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START ACTION NOTICE # 2019-07

1. TYPE OF ACTION:

This action proposes to amend 7 DE Admin. Code 3500 Tidal Finfish to include a new 3550 Cobia.

2. PURPOSE OF ACTION:

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, measureable or predicible costs to the affected Delaware fisheries or their dependent businesses.

3. STATUTORY BASIS:

7 Del. C. §901 & §903(a), (b) & (e)

4. IS THIS PROPOSED REGULATORY ACTION REQUIRED AS A RESULT OF FEDERAL STATUTE OR REGULATION? IF SO, PROVIDE LINK TO FEDERAL MANDATE.

Yes. <http://www.asafc.org/uploads/file/ACFCMA.pdf>

5. DATE OF MOST RECENT REVIEW/AMENDMENT:

The Tidal Finfish Regulations were most recently amended effective February 11, 2019.

6. LIKELY AFFECTED PUBLIC:

The likely affected public include recreational anglers (private and for-hire), commercial foodfish licensees and the associated businesses.

7. PROPOSED SCHEDULE OF ACTIVITIES:

Register Notice publication - August/September 2019

Public hearing - September/October 2019

Effective date - October/November 2019

8. REVIEW COMMITTEE:

The Advisory Council on Tidal Finfisheries

9. RESPONSIBLE STAFF MEMBER:

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10. APPROVALS:

  
Stewart Michels  
Responsible Staff Member

Date

  
David E. Saveikis  
Director, Division of Fish & Wildlife

Date

  
Shawn M. Garvin  
Secretary

Date