

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 903(e)(2)(a) (7 Del.C. §903(e)(2)(a))
7 DE Admin. Code 3581

PROPOSED

REGISTER NOTICE #2013-03

3581 Spiny Dogfish

1. TITLE OF THE REGULATION:

3581 Spiny Dogfish

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUE:

The purpose of this action is to amend the spiny dogfish (*Squalus acanthias*) regulation with modification to the daily commercial "take, land or possess" limit. The Department was requested to consider an increase in the "daily take, land or possess" limit from 3,000 pounds to 10,000 pounds at a recent Advisory Council on Tidal Finfisheries meeting. This request was subsequently endorsed by the Council.

The Northeast Fisheries Science Center's most recent update on the status of spiny dogfish found that the population is not overfished and overfishing is not occurring. Spawning stock biomass has exceeded target levels for the past five years. In response, the Atlantic States Marine Fisheries Commission (ASMFC) roughly doubled the annual quota for Delaware with the adoption of Addendum III to the Interstate Fishery Management Plan for Spiny Dogfish. Addendum III allows states from New York through North Carolina to set possession limits as best meets their needs.

In 2011, 30,670 pounds (17%) of Delaware's 179,200 pound quota were harvested. Spiny dogfish have a low market value and the current 3,000 pound daily limit makes it economically unfeasible for commercial harvesters to target the species. Further, spiny dogfish often occur in tremendous schools and allowing a higher daily limit would minimize discard losses and improve harvest efficiency in the gill net fishery. In recent years, the high biomass of spiny dogfish has been implicated in the decline of several ecologically and economically important species, including weakfish and herrings.

The spiny dogfish quota is monitored using mandatory catch reports and a federal dealer reporting system, making it unlikely that Delaware would exceed its quota allocation.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Delaware Code, Section 901(c & d) and Section 903(e)(2)a

5. LIST OF OTHER REGULATIONS THAT MAY BE IMPACTED OR AFFECTED BY THE PROPOSAL:

N/A

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed changes to §3581 Spiny Dogfish will be open May 1, 2013. Individuals may submit written comments regarding the proposed changes via e-mail to Lisa.Vest@state.de.us or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901 (302) 739-9042. A public hearing on the proposed amendment will be held on May 23, 2013 beginning at 6:00 pm in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901.

7. PREPARED BY:

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David E. Saveikis, Director

3581 Spiny Dogfish

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 It shall be unlawful for any commercial fisherman to harvest, land or possess any spiny dogfish, *Squalus acanthias*, in Delaware except in those sizes, seasons, and quantities permitted in accordance with the most recent version of the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for

Spiny Dogfish as amended. It shall be unlawful for any commercial fisherman to harvest, land or possess any spiny dogfish after the Atlantic States Marine Fisheries Commission approved allocation for the region which includes Delaware has been reached during any given year. It shall be unlawful to commercially harvest, land or possess spiny dogfish taken from federal waters during any time when adjoining federal waters are closed to the taking of spiny dogfish. It shall be unlawful for any commercial fisherman to take, land or possess more than ~~3,000~~ 10,000 pounds of spiny dogfish per day from Delaware waters, with a day being defined as 24 hours. Further, it shall be unlawful for any Delaware commercial fisherman to be in possession of spiny dogfish taken from federal waters in excess of the federal daily landing limit. It shall be unlawful for any person to possess the fins from any spiny dogfish prior to landing said spiny dogfish unless said fins are naturally attached to the body of said spiny dogfish. All spiny dogfish landed in Delaware for commercial purposes must be reported through the normal state reporting system.

4 DE Reg. 1859 (5/1/01)

10 DE Reg. 1724 (05/01/07)

12 DE Reg. 1517 (06/01/09)

16 DE Reg. 1151 (05/01/13) (Prop.)