



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

Office of the
Secretary

Phone: (302) 739-9000
Fax: (302) 739-6242

Secretary's Order No.: 2024-F-0034

RE: Approving Final Regulation, pursuant to 7 Del.C. § 903(e)(2)a.1, to Amend 7 DE Admin. Code 3500: *Tidal Finfish*, adding new section 3519 – *Atlantic Croaker*

Date of Issuance: September 3, 2024

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>

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 3500: *Tidal Finfish* as part of an effort to reduce Atlantic Croaker mortality in the recreational fishery by adopting a specified management measure approved by the ASMFC Sciaenid Management Board (“Board”). Specifically, this amendment reduces the daily possession limit of Atlantic Croaker that may be legally possessed by a recreational angler from no possession limit to 50 Atlantic Croaker. This order is required for Delaware to remain compliant with ASMFC Addendum III to Amendment 1 to the Interstate Fishery Management Plan (“FMP”) for Atlantic Croaker. The Board removed Delaware’s recreational *de minimis* status at its meeting on August 7, 2024, because Delaware recreational landings exceeded the *de minimis* threshold for three consecutive years. As a non-*de minimis* state now, the FMP requires Delaware to implement the recreational 50 Atlantic Croaker possession limit as soon as possible.

Delaware currently has an 8-inch size limit for Atlantic Croaker set by Code (7 *Del.C.* § 929) but this is the first regulation promulgated for Atlantic Croaker. The purpose of this order is to amend 7 DE Admin. Code 3500: *Tidal Finfish* by adding new section, 3519, titled “Atlantic Croaker,” to establish provisions for reducing the daily recreational possession limit to 50 Atlantic Croaker.

The Department has the statutory basis and legal authority to act with regard to promulgation of the proposed amendment to 7 DE Admin. Code 3500: *Tidal Finfish*, by adding new section 3519 - *Atlantic Croaker* 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 3rd day of September, 2024 that the above referenced amendments to 7 DE Admin. Code 3500: *Tidal Finfish*, 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.



For Shawn M. Garvin
Secretary