

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code Section 903 (7 Del.C. §903)

FINAL

ORDER

3560 Total Length

Secretary's Order No: 2026-FW-0008

RE: Approving Final New Regulation 7 DE Admin. Code 3560 – Total Length

Date of Issuance: April 27, 2026

Effective Date: June 11, 2026

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 7 Del.C. §§6006 and 6010, 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 proceeding.

Background, Procedural History and Findings of Fact

This Order relates to the proposed new regulation 7 DE Admin. Code 3560 – *Total Length* ("Regulation"). The Department proposes the new Regulation that will enable the Department to consistently interpret and enforce fish minimum and maximum size limits by establishing a clear, standardized definition of total fish length across all applicable tidal finfish regulations.

The Department currently utilizes "total length" to establish minimum and/or maximum size limits for ten tidal finfish species pursuant to 7 DE Admin. Code 3500 – *Tidal Finfish*, as well as applicable statutory provisions. However, "total length" is not formally defined within these regulations or statutes, creating the potential for inconsistency in application of measurement standards, enforcement, and interpretation among anglers and stakeholders.

In October 2025, the Atlantic States Marine Fisheries Commission approved Addendum III to Amendment 7 of the *Atlantic Striped Bass Fisheries Management Plan*. This action is applicable to all states within the Striped Bass Management Unit and includes a standardized definition of "total length" that establishes the points at which measurement of a striped bass begins and ends. As Delaware is a part of the that management unit, the Department is required to implement this definition to remain in compliance with the Commission's management plan. While this requirement is specific to striped bass, the Department has determined that adopting a uniform definition as a standalone regulation, applicable to all tidal finfish species, is appropriate. This approach promotes regulatory consistency, enhances enforceability, and provides clarity to the regulated community on how to measure the total length of fish regulated under 7 DE Admin. Code 3500 – *Tidal Finfish*.

The Department has the statutory basis and legal authority to act with regard to the formal promulgation of the proposed Regulation, pursuant to 7 Del.C. §903. The Division of Fish and Wildlife was responsible for the drafting and overall promulgation of the proposed new Regulation, as such, also developed the record with the relevant documents in the Department's exhibits. The proposed Regulation was published in the March 1, 2026, edition of the *Delaware Register of Regulations*. A public hearing was held on March 25, 2026, in accordance with Delaware law, and no members of the public attended. The hearing record ("Record") remained open for an additional fifteen (15) days to receive written public comment, closing on April 10, 2026. No comments were received during the formal promulgation.

It should be noted that all notification and noticing requirements concerning this matter were met by the Department. Proper notice of the hearing was provided as required by law.

Following the close of the Record, as noted above, the Hearing Officer prepared her Hearing Officer's Report dated April 24, 2026 ("Report"), which expressly incorporated the Department's proposed Regulation into the Record generated in this matter. The Report documents the proper completion of the required regulatory process, establishes the Record, and recommends the adoption of the proposed new Regulation as attached to the Report as Appendix "A."

Reasons and Conclusions

Based on the Record developed by the Department's experts in the Division of Fish and Wildlife, and established by the Hearing Officer's Report, I find that the proposed new Regulation, 7 DE Admin. 3560 – *Total Length*, are well supported. I further find that the Department's experts fully developed the record to support adoption of the new Regulation. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that the proposed Regulation be promulgated as final.

The following reasons and conclusions are entered:

1. The Department has the statutory basis and legal authority to act with regard to this proposed regulatory promulgation, pursuant to 7 Del.C. §903;
2. The Department has jurisdiction under its statutory authority, pursuant to 7 Del.C. Chapter 60, to issue an Order adopting the proposed new Regulation as final;
3. The Department provided adequate public notice of the proposed new Regulation and all proceedings in a manner required by the law and regulations, and provided the public with an adequate opportunity to comment on the same,

including at the time of the public hearing held on March 25, 2026, and during the 15 days subsequent to the hearing (through April 10, 2026), before making any final decision;

4. Promulgation of the proposed new regulation, 7 DE Admin. 3560 – *Total Length*, will enable the Department to consistently interpret and enforce fish minimum and maximum size limits by establishing a clear, standardized definition of total fish length across all applicable tidal finfish regulations;

5. The Department has reviewed the proposed new Regulation in light of the Regulatory Flexibility Act, consistent with 29 **Del.C.** Ch. 104, and has selected Exemption “B1,” as this regulation is not substantially likely to impose additional cost or burdens upon individuals and/or small businesses;

6. The Department has reviewed this proposed regulatory promulgation in the light of 7 **Del.C.** §10003 and 29 **Del.C.** §10118(b)(3) and has determined that any impact of this regulation on the achievement of the State of Delaware’s greenhouse gas emissions reduction targets will be *de minimis*;

7. The Department’s proposed new Regulation, as published in the March 1, 2026, *Delaware Register of Regulations*, as set forth in Appendix “A” hereto, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they should be approved as a final Regulation, which shall go into effect ten days after their publication in the next available issue of the *Delaware Register of Regulations*; and

8. The Department shall submit the proposed new Regulation as a final new Regulation to the *Delaware Register of Regulations* for publication in its next available issue and provide such other notice as the law and regulation require, and the Department determines is appropriate.



Gregory Patterson
Secretary