

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	10/03/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 11/14/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

08 02 05 24

3. Name of Promulgating Authority

Department of Natural Resources

4. Name of Regulations Coordinator

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5. Name of Person to Call About this Document

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6. Check applicable items:

- New Regulations
 - Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: 08/06/2014.
 - Repeal of Existing Regulations
 - Recodification
 - Incorporation by Reference of Documents Requiring DSD Approval
 - Reproposal of Substantively Different Text:
 - : Md. R
 - (vol.) (issue) (page nos) (date)
- Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

- Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.
- OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Shara Mervis Alpert, Assistant Attorney General, (telephone #410-260-8358) on October 3, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Eileen C. Mosley

Title

Regulations Coordinator

Telephone No.

410-260-8107

Date

October 3, 2014

Title 08
DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

Authority: Authority: Natural Resources Article, §§4-2A-03 and 4-701, Annotated
Code of Maryland

Notice of Proposed Action

[]

The Secretary of Natural Resources proposes to amend Regulation .24 Spiny Dogfish under COMAR 08.02.05 Fish.

Statement of Purpose

The purpose of this action is to change the declaration period and operator requirements for the spiny dogfish landing permit.

The proposed action amends the declaration period for the spiny dogfish landing permit. The current declaration period is from March 1 to March 31. This action will extend the beginning of the declaration period to coincide with the license renewal period, which begins on August 1. The purpose of this action is to allow permittees to have flexibility in their business decisions. Some permittees would like to be able to declare for the fishery at the same time as they renew their license, thereby saving them multiple trips to the regional service centers. Other permittees would like to be able to wait until March, right before the fishery begins, to better determine if they will be using the permit that season. This action therefore will allow for business flexibility within the spiny dogfish fishery.

The proposed action also clarifies the requirements for an operator. A licensee with a spiny dogfish landing permit may name an operator to act as an agent of the permittee in the harvest of spiny dogfish. The spiny dogfish workgroup requested that a permittee be limited to naming no more than two operators during a permit year. The assignment may be changed one time during the permit year. Only the person specified on the permit would be able to fish in place of the permittee. The workgroup requested this to allow flexibility due to changes in personnel availability.

Changes to both the declaration period and the operator specifications were discussed with the Spiny Dogfish Workgroup and the Tidal Fisheries Advisory Commission.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

Allowing the change of an operator may economically benefit the commercial spiny dogfish harvesters.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
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A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
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D. On regulated industries or trade groups:		
(1) Declaration Period Change	NONE	
(2) Operator Requirements	(+)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D(1). These regulations change the declaration period for the spiny dogfish landing permit. Permit holders will have the opportunity to declare for their permit when they renew their licenses, or they may declare for their permit at any point before the old deadline. There is not expected to be an economic impact because permit holders already frequent the regional service centers where these transactions must occur.

D(2). The current practice and understanding of the workgroup is that the operator must be named on their permit. The proposed amendment would keep with the current practice. However, being able to change the name of the operator once during the permit year may benefit harvesters. This regulation would allow for a commercial fishing business to continue to harvest in cases when the owner or original operator could not. This flexibility allows for more harvest than would be possible without the flexibility, the actual amount cannot be calculated since it is not known who would take advantage of this or how often this will happen.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Spiny Dogfish Regulations, Regulatory Staff, Fisheries Service, B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisherispubliccomment.dnr@maryland.gov, or fax to 410-260-8310.

Comments will be accepted through December 15, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

No additional funds are necessary to implement these regulations. Staff is already processing permits and these changes will not add to that process.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

Attached Document:

.24 Spiny Dogfish.

A.—C. (text unchanged)

D. Spiny Dogfish Landing Permit Declaration.

(1) In order to obtain a spiny dogfish landing permit, a tidal fish licensee shall declare their intent to fish for spiny dogfish by [October 1, 2013, and thereafter] *paying the permit fee in accordance with Natural Resources Article, §4-*

701, *Annotated Code of Maryland* between [March] August 1 and March 31 of the following year, dates inclusive [of each year].

(2) A tidal fish licensee who has not declared by [October 1, 2013, or] March 31 [of subsequent years] may apply to the Director of Fisheries Service, provided the licensee *has not declared late in either of the 2 preceding years and shows good reason why the application should be processed*[:

(a) Until October 14, 2013; or

(b) If the licensee has not declared late in either of the 2 preceding years], until April 14 of the current year, or the next business day if April 14 occurs on a weekend.

(3)—(6) (text unchanged)

E. Spiny Dogfish Landing Permit.

(1)—(5) (text unchanged)

[(6) Operators.

(a) An operator means an individual who is not a permittee and who acts as an agent of a permittee.

(b) The name of the vessel on which the operator is working shall be declared on the Maryland spiny dogfish landing permit.

(c) An operator may catch, possess, or land spiny dogfish for commercial purposes on a vessel owned by a permittee if they are in possession of that permittee's permit.]

[(7)] (6) Temporary transfers of spiny dogfish landing permits are not permitted.

F. Operators.

(1) An operator means an individual who:

(a) Is licensed to catch or land fish for commercial purposes in accordance with *Natural Resources Article, §4-701, annotated Code of Maryland*;

(b) Is not a permittee; and

(c) Acts as an agent of a permittee.

(2) The name of the vessel on which the operator is working shall be declared on the Maryland spiny dogfish landing permit.

(3) A permittee may allow one operator to use the permittee's spiny dogfish landing permit if the permittee identifies the operator to the Department.

(4) A permittee may change the identified operator once each permit year.

(5) When engaged in permitted activities, an operator shall be:

(a) In possession of the permittee's spiny dogfish landing permit; and

(b) On the vessel declared on the spiny dogfish landing permit.

[F.] G. — [H] I. (text unchanged)

JOSEPH P. GILL

Secretary of Natural Resources