

MARK WILLIAMS
COMMISSIONER

DOUG HAYMANS
DIRECTOR

November 20, 2017

MEMORANDUM

TO: Board of Natural Resources

FROM: Doug Haymans

SUBJECT: Briefing on proposed amendments to the Saltwater Fishing Regulations, Chapter 391-2-4

The Coastal Resources Division is proposing amendments to the Rules of the Georgia Department of Natural Resources, Saltwater Fishing Regulations, Chapter 391-2-4. The proposed amendments will ensure the State of Georgia's compliance with the Atlantic States Marine Fisheries Commission (ASMFC) Interstate Fishery Management Plan for Atlantic Migratory Group Cobia.

I respectfully submit the following information in support of a request for approval to initiate rulemaking:

- Public Notice Page A 2
- Background and Synopsis Page A 3 thru 4
- Date, time and place of Board action Page A 5
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DH

Attachments

MARK WILLIAMS
COMMISSIONER

DOUG HAYMANS
DIRECTOR

December 7, 2017

NOTICE OF PROPOSED REGULATION CHANGES

TO: All Interested Persons and Parties

FROM: Doug Haymans

SUBJECT: Notice of Rule Making for Saltwater Fishing Regulations

Notice is hereby given that, pursuant to authority set forth below, the Georgia Department of Natural Resources proposes an amendment to the Rules of Georgia Department of Natural Resources Coastal Resources Division, Chapter 391-2-4, Saltwater Fishing Regulations. This is a notice of proposed amendments to the rules to reflect the deliberations of the Coastal Committee of the Board of Natural Resources at its December 6, 2017 meeting.

These amendments are being promulgated under the authority of Title 27, Sections 27-1-4 and 27-4-10 of the Official Code of Georgia, Annotated. The proposal would increase the minimum size of cobia from 33 inches, fork length to 36 inches, fork length and would decrease the possession limit from the current two per person per day to one per person per day. It will also establish a vessel limit of six cobia. These changes will apply to both recreational and commercial fishers. The amendments also establish a cobia fishing season and include a definition of “landed.” Finally, the rule will be shortened by deleting content regarding restrictions on the sale of specific federally-managed fish species and substituting content that addresses the sale of all federally-managed fish species except sharks which are addressed separately.

Written public comment will be received through Monday, January 8, 2018. Comments should be legible, concise and limited to the proposed rule change.

Following the comment period, the Board of Natural Resources will consider the proposed rule on January 26, 2018 at 9:00 AM at the Westin Jekyll Island located at 110 Ocean Way, Jekyll Island, GA, 31527.

Mail or email comments to: Doug Haymans, Coastal Resources Division
One Conservation Way, Brunswick, GA 31520.
doug.haymans@dnr.ga.gov

Additional information is available at www.CoastalGaDNR.org. Scroll down to the “Public Notice” section.

Chapter 391-2-4

Saltwater Fishing Regulations

**BACKGROUND AND SYNOPSIS OF
PROPOSED AMENDMENTS TO THE RULES OF THE
GEORGIA DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
RELATING TO
CHAPTER 391-2-4, SALTWATER FISHING REGULATIONS**

Background

The cobia (*Rachycentron canadum*) is a saltwater fish highly prized by anglers for its attributes as a game fish and by seafood consumers as table fare. Cobia present a seasonal fishing opportunity for Georgia fishers with peak abundance in the waters offshore Georgia during April through June and infrequent but possible catches during the July through October period. The majority of cobia harvested by Georgia fishers come from federal waters of the Atlantic Ocean eastward of the State of Georgia territorial sea. During 2011 through 2015, Georgia recreational anglers harvested an estimated average of 62,600 pounds of cobia per year. However, recreational landings estimates are imprecise due to the difficulties associated with the seasonal nature of the fishery and intercepting anglers who fish for cobia. For instance, no cobia were encountered during angler surveys in 2016 yet angler reports on social media indicated that many cobia were harvested by Georgia anglers that year. Commercial landings are minimal and confidential due to state and federal requirements.

