

Sharks

PROPOSED RULE LANGUAGE

Final Public Hearing Agenda Item 5A

February 20, 2019

CHAPTER 68B-2 GENERAL

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<u>68B-2.011</u>	<u>Chumming</u>

68B-2.011 Chumming.

(1) It is unlawful for any person to place chum in the water for the purposes of fishing from a beach or wade fishing in waters immediately adjacent to a beach. This shall not be construed to prohibit the use of a baited hook when fishing with hook and line gear, placing bait in a trap authorized pursuant to 68B-4.020 in order to target marine organisms by enticing them to enter the trap, or the use of a baited trotline for the harvest of blue crab.

(2) For the purposes of this rule, “chum” means fish, fish parts, other animal products, or synthetic products created or intended to chemically or otherwise resemble animal products placed in the water for the purpose of attracting a marine organism.

(3) For the purposes of this rule, “beach” shall be defined as any area of shoreline along a body of marine or brackish water that is covered predominantly in sand, with sufficient sand above the mean high-water line to support sunbathing.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New7-1-19.

CHAPTER 68B-44 SHARKS AND RAYS

Note: Proposed changes to the Sharks and Rays chapter include substantive changes intended to address shore-based shark fishing and handling of prohibited shark species (shown in green) and non-substantive and/or clarifying changes (shown in black) proposed as part of the Marine Fisheries Rule Cleanup process. Many of these clarifying changes will be implemented via substantial rewording of existing rules that do not change the application or provisions of the rule and are therefore not shown here in strike-add format. All cases of substantial rewording are indicated in blue above the rule number. Any new provisions added to these substantially reworded rules are indicated by underlining.

68B-44.002	Definitions
68B-44.003	<u>Size Limit; Landing in Whole Condition Requirement</u> Bag Limit Applicable to State Waters, Gear Restriction
68B-44.004	<u>Bag and Vessel Limits Applicable to Florida Waters; Prohibited Species; Transit Through Florida Waters</u> Landing in Whole Condition; Transit Through State Waters
68B-44.005	<u>Commercial Closures</u> Commercial Harvest of Sharks; Federal Permit Required
68B-44.006	<u>Allowed Gear; Prohibited Gear and Methods of Harvest</u> Commercial Season; Season Closure; Prohibition of Sale
68B-44.007	<u>Sale and Purchase Requirements</u> Size Limit Applicable to State Waters

68B-44.002 Definitions.

As used in this rule chapter:

- (1) "Finned" means one or more fins, including the caudal fin (tail), are no longer naturally attached to the body of the shark. A shark with fins naturally attached, either wholly or partially, is not considered finned.
- (2) "Fork Length" means the length of a fish as measured ~~from the most forward point of the head to the rear center edge of the tail.~~
- (3) "Harvest" means ~~the catching or taking of a marine organism by any means whatsoever, followed by a reduction of such organism to possession. Marine organisms that are caught but immediately returned to the water free, alive, and unharmed are not harvested.~~
- (4) "Harvest for commercial purposes" means ~~the taking or harvesting of a marine organism for purposes of sale, barter, trade or exchange or with intent to sell, barter, trade or exchange.~~
- (5) "Land," when used in connection with the harvest of marine organisms, means ~~the physical act of bringing the harvested organism ashore.~~
- (6) "Ray" means ~~any species of the Order Rajiformes, or any part thereof.~~
- (7) "Shark" means any species of the orders Carcharhiniformes, Lamniformes, Hexanchiformes, Orectolobiformes, Pristiophoriformes, Squaliformes, Squatiniformes, including but not limited to any of the following species or any part thereof:

(a) Large coastal species:

1. Blacktip shark —(*Carcharhinus limbatus*).
2. Bull shark —(*Carcharhinus leucas*).
3. Nurse shark —(*Ginglymostoma cirratum*).
4. Spinner shark —(*Carcharhinus brevipinna*).

(b) Small coastal species:

1. Atlantic sharpnose shark —(*Rhizoprionodon terraenovae*).
2. Blacknose shark —(*Carcharhinus acronotus*).
3. Bonnethead —(*Sphyrna tiburo*).
4. Finetooth shark —(*Carcharhinus isodon*).

