

MARK WILLIAMS
COMMISSIONER

DOUG HAYMANS
DIRECTOR

September 12, 2019

MEMORANDUM

TO: Members, Board of Natural Resources

FROM: Doug Haymans

SUBJECT: Proposed Amendment to the Rules of the Georgia Department of Natural Resources, Saltwater Fishing Regulations, Chapter 391-2-4

The Coastal Resources Division is proposing two amendments to the Rules of the Georgia Department of Natural Resources, Saltwater Fishing Regulations, Chapter 391-2-4. The first proposed amendment will ensure Georgia's compliance with changes to the Atlantic States Marine Fisheries Commission (ASMFC) Interstate Fishery Management Plan for Atlantic Coastal Sharks approved by the Coastal Sharks Management Board during their May 2019 meeting. Georgia, as an ASMFC member, has an affirmative obligation to implement the management measures contained within this interstate fishery management plan. The second proposed amendment is a proactive change in response to the National Marine Fisheries Service listing of the Oceanic Whitetip Shark as threatened under the Endangered Species Act (March 2018).

Included in this packet are the following:

- Proposed Notice Page A-2
- Background and Synopsis Pages A-3 and 4
- Date, time and place of Board action Page A-5
- Explanation of the Minimal Public Participation Plan Page A-5
- Analysis of Small Business Impacts Page A-6
- Strike-thru Rule Pages A-7 thru 12

I respectfully submit these items for your consideration. The Coastal Resources Division looks forward to presenting these at the September meeting.

DH/cb

Attachments



MARK WILLIAMS
COMMISSIONER

DOUG HAYMANS
DIRECTOR

September 25, 2019

NOTICE OF PROPOSED REGULATION CHANGES

TO: All Interested Persons and Parties
FROM: Doug Haymans
SUBJECT: Notice of Rule Making for Saltwater Finfishing for Sharks

Notice is hereby given that, pursuant to authority contained in the Game and Fish Code (Official Code of Georgia Annotated, Title 27; O.C.G.A. §27-1-4), the Board of Natural Resources proposes to amend the Rules of the Georgia Department of Natural Resources, Saltwater Fishing Regulations, Chapter 391-2-4. The proposed amended Rule, when adopted, will first prohibit the harvest of Shortfin Mako Sharks less than 83 inches fork length; a measure required for Georgia to remain in compliance with the Atlantic States Marine Fisheries Commission (ASMFC) Interstate Fishery Management Plan for Atlantic Coastal Sharks. Second, the proposed amendment will prohibit the harvest of Oceanic Whitetip Shark. This action is proactive in nature as Oceanic Whitetip Sharks were listed as threatened under the Endangered Species Act in March 2018.

Written public comment will be received through Friday, November 1, 2019. Mailed comments must be postmarked by November 1st and e-mailed comments will be accepted through close of business (4:30 pm) on November 1st. Comments should be legible, concise and limited to the proposed rule change.

Following this comment period, the Board of Natural Resources will consider the proposed rules on December 4, 2019 at 10:00 AM at the Lake Blackshear Resort, 2450-H US Hwy 280 West, Cordele, GA 31015.

Mail or email comments to: Carolyn Belcher
Coastal Resources Division
One Conservation Way
Brunswick, GA 31520
carolyn.belcher@dnr.ga.gov

Additional information is available at www.coastalgadnr.org. Click in the “Quick Links”.

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

Background

On May 1, 2019 the Atlantic States Marine Fisheries Commission (ASMFC), of which Georgia is a member, approved changes to the Interstate Fishery Management Plan for Atlantic Coastal Sharks (hereafter referred to as Interstate Shark Plan). The plan recognizes that coordinated state-federal management is essential for establishing healthy self-sustaining populations of Atlantic coastal shark species. ASMFC is ensuring that measures adopted in state waters are conservation equivalents with requirements for federal highly migratory species (HMS) permit holders under Amendment 11 to the federal shark fishery management plan. Coastal Resources Division staff provided comments to NOAA Fisheries' HMS section during the drafting of Amendment 11 and Georgia has a representative on the ASMFC Coastal Sharks Advisory Panel. Federal law requires that states comply with the terms and conditions of interstate fishery management plans promulgated by ASMFC.

Amendment 11 implemented management measures to address overfishing and rebuild the overfished North Atlantic Shortfin Mako Shark stock. These measures were based on the 2017 International Commission for the Conservation of Atlantic Tunas (ICCAT) stock assessment that determined that Shortfin Mako Sharks are overfished and experiencing overfishing. The Commission's Coastal Sharks Management Board approved changes to the recreational size limit for Atlantic Shortfin Mako Sharks in state waters, specifically, a 71-inch straight line fork length (FL) for males and an 83-inch straight line FL for females.

Because Shortfin Mako Sharks are considered a rare species in Georgia waters, Coastal Resources Division is recommending a more conservative management approach for Shortfin Mako Sharks by limiting the size of individuals greater than 83 inches regardless of sex. This measure is related to angler safety when trying to identify the sex of such large fish. It will also allow for Shortfin Mako Sharks recreationally captured in Federal waters to be landed in Georgia.

On January 30, 2018, NOAA Fisheries issued a final rule adding Oceanic Whitetip Sharks to the threatened list under the federal Endangered Species Act. Although Oceanic Whitetip Sharks do not occur in Georgia waters, prohibiting possession in state waters would restrict shark fishermen from landing this species in Georgia. Although federal regulations to further protect this species have not been enacted, Georgia would be proactive in acknowledging the status change through this proposed regulatory change.

