

on a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued, without regard to where such species were harvested, *i.e.*, in State or Federal waters.

(ii) Without regard to overfished status, and in addition to the measures specified in paragraph (r)(2)(i) of this section, if gag recreational landings, as estimated by the SRD, exceed the applicable ACLs specified in paragraph (r)(2)(iv) of this section, the AA will file a notification with the Office of the Federal Register to maintain the gag ACT, specified in paragraph (r)(2)(iv) of this section, for that following fishing year at the level of the prior year's ACT, unless the best scientific information available determines that maintaining the prior year's ACT is unnecessary. In addition, the notification will reduce the length of the recreational gag fishing season the following fishing year by the amount necessary to ensure gag recreational landings do not exceed the recreational ACT in the following fishing year.

(iii) If gag are overfished, based on the most recent status of U.S. Fisheries Report to Congress, and gag recreational landings, as estimated by the SRD, exceed the applicable ACL specified in paragraph (r)(2)(iv) of this section, the following measures will apply. In addition to the measures specified in paragraphs (r)(2)(i) and (ii) of this section, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the ACL for that following year by the amount of the ACL overage in the prior fishing year, and reduce the ACT, as determined in paragraph (r)(2)(ii) of this section, by the amount of the ACL overage in the prior fishing year, unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary.

(iv) The recreational ACL in gutted weight is 403,759 lb (183,142 kg). The recreational ACT in gutted weight is 362,374 lb (164,370 kg).

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 230427–0114]

RTID 0648–XC715

Fisheries of the Northeastern United States; Atlantic Spiny Dogfish Fishery; 2023 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues final specifications for the 2023 Atlantic spiny dogfish fishery, as recommended by the Mid-Atlantic and New England Fishery Management Councils. This action is necessary to establish allowable harvest levels for the spiny dogfish fishery to prevent overfishing while enabling optimum yield, using the best scientific information available.

DATES: Effective on May 1, 2023.

ADDRESSES: The Mid-Atlantic Fishery Management Council prepared an environmental assessment (EA) for these specifications that describes the action, other considered alternatives, and analyses of the impacts of all alternatives. Copies of the specifications document, including the EA, are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the internet at <https://www.mafmc.org/action-archive>.

FOR FURTHER INFORMATION CONTACT: Cynthia Ferrio, Fishery Policy Analyst, (978) 281–9180.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic and New England Fishery Management Councils jointly manage the Atlantic Spiny Dogfish Fishery Management Plan (FMP), with the Mid-Atlantic Council acting as the administrative lead. Additionally, the Atlantic States Marine Fisheries Commission manages the spiny dogfish fishery in state waters from Maine to North Carolina through an interstate fishery management plan. The Federal FMP requires the specification of an acceptable biological catch (ABC), annual catch limit (ACL), annual catch target (ACT), total allowable landings (TAL), and a coastwide commercial

quota. These limits and other related management measures may be set for up to 5 fishing years at a time, with each fishing year running from May 1 through April 30. This action implements Atlantic spiny dogfish specifications for fishing year 2023, as recommended by the Councils and Commission.

In response to declining trends in stock biomass and productivity shown in a 2022 data update, the Mid-Atlantic Council's Scientific and Statistical Committee (SSC) recommended a 2023 ABC of 7,788 mt, a 55-percent decrease from fishing year 2022. Preliminary indications from the December 2022 Atlantic spiny dogfish research track assessment support the SSC's recommendations. Both the Mid-Atlantic and New England Councils accepted the SSC's recommended ABC, and recommended the subsequent catch limits in accordance with the specifications process, including a coast-wide commercial quota of 5,449 mt; a 59-percent decrease from fishing year 2022. Neither Council recommended any changes to other management measures, such as trip limits.

The proposed rule for this action published in the **Federal Register** on March 9, 2023 (88 FR 14590), and comments were accepted through March 24, 2023. NMFS received 18 comments from the public, and no changes were made to the final rule because of those comments (see Comments and Responses for additional detail). Additional background information regarding the development of these specifications was provided in the proposed rule and is not repeated here.

Final Specifications

This action implements the Councils' recommendations for 2023 Atlantic spiny dogfish specifications (Table 1), which are consistent with the Mid-Atlantic SSC's recommendations and the best available science. These final specifications decrease the ABC by 55 percent from fishing year 2022 and coastwide commercial quota by 59 percent, based on declining trends in stock biomass and productivity. This action makes no changes to the 7,500-lb (3,402-kg) trip limit.

