

Notice of Agency Rule-making Proposal

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 50 Spiny Dogfish and Coastal Sharks

TYPE OF RULE (*check one*): Routine Technical Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY: A 2017 assessment found the North Atlantic shortfin mako shark stock to be overfished and experiencing overfishing. In response, NOAA Fisheries implemented measures which aim to achieve at least a 75% reduction in US shortfin mako shark landings. Currently, North Atlantic shortfin mako sharks are not included in the definition of 'Coastal Sharks' in the Department's Chapter 50 regulations. As a result, the regulations are silent on the retention of this species. This rule proposes adding North Atlantic shortfin mako sharks to the list of species included under 'Coastal Sharks'. Given Chapter 50 prohibits the take of species defined as 'Coastal Sharks', this proposed rule would prohibit the taking of North Atlantic shortfin mako sharks in Maine's territorial waters.

Date, time and location of PUBLIC HEARING (*if any*): None scheduled

COMMENT DEADLINE: July 3, 2020

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, e-mail*):

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CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*): Same

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): None

STATUTORY AUTHORITY FOR THIS RULE: 12 M.R.S.A. §6171

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different*): Same

AGENCY WEBSITE: <http://www.maine.gov/dmr/rulemaking/>

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* Check one of the following two boxes.

X The summary provided above is for publication in both the newspaper and website notices.

The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rule-making notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.

DEPARTMENT OF MARINE RESOURCES

Chapter 50 Spiny Dogfish and Coastal Sharks

50.01 Definitions

1. "Coastal Sharks" means for the purpose of these regulations any the following species of shark caught in Maine's territorial waters: sand tiger, bigeye, whale, basking, white, dusky, bignose, Galapagos, night, reef, narrowtooth, Caribbean sharpnose, smalltail, silky, Atlantic angel, longfin mako, bigeye thresher, sharpnose sevengill, bluntnose sixgill, sandbar, ~~and bigeye sixgill sharks,~~ and North Atlantic shortfin mako sharks.
2. "Finning" means the act of taking a spiny dogfish, porbeagle or other coastal shark, removing the fins, and returning the remainder of the spiny dogfish, porbeagle or other coastal shark to the sea.
3. "Spiny dogfish" means the genus and species *Squalus acanthias*.
4. "Porbeagle shark" means the genus and species *Lamna nasus*,

50.02 Harvest, Possession and Landing Restrictions

A. Spiny Dogfish

When the annual Atlantic Marine Fisheries Commission quota for spiny dogfish is reached it shall be unlawful to fish for, take, have in possession or land spiny dogfish, taken from Maine territorial waters. Persons shall be informed by public notice in a newspaper with statewide circulation when the annual quota for spiny dogfish taken from Maine territorial waters has been reached. This is in accordance with the annual quota established by the Atlantic States Marine Fisheries Commission.

(1) Exception

- (a) This rule shall not apply to vessels or individuals who harvest or possess dogfish for research or biomedical use, provided such vessels or individuals have a permit from the Commissioner of Marine Resources.
- (b) Any person may fish for, take, possess, or transport one dogfish per day provided that the dogfish is for personal use only.

(2) Spiny Dogfish Trip Limit

Effective September 8, 2014, it is unlawful to harvest, land or possess more than 5,000 pounds of spiny dogfish per calendar day or 24-hour period when the Maine territorial waters are not closed to the taking of dogfish in accordance with Chapter 50.02(A).

B. Porbeagle shark

- (1) The commercial harvest of porbeagle sharks is prohibited in Maine's territorial waters.
- (2) When the quota for porbeagle shark is reached in federal waters it shall be unlawful to fish for, take, have in possession or land porbeagle shark in Maine. Persons shall be informed by public notice in a newspaper with statewide circulation when the annual quota for porbeagle shark taken from federal waters has been reached. This is in accordance with the Interstate Fisheries Management Plan for Atlantic Coastal Sharks established by the Atlantic States Marine Fisheries Commission.

C. Coastal Sharks

The take of Coastal Sharks, as defined in Chapter 50.01(1), is prohibited in Maine's territorial waters.

50.03 Spiny Dogfish Endorsement for Dealers, License for Harvesters, Reporting Requirements and Quota

A. Harvester License and Dealer Endorsement

- (1) Commercial harvesters must obtain a Commercial Pelagic and Anadromous Fishing License in order to participate in this fishery.
- (2) Wholesale license-holders must obtain a dogfish buying endorsement before April 15th in order to participate in this fishery.

B. Reporting: See Chapter 8. Future license or endorsements will be dependent upon reporting compliance.

C. Quota: Fishing for spiny dogfish is subject to the annual quota specified by the ASMFC and NMFS Spiny Dogfish specifications. The annual quota is established annually by May 1st for the fishing year.

50.04 Shark, Dealers

A. Dealer permit requirement

Maine Wholesale license-holders who purchase Coastal sharks or porbeagle shark must obtain a federal dealer permit.

50.10 Finning Prohibited

Finning is prohibited in Maine territorial waters. Vessels that land spiny dogfish, porbeagle or coastal sharks must have the head, fins and tails attached naturally to the carcass through landing. The porbeagle, coastal shark or dogfish may be bled.

Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE: Chapter 50 Spiny Dogfish and Coastal Sharks

STATUTORY AUTHORITY: 12 M.R.S.A. §6171

DATE AND PLACE OF PUBLIC HEARING(S): none

COMMENT DEADLINE: July 3, 2020

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [see §8057-A(1)(A)&(C)]

The regulation is intended to add North Atlantic shortfin mako sharks to the definition of 'Coastal Sharks' in Chapter 50. As a result, the taking of North Atlantic shortfin mako sharks will be prohibited in Maine's territorial waters.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? ___ YES ___ X NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [see §8057-A(1)(B)&(D)]

This rule will prohibit the taking of North Atlantic shortfin mako sharks in Maine's territorial waters.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [see §§8057-A(1)(E) & 8063-B]: The Department considered National Marine Fisheries Service's Amendment 11 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan as well as action by the Atlantic States Marine Fisheries Commission to change recreational measures for Atlantic shortfin mako sharks in state waters.

ESTIMATED FISCAL IMPACT OF THE RULE: [see §8057-A(1)(C)]

Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

[see §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: [see §8057-A(2)(B)]

BENEFITS OF THE RULE: [see §8057-A(2)(C)]

Note: If necessary, additional pages may be used.