Cobia along the Atlantic Coast have been managed by the National Marine Fisheries Service (NMFS) through the federal Magnuson-Stevens Act since 1990 and by states that have chosen to regulate the species. The State of Georgia has regulated the harvest of cobia since 1989. However, until recently, there has been no cooperative interstate management of the species although nearly 80% of harvest occurs in state territorial waters except for the states of Georgia and South Carolina. Based on genetic studies, cobia found along the Atlantic Coast have been separated into two federal management units: Atlantic Migratory Group Cobia are fish caught from the state and federal waters from Georgia to New York and fish caught off the east coast of Florida are Gulf of Mexico Migratory Group Cobia. The annual catch limit for Atlantic Migratory Group Cobia is 670,000 pounds of which 620,000 pounds is allocated to recreational harvest and the remaining 50,000 pounds allocated to commercial harvest.

Coincidentally and concurrent with establishment of the Atlantic Coast cobia management units there was a marked increase in estimated recreational harvest of cobia within the state waters of North Carolina and Virginia. This resulted in the annual catch limit for Atlantic Migratory Group Cobia being exceeded by 947,000 pounds in 2015 and 715,000 pounds in 2016. On June 20, 2016, NMFS closed federal waters of the Atlantic Ocean to Atlantic Migratory Group Cobia harvest for the remainder of 2016 and again on January 24, 2017 for the duration of 2017. NMFS took this action to reduce the likelihood that the annual catch limit for Atlantic Migratory Group Cobia would be exceeded.

The closure of federal waters effectively denied Georgia anglers the opportunity to harvest cobia during 2017. South Carolina was affected more severely by the closure since their state law mirrors federal regulations. Meanwhile, Virginia and North Carolina continued to harvest cobia from their state waters, albeit with modified fishing regulations intended to constrain harvest. The lack of consistency in fishing regulations amongst states with cobia fisheries and the ongoing risk of

exceedance of the federal annual catch limit prompted federal fishery managers to request the Atlantic States Marine Fisheries Commission (Commission), a voluntary compact of Atlantic Coast states, develop an Atlantic Migratory Group Cobia management plan. If approved, this plan would require member states to regulate the harvest of cobia in such a manner as to prevent harvest in excess of the annual catch limit.

The Commission's Interstate Fishery Management Plan for Atlantic Migratory Group Cobia (hereafter referred to as Plan) was adopted on November 14, 2017. Georgia signed the Commission's interstate compact in 1943 and has since been under an affirmative pledge to aid in the development of interstate regulations and as a member state to comply with the requirements of interstate fishery management plans.

The Plan stipulates that the 620,000 pound annual catch limit be divided as follows: Georgia - 58,311 pounds; South Carolina - 74,885 pounds; North Carolina - 236,316 pounds; and Virginia - 244,292 pounds. The plan requires each state to adopt fishing regulations that will result in the annual harvest being at or below the aforementioned numbers. Each state must have recreational fishing regulations that match or are more conservative than the following requirements: minimum size of 36 inches, fork length, a possession limit of one fish per person, and a vessel limit not to exceed six fish. Each state must also propose a season to complement the size and possession regulations.

The Plan allows states to maintain the following for commercial fishing: minimum size of 33 inches, fork length, a possession limit of two fish per person, and a vessel limit of six fish. The federal annual catch limit of 50,000 pounds is allocated to the entire commercial fishery from Georgia through New York. The commercial cobia fishery will close once the annual catch limit is reached.

The proposed amendments to rule 391-2-4-.04 Saltwater Fishing adds the same definition for "landed" found in 391-2-4-.09, and increases the minimum size for cobia from 33 inches, fork length to 36 inches, fork length. The proposed amendments decrease the daily creel and possession limit from two cobia per person to one cobia per person per day and establishes a maximum vessel limit of six cobia per vessel per day. The amendments establish a fishing season for cobia of March 1 through October 31. The proposed size, possession and vessel limits will apply to recreational and commercial fishers. Finally, the proposed amendments will shorten the rule by deleting content regarding restrictions on the sale of specific federally-managed fish species and substituting content that addresses the sale of all federally-managed fish species except sharks which are addressed separately. This substitution will allow the commercial fishing season to remain open until the federal commercial quota is met and the season closed.

Purpose

The purpose of the proposed amendments is to align State of Georgia fishing regulations with those required in the Interstate Fishery Management Plan for Atlantic Migratory Group Cobia. The proposed changes to regulations will constrain harvest to the annual catch limit set for Georgia and will aid enforcement of state and federal regulations.

