the proposed amendment will be held proceeding the adjournment of the public hearing on proposed amendments to 7 DE Admin. Code 3502 Striped Bass Spawning Season

and Area Restrictions (SAN # 2019-10; Hearing Docket No. 2019-R-F-0026) on Wednesday, February 26, 2020 at 6:00 PM in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901. Individuals may submit written comments regarding the proposed changes via e-mail to DNRECHearingComments@delaware.gov, or via USPS to the DNREC Hearing Officer, 89 Kings Highway, Dover, DE 19901. Public comments will be received until close of business Thursday, March 12, 2020.

7. PREPARED BY:

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3500 Tidal Finfish
3550 Cobia (*Rachycentron canadum*)

1.0 Recreational Possession Limits

- 1.1 It is unlawful for a recreational fisherman to take and reduce to possession more than one Cobia per day or per trip, whichever is longer.
- 1.2 Except in accordance with 3.0 of this section, it is unlawful to have aboard any boat or vessel more than one Cobia.

2.0 Recreational Size Limit

It is unlawful for a recreational fisherman to possess a Cobia that measures less than 32 inches in total length.

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.

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 inches in total length.

OR

1.0 Recreational Seasons

- 1.1 It is unlawful for a recreational fisherman to possess any Cobia during the periods of January 1 through May 31 and September 16 through December 31.
- 1.2 It is lawful for a recreational fisherman to possess Cobia during the period of June 1 through September 15 in accordance with sections 2.0 and 3.0.

2.0 Recreational Possession Limits

- 2.1 It is unlawful for a recreational fisherman to possess more than one Cobia per day or per trip, whichever is longer.
- 2.2 Except in accordance with 4.0 of this section, it is unlawful to have aboard any vessel more than three Cobia.

3.0 Recreational Size Limit

It is unlawful for a recreational fisherman to possess any Cobia that measures less than 40 inches in total length.

4.0 Commercial Possession Limits

- 4.1 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.

- 4.2 It is unlawful for a commercial fisherman to possess more than two Cobia per day or per trip, whichever is longer.
- 4.3 Notwithstanding subsections 4.1 and 4.2, 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.

5.0 **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 inches in total length.

23 DE Reg. 635 (02/01/20) (Prop.)