

NOTICE OF PROPOSED RULEMAKING
FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF MARINE FISHERIES MANAGEMENT

RULE NO:	RULE TITLE:
68B-44.004	Practice of Finning Prohibited; Removal of Fins from Sharks Harvested in State Waters
Prohibited;	Compliance with Federal Requirements; Filleting Prohibited.
68B-44.005	Commercial Harvest of Sharks; Federal Permit Required.

PURPOSE AND EFFECT: The purpose of these rule amendments is to update references to federal regulations. The effect should be to more accurately give public notice of the extensive requirements imposed by the National Marine Fisheries Service (NMFS) on shark harvest in the Code of Federal Regulations (C.F.R.).

SUMMARY: Rule 68B-44.004, F.A.C. is amended to update references to federal regulations regarding the harvest and landing of sharks and shark fins. Rule 68B-44.005, F.A.C. is amended to update references to federal regulations regarding the federal vessel permit required for the harvest of sharks in state waters.

A STATEMENT OF ESTIMATED REGULATORY COST HAS NOT BEEN PREPARED REGARDING THESE PROPOSED RULES.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.
LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A PUBLIC RULEMAKING HEARING WILL BE HELD ON THE PROPOSED RULES AT THE TIME, DATE, AND PLACE SHOWN BELOW:

DATE AND TIME: During the regular meeting of the Commission, September 12-14, 2007, 8:30 a.m. - 5:00 p.m., each day.

PLACE: St. Petersburg Hilton, 333 First Street South, St. Petersburg, Florida.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting the ADA Coordinator, at (850) 488-6411. If you are hearing or speech impaired, please contact the agency by calling (850) 488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850) 487-0554.

THE FULL TEXT OF THE PROPOSED RULE IS AS FOLLOWS:

68B-44.004 Practice of Finning Prohibited; Removal of Fins from Sharks Harvested in State Waters Prohibited; Compliance with Federal Requirements; Filleting Prohibited.

- (1) No person shall engage in the practice of finning.
- (2) No person shall remove any fin of any shark harvested in state waters while in or on such waters or prior to the shark being landed.
- (3) Persons returning from federal Exclusive Economic Zone (EEZ) waters adjacent to state waters with sharks or shark fins harvested there shall not stop in state waters to fish and shall land any shark or shark fins in the proportion specified in 50 C.F.R. § 635.30(c) ~~678.21(a)(2)~~.
- (4) No person shall fillet any shark while in or on state waters. The possession while in or on state waters of any shark that has been sliced, divided, filleted, ground, skinned, scaled, or deboned, is prohibited. Mere evisceration or "gutting" of such fish, mere removal of gills, or removal of the heads and tails, is not prohibited.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-8-92, Amended 2-14-94, 1-1-98, Formerly 46-44.004, Amended _____.

68B-44.005 Commercial Harvest of Sharks: Federal Permit Required.

No person shall harvest sharks in or from the waters of the state for commercial purposes or sell any shark harvested from such waters unless such person is in possession of a valid federal annual vessel permit for sharks issued pursuant to 50 C.F.R. § 635.4 ~~678.4~~ or written authorization of such harvest or sale from the Regional Director of the National Marine Fisheries Service pursuant to 50 C.F.R. § 635.32 ~~678.27~~.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-8-92, Amended 2-14-94, Formerly 46-44.005, Amended _____.

NAME OF PERSON(S) ORIGINATING PROPOSED RULE: Mark Robson, Director, Division of Marine Fisheries Management.

NAME OF SUPERVISOR WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 18, 2007.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN F.A.W.: July 27, 2007.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.W.

STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE
FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF MARINE FISHERIES MANAGEMENT

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This rule is no more stringent than existing federal regulations in 50 C.F.R. Part 635 relating to sharks.