Main Features

The primary feature of the proposed amendment is to increase the minimum size limit for cobia, decrease the possession limit for cobia and set a fishing season for cobia. The amendment also adds a definition for “landed.”

Differences

This proposal amends one rule by the following:

Sub-paragraph (2). Amends definitions by adding (a.1) “landed.” Adding this definition links Rule 391-2-4-.04 to Rule 391-2-4-.09 Commercial Fishing. Requirements for Keeping and Reporting Records. Each rule will share the same definition for “landed.”

Sub-paragraph (3)(h). Seasons, Daily Creel and Possession Limits, Minimum and Maximum Size Limits. Cobia. A fishing season of March 1 through October 31 is established. The minimum size is increased from 33 inches, fork length to 36 inches, fork length. The daily creel and possession limit is decreased from two cobia per person to one cobia per person per day and maximum vessel limit of six cobia per vessel per day is established.

Sub-paragraph (4)(c). Restrictions on Sale. The sub-paragraph is amended such that the sale of any federally-managed species of fish, including cobia, is prohibited when federal commercial harvest of that species is prohibited. This amendment thereby creates a distinction in fishing seasons for recreational and commercial fishers. Sub-paragraph (3)(h) establishes a season for cobia fishing but sub-paragraph (4)(c) will allow commercial cobia fishing outside of this season if federal commercial harvest is allowed.

Date, Time, and Place of Board Action:

Board Action: January 26, 2017 at 9:00 AM at the Westin Jekyll Island located at 110 Ocean Way, Jekyll Island, GA, 31527.

Minimal Public Participation Plan

Amendments to Saltwater Fishing Regulations, Chapter 391-2-4-.04, Saltwater Finfishing. A minimal public participation plan was chosen as the issue has been thoroughly vetted through both the federal and interstate public comment processes including meetings in Georgia. Additionally, the Interstate Fishery Management Plan for Atlantic Migratory Group Cobia requires compliance through the proposed actions in order to maintain a fishery in Georgia.

- 2016 and 2017 federal and interstate cobia plans amended and/or developed with public comment available to citizens of Georgia

- November 13, 2017 – CRD drafts proposed amendment
- December 6, 2017– Brief the Board of Natural Resources on proposed amended Rule.
- December 7, 2017 – Public Notice issued with comment period announced.
- January 8, 2018 – Public comment period closes.
- January 26, 2018 - CRD presents the final draft of proposed amended Rule, taking into account public comment, to the Coastal Committee of the Board of Natural Resources.
- Assuming affirmative vote by the Coastal Committee:
 - January 26, 2018 - Board adopts amended Rule 391-2-3-.04.
 - February 1, 2018 - Commissioner’s office files amended Rule with Secretary of State to be effective no later than March 1, 2018.



DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION
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MARK WILLIAMS
COMMISSIONER

DOUG HAYMANS
DIRECTOR

November 20, 2017

MEMORANDUM

TO: Board of Natural Resources

FROM: Doug Haymans

SUBJECT: Economic Impact of Proposed Amended Rule on Small Businesses:
Chapter 391-2-4, Saltwater Fishing Regulations

The Administrative Procedures Act requires that during the formation and adoption of any rules attempts shall be made to reduce the economic impact of the rules on small businesses. This applies to businesses that are independently owned and operated, are not dominant in the field and employ 100 employees or less.

The Coastal Resources Division has determined that the proposal to increase the minimum size for cobia, reduce the possession limit and establish a fishing season should have no negative economic impact on small businesses. On the contrary, a higher abundance of cobia should lead to overall greater angler satisfaction with concomitant positive benefits to small businesses that provide products and services to saltwater anglers.

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**RULES
OF
GEORGIA DEPARTMENT OF NATURAL RESOURCES
COASTAL RESOURCES DIVISION**

CHAPTER 391-2-4

SALTWATER FISHING REGULATIONS

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391-2-4-.04 Saltwater Finfishing

391-2-4-.04 Saltwater Finfishing.

(1) **Purpose.** The purpose of these Rules is to implement the authority of the Board of Natural Resources to promulgate rules and regulations based on sound principles of wildlife research and management, establishing the seasons, methods of fishing, and disposition; size, possession, and creel limits; and gear and landing specifications for certain finfish.