(c) Pelagic species:

1. Blue shark —(*Prionace glauca*).
2. Oceanic whitetip shark —(*Carcharhinus longimanus*).
3. Porbeagle shark —(*Lamna nasus*).
4. Shortfin mako —(*Isurus oxyrinchus*).
5. Thresher shark —(*Alopias vulpinus*).

(d) Smoothhound sharks:

1. Smooth ~~d~~ogfish —(*Mustelus canis*) ~~any species of the Genus *Mustelus*.~~
2. Florida smoothhound (*Mustelus norrisi*).
3. Gulf smoothhound (*Mustelus sinusmexicanus*).

(e) Atlantic angel shark (*Squatina dumeril*).

(f) Basking shark (*Cetorhinus maximus*).

(g) Bigeye sand tiger (*Odontaspis noronhai*).

(h) Bigeye sixgill shark (*Hexanchus nakamurai*).

(i) Bigeye thresher (*Alopias superciliosus*).

(j) Bignose shark (*Carcharhinus altimus*).

(k) Bluntnose sixgill shark (*Hexanchus griseus*).

(l) Caribbean reef shark (*Carcharhinus perezii*).

(m) Caribbean sharpnose shark (*Rhizoprionodon porosus*).

(n) Dusky shark (*Carcharhinus obscurus*).

(o) Galapagos shark (*Carcharhinus galapagensis*).

(p) Great hammerhead (*Sphyrna mokarran*).

- (q) Lemon shark (*Negaprion brevirostris*).
- (r) Longfin mako (*Isurus paucus*).
- (s) Narrowtooth shark (*Carcharhinus brachyurus*).
- (t) Night shark (*Carcharhinus signatus*).
- (u) Sandbar shark (*Carcharhinus plumbeus*).
- (v) Sand tiger (*Carcharias taurus*).
- (w) Scalloped hammerhead (*Sphyrna lewini*).
- (x) Sharpnose sevengill shark (*Hepttranchias perlo*).
- (y) Silky shark (*Carcharhinus falciformis*).
- (z) Smalltail shark (*Carcharhinus porosus*).
- (aa) Smooth hammerhead (*Sphyrna zygaena*).
- (bb) Spiny dogfish (*Squalus acanthias*).
- (cc) Tiger shark (*Galeocerdo cuvier*).
- (dd) Whale shark (*Rhincodon typus*).
- (ee) White shark (*Carcharodon carcharias*).

(3) “Shark fin” means any fin of a shark, including the caudal fin (tail), or any portion thereof.

(4) “Shore-based shark fishing” means targeting or harvesting any species of shark when fishing from shore, wade fishing, or fishing from any structure attached to shore, including but not limited to bridges, piers, docks, and jetties. Fishing from shore or any structure attached to shore by or with any of the following gear or methods shall constitute shore-based shark fishing regardless of the species targeted or harvested.

(a) Fishing with a metal leader greater than 4 feet in length.

(b) Using a fighting belt, fighting harness, or similar device used in conjunction with a fishing rod to give the angler a mechanical advantage when reeling in a fish.

(c) Deploying bait by any means other than casting from shore or casting while wade fishing, including but not limited to transporting or dropping the bait by or from a vessel, surf board, drone, or by swimming.

(5) “Separated,” with respect to a shark fin, means not naturally attached to the corresponding shark body through some portion of uncut skin or tissue.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 4-8-92, Amended 1-1-98, Formerly 46-44.002, Amended 1-19-10, 3-21-10, 1-1-12, 7-1-19.

(Substantial rewording of 68B-44.003 follows. See Florida Administrative Code for present text.)

68B-44.003 Size Limit; Landing in Whole Condition Requirement Bag Limit Applicable to State Waters, Gear Restriction.

(1) A person may not harvest or land from Florida Waters, or possess in or on Florida Waters, a shark that is less than 54 inches fork length, with the exception of the following species, for which there shall be no minimum size limit:

- (a) Atlantic sharpnose shark.
- (b) Blacknose shark.
- (c) Blacktip shark.
- (d) Bonnethead.
- (e) Finetooth shark.
- (f) Smoothhound sharks.