Purpose

The purpose of the proposed amended Rule is to: (1) assure Georgia's full compliance with the Interstate Shark Plan by protecting Shortfin Mako Shark from overfishing; and (2) to acknowledge the addition of Oceanic Whitetip Shark to the threatened list under the Endangered Species Act and afford the necessary protection for this species. Shark fishing is a popular recreational activity in coastal Georgia, yet many shark species are highly vulnerable to overfishing.

During 2013, the Board amended Rule 391-2-4-.04 to bring Georgia shark fishing regulations into compliance with the Interstate Shark Plan. This proposed amended Rule will implement the latest federal regulation changes and eliminate inconsistencies in shark management between state and federal jurisdictions. This will increase compliance and improve the effectiveness of state and federal conservation law enforcement.

Main Features

The primary features of the proposed amendment are the addition of "Shortfin Mako Shark" to subparagraph 3 with an 83-inch minimum size and the addition of "Oceanic Whitetip Shark" to subparagraph 2(h), prohibited list.

Differences

Enumerated below are the primary differences between the current Rule 391-2-4-.04 and the proposed amended Rule:

- 1) Subparagraph (2)(d) Definition of "Sharks," is proposed to be amended to state that the individually managed species such as the Shortfin Mako Shark are not included in the generic "Shark" grouping;
- 2) Subparagraph (2)(h) Definition of "Prohibited Sharks" is proposed to be modified to include Oceanic Whitetip Shark (*Carcharhinus longimanus*) as prohibited from harvest;
- 3) New subparagraph (3)(dd) is proposed to be created to implement a recreational 83-inch fork length limit for Shortfin Mako Sharks;
- 4) Subparagraph (4)(a) is proposed to be amended such that Shortfin Mako Sharks are included with sharks requiring a federal dealer permit to buy or sell;
- 5) Subparagraph (5)(a) is proposed to be amended such that Shortfin Mako Sharks are included with shark species allowed to have heads removed but fins and tail naturally attached; and
- 6) Subparagraph (5)(c) is proposed to be amended such that Shortfin Mako Sharks are included with sharks harvestable only by rod and reel or handline.

Date , Time, and Place of Board Action:

Board Action: December 4, 2019, 10:00 AM, at the Lake Blackshear Resort, 2450-H US Hwy 280 West, Cordele, GA 31015.

**Minimal Public Participation Plan
Amendment to Saltwater Fishing Regulations, Chapter 391-2-4**

On May 1, 2019, the Interstate Fishery Management Plan (ISFMP) for Atlantic Coastal Sharks was modified by the Atlantic States Marine Fisheries Commission (ASMFC). As an ASMFC member, Georgia has an affirmative obligation to adopt compatible management measures for Atlantic coastal sharks when they are deemed to be consistent with the interests of the state.

Additionally, on January 30, 2018, NOAA Fisheries issued a final rule adding Oceanic Whitetip Sharks to the threatened list under the federal Endangered Species Act. Although federal regulations to further protect this species have not been enacted, Georgia would be proactive in acknowledging this status change.

A minimal public participation plan was selected because the magnitude of change resulting from the proposed amendments should have little impact on recreational fishers, fishing-related businesses or the general public.

Public Participation Plan

- January 30, 2018 - NOAA Fisheries issues final rule adding Oceanic Whitetip to the threatened list under the Endangered Species Act.
- May 1, 2019 – ASMFC approved changes to the ISFMP for Atlantic Coastal Sharks.
- August 2019 - CRD drafts proposed amendments to Rule 391-2-4-.04.
- September 24, 2019 - CRD presents proposed amended Rule 391-2-4-.04 to the Board of Natural Resources, Coastal Committee.
- September 25, 2019 - Pending Committee approval, CRD Public Notices a written comment period. Public Notices will advertised through various print media, Gov Delivery and on the CRD website.
- November 1, 2019 – Public comment period closes.
- December 4, 2019 - CRD presents final draft of proposed amended Rule, considering public comment, to the Coastal Committee of the Board of Natural Resources.
 - Assuming affirmative vote by the Coastal Committee:
 - Board adopts amended Rules 391-2-4
 - Commissioner’s office files amended Rule with the Secretary of State such that the rules become effective on January 1, 2020.



MARK WILLIAMS
COMMISSIONER

DOUG HAYMANS
DIRECTOR

September 12, 2019

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 those 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.

Neither Shortfin Mako Shark nor Oceanic Whitetip Shark occur in Georgia waters. As such, the proposed size limit change for Shortfin Mako Shark and the possession prohibition for Oceanic Whitetip Shark should have no negative impacts on small business. If anything, the net long-term consequence should be positive as the proposed rule will help conserve these species of sharks thereby ensuring future fishing opportunities.

DH/cb

**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.

(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), and individual species regulated by this rule.

(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 sandtiger (*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*

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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*), and oceanic whitetip shark (*Carcharhinus longimanus*).

(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	2	33 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 Porgy	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.			
(r) Sharks	All Year	1 per person or boat	54 FL	
(s) Sheepshead	All Year	15	10 TL	

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(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	13 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	
(dd) Shortfin Mako Shark	All Year	1 per person or boat	83 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, and shortfin mako 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 person may sell amberjack harvested from Georgia waters or from the South Atlantic Exclusive Economic Zone. The prohibition on sale during April does not apply to amberjack that were harvested, landed ashore, and sold prior to April 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 amberjack harvested from another management area other than Georgia or the South Atlantic Exclusive Zone, provided such fish is accompanied by documentation of 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,~~ and shortfin mako sharks may have the heads removed but fins and tail must remain naturally attached.

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Saltwater Fishing Regulations

(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, or shortfin mako 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.