(2) **Definitions.**

(a) "Daily creel limit" means the lawful amount of a species of finfish that a person may take in one day or possess at any one time, except at one's place of abode or at a commercial storage facility provided the Board has not prohibited sale of that species.

(a.1) "Landed" means to bring fish to shore in this state, regardless of the jurisdiction from which they were taken or harvested.

(b) "Minimum size" means the species' specific size in length, specified as fork length, lower jaw fork length or total length, below which size it is unlawful to possess that finfish species.

(b.1) "Maximum size" means the species' specific size in length, specified as fork length, lower jaw fork length or total length, above which size it is unlawful to possess that finfish species.

(c) "Open Season" means that specified period of time during which one may take from any of the waters of this state certain finfish species.

(d) "Sharks" means all species of sharks other than those comprising the small shark composite as defined in subparagraph 2(e), hammerhead sharks as defined in subparagraph 2(g), and prohibited sharks as defined in subparagraph 2(h).

(e) "Small Shark Composite" means a group of sharks inclusive of Atlantic sharpnose shark (*Rhizoprionodon terraenovae*), bonnethead (*Sphyrna tiburo*), and spiny dogfish (*Squalus acanthias*).

(f) "Handline" means a mainline to which no more than two hooks are attached and which is retrieved by hand without the aid of mechanical devices.

(g) "Hammerhead Sharks" means a group of sharks inclusive of great hammerhead (*Sphyrna mokarran*), scalloped hammerhead (*Sphyrna lewini*) and smooth hammerhead (*Sphyrna zygaena*).

(h) "Prohibited Sharks" means a group of sharks inclusive of sand tiger (*Carcharias Taurus*), sandbar shark (*Carcharhinus plumbeus*), silky shark (*Carcharhinus falciformis*), bigeye sand tiger (*Odontaspis noronhai*), whale shark (*Rhincodon typus*), basking

shark (*Cetorhinus maximus*), white shark (*Carcharodon carcharias*), dusky shark (*Carcharhinus obscurus*), bignose shark (*Carcharhinus altimus*), Galapagos shark (*Carcharhinus galapagensis*), night shark (*Carcharhinus signatus*), reef shark (*Carcharhinus perezii*), narrowtooth shark (*Carcharhinus brachyurus*), Caribbean sharpnose shark (*Rhizoprionodon porosus*), smalltail shark (*Carcharhinus porosus*), Atlantic angel shark (*Squatina dumeril*), longfin mako (*Isurus paucus*), bigeye thresher (*Alopias superciliosus*), sharpnose sevengill shark (*Heptranchias perlo*), bluntnose sixgill shark (*Hexanchus griseus*), and bigeye sixgill shark (*Hexanchus nakamurai*).

(3) Seasons, Daily Creel and Possession Limits, Minimum and Maximum Size Limits. The following species may be taken in accordance with the seasons, daily creel and possession limits, and minimum and maximum size limits set forth below, except as otherwise specifically provided herein:

SPECIES	SEASON	Daily Creel and Possession Limit	Minimum Size (inches)	Maximum Size (inches)
(a) Amberjack	All Year	1	28 FL	
(b) Atlantic croaker	All Year	25		
(c) Atlantic sturgeon	No Open Season has been established by the Board of Natural Resources.			
(d) Black drum	All Year	15	14 TL	
(e) Black sea bass	All Year	15	12 TL	
(f) Blue marlin	No Open Season has been established by the Board of Natural Resources.			
(g) Bluefish	All Year	15	10 TL	
(h) Cobia	All Year March 1 – October 31	2 1 per person not to exceed 6 per boat.	33 36 FL	
(i) Dolphin	All Year	10 per person not to exceed 60 per boat.	20 FL	
1. Headboats with a valid certificate of inspection are allowed 10 dolphin per paying passenger.				
(j) Flounder (<i>Paralichthys spp.</i>)	All Year	15	12 TL	
(k) Gag grouper	All Year	2	24 TL	
(l) King mackerel	All Year	3	24 FL	
(m) Red Drum	All Year	5	14 TL	23 TL
(n) Red Pogy	All Year	3	14 TL	
(o) Red Snapper	All Year	2	20 TL	
(p) Sailfish	No Open Season has been established by the Board of Natural Resources.			
(q) Prohibited Sharks	Unlawful to possess.			