(2) Landed in Whole Condition Requirement – A person harvesting a shark shall land each shark in whole condition. A person may not possess in or on Florida Waters, on any public or private fishing pier, or on a bridge or catwalk attached to a bridge from which fishing is allowed, a shark that has been beheaded, sliced, divided, filleted, ground, skinned, finned, or had the caudal fin (tail) removed. This provision will not be construed to prohibit the evisceration (gutting) of a shark or slicing the base of the caudal fin to bleed the carcass as long as the caudal fin remains attached.

(3) Possession of Separated Shark Fins –

- (a) A person may not possess in or on Florida Waters a shark fin that has been separated from a shark.
- (b) A person may not land a shark fin that has been separated from a shark.

(4) The size limits and landing in whole condition requirement of this rule will not apply to sharks lawfully harvested commercially in federal waters when such sharks are transported directly through state waters with gear appropriately stowed. Transit shall be direct, continuous and expeditious from the place where lawful harvest occurred to the place where the vessel is regularly docked, moored, or otherwise stored or to the place of the licensed wholesale dealer where the catch is to be sold. For the purpose of this section appropriately stowed means a longline may be left on the drum if all gangions and hooks are disconnected and stowed below deck. Hooks cannot be baited. All buoys must be disconnected from the gear; however, buoys may remain on deck. A rod and reel must be stowed securely. Terminal gear (i.e., hooks, leaders, sinkers, flashers, or baits) must be disconnected and stowed separately from the fishing apparatus. Sinkers must be disconnected from the down rigger and stowed separately. Gillnets must be rolled, folded, or otherwise properly and securely stowed in sealed containers or compartments so as to make their immediate use as fishing implements impracticable.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 4-8-92, Amended 1-1-98, Formerly 46-44.003, Amended 1-19-10, 7-1-19.

(Substantial rewording of 68B-44.004 follows. See Florida Administrative Code for present text.)

68B-44.004 Bag and Vessel Limits Applicable to Florida Waters; Restrictions on Possession of Prohibited Species Prohibited Species; Landing in Whole Condition; Transit Through Florida State Waters.

(1) Recreational Bag and Vessel Limit –

(a) A recreational harvester may not harvest or land from Florida Waters more than one shark per day. A recreational harvester may not possess in or on Florida Waters more than one shark.

(b) Two or more recreational harvesters aboard a vessel in or on Florida Waters may not collectively possess or land more than two sharks, regardless of the number of persons aboard. This provision will not be construed to authorize harvest or possession of sharks in excess of the bag limit.

(2) Commercial Bag and Vessel Limit –

(a) A commercial harvester may not harvest or land from Florida Waters more than one shark per day. A commercial harvester may not possess in or on Florida Waters more than one shark.

(b) Two or more commercial harvesters aboard a vessel in or on Florida Waters may not collectively possess or land more than two sharks, regardless of the number of persons aboard. This provision will not be construed to authorize harvest or possession of sharks in excess of the bag limit.

(3) Prohibited Species –

(a) For the purposes of this rule, “prohibited species” shall include:

1. Atlantic angel shark.
2. Basking shark.
3. Bigeye sand tiger.
4. Bigeye sixgill shark.
5. Bigeye thresher.
6. Bignose shark.
7. Bluntnose sixgill shark.
8. Caribbean reef shark.
9. Caribbean sharpnose shark.
10. Dusky shark.
11. Galapagos shark.
12. Great hammerhead.
13. Lemon shark.
14. Longfin mako.
15. Narrowtooth shark.
16. Night shark.
17. Sandbar shark.
18. Sand tiger.
19. Scalloped hammerhead.

20. Sharpnose sevengill shark.
21. Silky shark.
22. Smalltail shark.
23. Smooth hammerhead.
24. Spiny dogfish.
25. Tiger shark.
26. Whale shark.
27. White shark.
28. Largetooth sawfish (*Pristis pristis*).
29. Smalltooth sawfish (*Pristis pectinata*).
30. Manta ray (species of the genera *Manta* and *Mobula*).
31. Spotted eagle ray (*Aetobatus narinari*).

(b) A person may not harvest or possess on or from Florida Waters or land in Florida any prohibited species or any part thereof.

(c) A person may not unnecessarily harm or destroy any prohibited species from Florida Waters.