TABLE 1—FINAL SPINY DOGFISH FISHERY SPECIFICATIONS FOR FISHING YEAR 2023

	Million lb	Metric tons
ABC	17.17	7,788
ACL = ACT	17.09	7,751
TAL	12.48	5,663

TABLE 1—FINAL SPINY DOGFISH FISHERY SPECIFICATIONS FOR FISHING YEAR 2023—Continued

	Million lb	Metric tons
Commercial Quota	12.01	5,449

The reduction in commercial quota is not expected to substantially change overall fishing activity, or result in catch overages or revenue losses in the spiny dogfish fishery. In recent years, the spiny dogfish quotas have not constrained landings in the fishery, and even with a 59-percent decrease the 2023 commercial quota will still be higher than the total annual landings in fishing year 2021. There is a 2023 management track stock assessment for Atlantic spiny dogfish that is expected to inform development of the next set of specifications for fishing year 2024.

Comments and Responses

The public comment period for the proposed rule ended on March 24, 2023, and NMFS received 18 comments from the public. No changes were made to the final rule as a result of these comments.

Comment 1: Twelve comments did not support the proposed decrease in 2023 commercial quota. Six of these comments simply opposed this action, and expressed reservations about the data used to determine that the stock is declining, because many fishing vessels regularly encounter high numbers of dogfish. They also mentioned that dogfish should continue to be fished, because they are a predator of more valuable fish. Four of these commenters were also specifically concerned about the effect that the reduction in quota may have on the few remaining processors that accept spiny dogfish, and that the industry itself (and not the stock) is at risk. Two of these comments also mentioned that managers should focus on the potential negative effects of wind farm development, because it could be affecting the dogfish stock more than fishing pressure.

Response: These specifications are based on the best available science, and impacts to industry or from offshore wind were discussed throughout the development of this action and analyzed in the EA for this action. As noted in the proposed rule and this final rule, although these specifications substantially reduce the annual quota, there are no substantial impacts expected to fishing behavior overall as a result of this reduction.

Comment 2: One commenter suggested that fishing behavior is impacted more by weather and market

price than by quotas, so we should not compare quotas to annual landings.

Response: NMFS recognizes that there are other factors that may impact fishing behavior more than annual quotas, but is adjusting measures within and in accordance with the FMP, as appropriate, to prevent overfishing of the spiny dogfish stock.

Comment 3: Another commenter recommended reducing trip limits instead of the coastwide quota to better address fishing pressure on the stock.

Response: NMFS is adjusting the quota as described in the FMP specifications process based on the reduced ABC recommended by the Mid-Atlantic SSC to prevent overfishing of the stock. There has also been no substantial impact on fishing effort resulting from the trip limit increase in fishing year 2022.

Comment 4: Three comments were in support of this action as proposed, noting the need to protect the declining stock and acknowledging that the economic impacts of the quota reduction are expected to be minimal due to the comparatively low annual landings in recent years.

Response: NMFS agrees and is implementing the 2023 specifications as proposed.

Comment 5: One comment expressed concern about the overfishing of spiny dogfish, while also opposing this action in its entirety. However, no explanation or rationale was provided for the opposition to this action.

Response: The specifications in this final rule were developed and proposed to prevent overfishing on the spiny dogfish stock. NMFS is unable to respond further to this comment, as no specific reasons were given for the opposition to this action.

Changes From the Proposed Rule

There are no changes from the proposed rule.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator, Greater Atlantic Region, has determined that these final specifications are necessary for the conservation and management of the Atlantic spiny dogfish fishery, and that they are consistent with the Atlantic Spiny Dogfish FMP, the Magnuson-Stevens Act, and other applicable law.

The need to implement these measures in a timely manner to ensure that these final specifications are in place for the start of the 2023 spiny

dogfish fishing year constitutes good cause under the authority contained in 5 U.S.C. 553(d)(3) to waive the 30-day delay in the effective date of this action. The 2023 fishing year begins on May 1, 2023. A delay in the date of effectiveness beyond May 1 would be contrary to the public interest as it could create confusion in the spiny dogfish industry around current quotas, and with state agencies as they prepare their annual management measures. Furthermore, regulated parties do not require any additional time to come into compliance with this rule, and thus, a 30-day delay before the final rule becomes effective does not provide any benefit. Unlike actions that require an adjustment period, spiny dogfish fishing vessels will not have to purchase new equipment or otherwise expend time or money to comply with these management measures. Rather, complying with this final rule simply means adhering to the new catch limits set for the 2023 fishing year. Fishery stakeholders have also been involved in the development of this action and are anticipating this rule. For these reasons, there is good cause not to delay this final rule's effectiveness, consistent with 5 U.S.C. 553(d)(3), and to implement this action on May 1, 2023, for the start of the 2023 fishing year.

This final rule is not subject to review under Executive Order 12866 because the action contains no implementing regulations.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification, and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none was prepared.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

This action contains no information collection requirements under the Paperwork Reduction Act of 1995.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 27, 2023.

Samuel D. Rauch, III,
Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.

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