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(r) Sharks	All Year	1 per person or boat	54 FL	
(s) Sheepshead	All Year	15	10 TL	
(t) Small Shark Composite	All Year	1	30 FL	
(u) Spanish mackerel	All Year	15	12 FL	
1. A catch of Spanish mackerel under the minimum size limit is allowed equal to five percent by weight of the total catch of Spanish mackerel on board a trawler.				
(v) Spot	All Year	25		
(w) Spotted sea trout	All Year	15	14 TL	
(x) Tarpon	All Year	1	68 FL	
(y) Tripletail	All Year	2	18 TL	
(z) Weakfish	All Year	1	13 TL	
(aa) White marlin	No Open Season has been established by the Board of Natural Resources.			
(bb) American eel	All Year	25	9 TL	
(cc) Hammerhead Sharks	All Year	1 per person or boat	78 FL	

(4) Restrictions on Sale. It shall be unlawful for any person in this state to sell, purchase, or barter any of the following species or part thereof, except as otherwise specifically provided herein:

(a) No person operating as a dealer may buy or sell sharks, small shark composite species, and hammerhead sharks caught in state waters without first obtaining a federal Commercial Shark Dealer Permit and when state or federal quotas for species within those groups have been reached.

(b) Tarpon.

(c) ~~From April 1 through April 30, no~~ No person may sell ~~amberjack~~ any fish managed under federal law and harvested from either Georgia waters or from the South Atlantic Exclusive Economic Zone except when the catch of such fish is allowed by applicable federal law. ~~The~~ This prohibition ~~on of sale during April~~ does not apply to ~~amberjack fish that were~~ harvested, landed ashore, and sold prior to April 1 in compliance with applicable federal law and were held in cold storage by a seafood dealer or processor. This prohibition also does not apply to a seafood dealer's purchase or sale

of amberjaek fish harvested from waters ~~another management area~~ other than those of Georgia or the South Atlantic Exclusive Economic Zone, provided such fish is accompanied by documentation of legal harvest ~~outside of Georgia waters or the South Atlantic~~.

~~—(d) From March 1 through April 30, no person may sell gag grouper harvested from Georgia waters or from the South Atlantic Exclusive Economic Zone. The prohibition on sale from March 1 through April 30 does not apply to gag grouper that were harvested, landed ashore, and sold prior to March 1 and were held in cold storage by a dealer or processor. This prohibition also does not apply to a dealer's purchase or sale of gag grouper harvested from another management area other than Georgia or the South Atlantic Exclusive Economic Zone, provided such fish is accompanied by documentation of harvest outside of Georgia waters or the South Atlantic.~~

~~—(e) From January 1 through April 30, no person may sell red porgy harvested from Georgia waters or from the South Atlantic Exclusive Economic Zone. The prohibition on sale from January 1 through April 30 does not apply to red porgy that were harvested, landed ashore, and sold prior to January 1 and were held in cold storage by a dealer or processor. This prohibition also does not apply to a dealer's purchase or sale of red porgy harvested from another management area other than Georgia or the South Atlantic Exclusive Economic Zone, provided such fish is accompanied by documentation of harvest outside of Georgia waters or the South Atlantic.~~

(5) Possession and Landing Specifications.

(a) All fish subject to restrictions specified in this Rule may be possessed in state waters or landed only with head and fins intact,

except that when landed for commercial purposes, all sharks, small shark composite species, and hammerhead sharks may have the heads removed but fins and tail must remain naturally attached.

(b) It shall be unlawful to transfer at sea in State waters from a fishing vessel to any other vessel or person any fish caught which are subject to the restrictions specified in this Rule.

(c) Except as otherwise provided by law, it shall be unlawful to fish for sharks, small shark composite species, or hammerhead sharks for recreational purposes with any gear other than rod and reel or handline as defined in subparagraph (2)(f) above.

(d) Except as otherwise provided by law, trawlers fishing for shrimp for human consumption pursuant to Code Section 27-4-133 shall be exempt from the creel and possession limits for spot and Atlantic croaker.