(d) A person who catches a prohibited species while fishing from shore must release such prohibited species immediately at the site of capture, without unnecessary harm. Delaying the release of a prohibited species for any period of time longer than necessary to remove the hook or other fishing tackle is prohibited. The permissible temporary possession provisions provided for by 68B-2.002(2), F.A.C., do not apply to prohibited species.

(e) A person may not remove a prohibited species from Florida Waters. The gills of a prohibited species must remain submerged and the entire length of the organism must remain in the water. This subparagraph shall not be construed to prohibit temporarily lifting the head of a prohibited species from the water in order to speed removal of a hook or other fishing tackle or to require unsafe practices while fishing from shore.

(4) The bag, possession, landing, and prohibited species requirements of this rule do not apply to sharks lawfully harvested in federal waters when such sharks are transported directly through Florida Waters with gear appropriately stowed. Transit shall be direct, continuous and expeditious from the place where lawful harvest occurred to the place where the vessel is regularly docked, moored, or otherwise stored or to the place of the licensed wholesale dealer where the catch is to be sold. For the purpose of this section appropriately stowed means a longline may be left on the drum if all gangions and hooks are disconnected and stowed below deck. Hooks cannot be baited. All buoys must be disconnected from the gear; however, buoys may remain on deck. A rod and reel must be stowed securely. Terminal gear (i.e., hooks, leaders, sinkers, flashers, or baits) must be disconnected and stowed separately from the fishing apparatus. Sinkers must be disconnected from the down rigger and stowed separately. Gillnets must be rolled, folded, or otherwise properly and securely stowed in sealed containers or compartments so as to make their immediate use as fishing implements impracticable.

Rulemaking 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 10-15-07, 1-19-10, 7-1-19.

(Substantial rewording of Rule 68B-44.005 follows. See Florida Administrative Code for present text.)

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

(1) If at any time the harvest of any species of shark for commercial purposes in adjacent federal waters is closed, adjacent Florida Waters will be closed to commercial harvest of the species affected by the federal closure, from the date of such closure until federal waters are reopened to the commercial harvest of such species.

(2) If at any time the harvest of any species of shark is closed in state waters of the Atlantic Ocean for commercial purposes by the Atlantic States Marine Fisheries Commission, Florida Waters of the Atlantic Ocean from the Florida-Georgia border to the border between Miami-Dade and Monroe counties will be closed from the date of such closure until the Atlantic States Marine Fisheries Commission reopens the fishery to commercial harvest. For the purposes of this section the border between Miami-Dade and Monroe counties is defined as a line beginning on the east coast of Florida at the mainland at 25°20.400' North Latitude, proceeding due east.

(3) During any period when Florida Waters are closed pursuant to subsections (1) or (2), a commercial harvester may not harvest, possess in or on Florida Waters, or land, within the closure area, any species to which the closure applies, regardless of where harvested.

Rulemaking 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 10-15-07, 1-19-10, 7-1-19.

(Substantial rewording of Rule 68B-44.006 follows. See Florida Administrative Code for present text.)

68B-44.006 Allowed Gear; Prohibited Gear and Methods of Harvest; Required Gear ~~Commercial Season; Season Closure; Prohibition of Sale.~~

(1) A person may harvest or attempt to harvest a shark from Florida Waters only by or with the use of hook-and-line gear.

(2) The harvest of any shark from Florida Waters by or with the use of any multiple hook in conjunction with live or dead natural bait is prohibited. Snagging (snatch hooking) of a shark in or from Florida Waters is prohibited.

(3) Required gear –

(a) Non-stainless-steel circle hooks. A person targeting or harvesting sharks from Florida Waters must use non-stainless-steel circle hooks when fishing with live or dead natural bait. “Circle hook” means a fishing hook designed and manufactured so that the point is not offset and is turned perpendicularly back to the shank to form a general circular or oval shape.

(b) Cutting devices. A person targeting or harvesting sharks from Florida Waters must have in his or her possession at least one device capable of quickly cutting either the leader or the hook used. A person catching but not retaining a shark must quickly remove the hook or use such cutting device to quickly remove as much tackle and fishing gear as possible in order to release the shark immediately without unnecessary harm.

