

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	02/27/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 4/3/2015

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

Eileen C Mosley

Telephone Number

410-260-8107

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Tawes State Office Building, 580 Taylor Avenue, C-4

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5. Name of Person to Call About this Document

Tamara O'Connell

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6. Check applicable items:

- New Regulations
- Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: 2/2/2015.
- 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 February 24, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Mark J. Belton

Title

Acting Secretary of Natural Resources

Telephone No.

410-260-8100

Date

February 25, 2015

Title 08
DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.05 Fish

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

Notice of Proposed Action

[]

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

Statement of Purpose

The purpose of this action is to require that fins remain attached naturally to spiny dogfish through landing.

Spiny dogfish are a highly migratory species of shark found in both federal and state waters. State waters extend from 0-3 miles offshore of the United States, while federal waters are 3-200 miles offshore. State and federal waters are managed through different processes.

National Oceanographic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries) is responsible for implementing management in federal waters. The Atlantic States Marine Fisheries Commission (Commission) is responsible for management of spiny dogfish in state waters (0- 3 miles offshore). The Commission is a collaborative entity of the Atlantic coast states from Maine to Florida and is governed by the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA). Maryland is included in the Commission fishery management plan and must comply with certain provisions contained in that plan. Spiny dogfish are currently managed under the Interstate Fishery Management Plan for Spiny Dogfish (2002) and Addenda I – V.

In 2010, Congress passed the Shark Conservation Act, which addressed the practice of removing fins from sharks, including spiny dogfish, at sea. NOAA Fisheries has recently adopted a final rule implementing these changes. In order to maintain consistency in rules for federal and state waters, the Atlantic States Marine Fisheries Commission approved Addendum V to the Spiny Dogfish Fisheries Management Plan adopting the ban on removing fins at sea. Before this addendum was approved, some states, including Maryland, allowed removal of the fin at sea up to 5%, by weight, of the catch. The proposed action allows for removing the head and gutting spiny dogfish at sea, but fins, including the tail, will be required to remain naturally attached through landing.

Changes were discussed with the Spiny Dogfish Workgroup and the Tidal Fisheries Advisory Commission. Both groups support the action. Maryland fishermen that harvest spiny dogfish do not remove the fins until they are on land; therefore, this action does not have an impact on Maryland fishermen.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

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, Department of Natural Resources, Fisheries Service, B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through June 1, 2015. 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 funds are necessary to implement the regulations. Spiny dogfish regulations are already being enforced and this does not implement additional requirements.

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

Maryland fishermen that harvest spiny dogfish do not remove the fins until they are on land. Since fishermen are not processing spiny dogfish fins at sea, there will not be any financial impacts for the fishermen or dealers.

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

Maryland fishermen that harvest spiny dogfish do not remove the fins until they are on land. Since fishermen are not processing spiny dogfish fins at sea, there will not be any financial impacts for the fishermen or dealers.

G. Small Business Worksheet:

Attached Document:

.24 Spiny Dogfish.

A. Finning Prohibition.

(1)—(2) (text unchanged)

[(3) An individual may not possess spiny dogfish fins without carcasses aboard a vessel.

(4) Fins may be removed at sea but shall be landed in proper proportion to the number of carcasses landed.

(5) An individual may not possess or land spiny dogfish fins which constitute more than 5 percent by weight of any catch of spiny dogfish.]

(3) *Spiny dogfish shall be landed with the tail and fins attached naturally to the corresponding carcass.*

(4) *An individual may remove the head and eviscerate a spiny dogfish at sea, as long as the tail and fins remain attached by a portion of uncut skin.*

B.—H. (text unchanged)

MARK J. BELTON

Acting Secretary of Natural Resources