(4) A person may not harvest or attempt to harvest any shark from Florida Waters with gear not expressly permitted in subsection (1).

Rulemaking 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 46-44.006, Amended 7-1-03, 1-19-10, 7-1-19.

(Substantial rewording of Rule 68B-44.007 follows. See Florida Administrative Code for present text.)

68B-44.007 Sale and Purchase Requirements ~~Size Limit~~ Applicable to State Waters.

(1) A commercial harvester may only sell a shark, or any part thereof, to a holder of a valid federal Atlantic shark dealer permit issued pursuant to 50 C.F.R. § 635.4, as of January 1, 2019.

(2) No wholesale dealer, as defined in Section 379.362(1), F.S., may purchase a shark, or any part thereof, unless such dealer is in possession of a valid federal Atlantic shark dealer permit. No wholesale dealer may purchase a shark, or any part thereof, without confirming that the seller possesses a valid Florida saltwater products license and any applicable federal permit or authorization required in 68B-44.009(1). This subsection applies only when a shark, or any part thereof is sold, exchanged, bartered, distributed, or landed for the first time.

(3) During any period when Florida Waters are closed pursuant to 68B-44.005, the purchase or sale of any shark to which the closure applies is prohibited. These prohibitions shall not apply to sale of sharks that were harvested, landed, and purchased or sold prior to the closure, or sale of sharks that were harvested outside of the closure area during the closure period. The burden shall be upon any person possessing such sharks to establish the chain of possession from the initial transaction after harvest by appropriate receipt(s), bill(s) of sale, or bill(s) of lading. Failure to maintain such documentation or failure to promptly produce such documentation at the request of any duly authorized law enforcement officer shall constitute a violation of this rule.

(4) No person may purchase or sell a prohibited species specified in 68B-44.004(3), or an part thereof, unless possession and landing is authorized pursuant to 68B-44.004(4).

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 1-19-10, Amended 7-1-19.

(Substantial rewording of Rule 68B-44.008 follows. See Florida Administrative Code for present text.)

68B-44.008 Open and Closed Areas ~~Prohibited Species; Prohibition of Harvest, Landing, and Sale.~~

This rule is held for future open and closed areas.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 4-8-92, Amended 1-1-98, Formerly 46-44.008, Amended 7-1-03, 3-9-06, 1-19-10, 3-21-10, 1-1-12,_____.

(New rule – **Note:** The provisions related to existing licensing requirements found in the proposed new rule below are currently housed in 68B-44.005, FAC, Commercial Harvest of Sharks: Federal Permit Required, and are being moved to this new rule in order to provide for consistency with the organization of other marine fisheries rule chapters.)

68B-44.009 Licensing Requirements.

(1) A commercial harvester may not harvest from Florida Waters, possess, or land a shark or sell a shark, unless such person possesses both a valid saltwater products license, and any applicable federal permit for sharks required by 50 C.F.R. § 635.4 (as of January 1, 2019) or written authorization from the National Marine Fisheries Service pursuant to 50 C.F.R. § 635.32 (as of January 1, 2019).

(2) No wholesale dealer, as defined in Section 379.362(1), F.S., may purchase a shark, or any part thereof, unless such dealer is in possession of a valid federal Atlantic shark dealer permit. No wholesale dealer may purchase a shark, or any part thereof, without confirming that the seller possesses a valid Florida saltwater products license and any applicable federal permit or authorization required in subsection (1). This subsection applies only when a shark, or any part thereof, is sold for the first time.

(3) Shore-based shark fishing permit.

→ (a) A person may not participate in shore-based shark fishing unless such person has been issued and is in possession of a valid Commission-issued shore-based shark fishing permit. A person who is under 16 years of age is exempt from the shore-based shark fishing permit requirement. (See note below.)

(b) Shore-based shark fishing permits shall only be issued upon completion of a Commission-approved shore-based shark fishing education course available at: <https://myfwc.com/fishing/saltwater/recreational/sharks/> and shall be valid for 12 months from the date of issue.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-19.

→ **Note:** As part of the Final Public Hearing, staff recommends the Commission only exempt anglers under the age of 16 from the shore-based shark fishing permit. This is an update from the draft rule proposal, which would have exempted all anglers who are not required to hold a recreational saltwater license.