

the precise routes and schedules used by these vessels. One approach to facilitating information exchange could be a requirement for both the ESV operators and coastal administrations to keep a publicly available list of all ESVs that have been licensed or otherwise granted authority to operate in their area. It also may facilitate communication if the harbormaster is provided this information. The Commission seeks comment on requiring real-time location tracking and that more timely information be made available (e.g., on the Internet). For example, the Commission notes that there are many tracking devices commercially available that provide very precise location based on GPS tracking. The Commission seeks comment on the feasibility and adequacy of these possible measures to ensure proper coordination.

18. Other approaches to providing the information necessary to ensure that ESVs do not cause unacceptable interference to the FS include: First, that ESV licenses indicate the name of the ESV operator and a point of contact, as well as the name of the vessel and a method by which to contact the ship directly (for instance, the ship's Inmarsat number); second, the license could list the frequencies that have been cleared for use by that ESV; and third, a website with all information on licensed ESVs could be created for the purpose of such coordination. Thus, if there were any interference reported, all parties would have information to quickly identify its source by contacting the coastal administration, the harbormaster, a website, or the ESV operator. If the ESV were a non-primary licensee, the ESV station would be required to cease operation immediately if it causes interference. The Commission seeks comment on these ideas for information exchange. In this regard, the Commission seeks comment on whether we should require an ESV system to include a means of identification and automatic mechanisms to terminate transmissions whenever the ESV operates outside its operational limits or is identified as the source of interference. How can the Commission enforce the requirements for preventing and resolving unacceptable interference? The Commission seeks comment on these and other ideas to exchange information, to prevent unacceptable interference, and to resolve interference issues should they arise.

19. Shorter license terms might also be an incentive for ESV operators to assist with the resolution of interference complaints, in that if an ESV station was

reported to be interfering on a regular basis and was being in any way uncooperative with the FS station licensee, the ESV license may not be renewed. The Commission seeks comment on the appropriateness of a 1–3 year license term. The shorter terms might provide incentive for ESV operators to carefully coordinate their arrival and at-port use with FS stations. The Commission seeks comment on the concept of shorter licensing terms and other issues related to coordination.

#### **Deadlines and Instructions for Filing Comments**

Under §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on the *Notice of Inquiry* on or before April 19, 2002. Reply comments are due May 3, 2002. Interested parties may file comments by using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. The Commission will consider all relevant and timely comments prior to taking final action in this proceeding. To file formally, interested parties must file an original and four copies of all comments, reply comments, and supporting comments. If interested parties want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Interested parties should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC. 20554. Parties not filing via ECFS are also encouraged to file a copy of all pleadings on a 3.5-inch diskette in Word 97 format.

#### **Ordering Clause**

Accordingly, *it is ordered* that pursuant to the authority contained in sections 1, 4(i), 4(j), 7(a), 301, 303(c), 303(f), 303(g), 303(r), 303(y), and 308 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 303(y), 308, this *Notice of Inquiry* is adopted.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 02–6917 Filed 3–21–02; 8:45 am]

**BILLING CODE 6712–02–P**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

[Docket No. 020313058–2058–01; I.D. 030402A]

RIN 0648–AP07

### **Fisheries of the Northeastern United States; Proposed 2002 Specifications for the Spiny Dogfish Fishery; Regulatory Amendment**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes specifications for the spiny dogfish fishery for the 2002 fishing year, which is May 1, 2002, through April 30, 2003. The implementing regulations for the Spiny Dogfish Fishery Management Plan (FMP) require NMFS to publish specifications for the upcoming fishing year and to provide an opportunity for public comment. The intent is to specify the commercial quota and other management measures, such as trip limits, to address overfishing of the spiny dogfish resource. This proposed rule would make a correction to the Spiny Dogfish regulations to indicate that the target fishing mortality rate (F) specified for the period May 1, 2003 – April 30, 2004 should be  $F=0.03$ .

**DATES:** Public comments must be received (see **ADDRESSES**) no later than 5 p.m. eastern standard time on April 8, 2002.

**ADDRESSES:** Written comments on the proposed specifications should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298. Mark on the outside of the envelope, “Comments—2002 Spiny Dogfish Specifications.” Comments may also be sent via facsimile (fax) to (978) 281–9135. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of supporting documents used by the Joint Spiny Dogfish Committee and the Spiny Dogfish Monitoring Committee; the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IRFA); and the Essential Fish Habitat Assessment (EFHA) are available from Daniel Furlong, Executive Director, Mid-Atlantic

Fishery Management Council, Federal Building, Room 2115, 300 South Street, Dover, DE 19904. The EA, RIR, IRFA and EFHA are accessible via the Internet at <http://www.nero.gov/ro/doc/nero.html>.

**FOR FURTHER INFORMATION CONTACT:**

Bonnie L. Van Pelt, Fishery Policy Analyst, (978)281-9244, fax (978)281-9135, e-mail [bonnie.l.vanpelt@noaa.gov](mailto:bonnie.l.vanpelt@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

Spiny dogfish were declared overfished by NMFS on April 3, 1998, and added to that year's list of overfished stocks in the *Report on the Status of the Fisheries of the United States*, prepared pursuant to section 304 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Consequently, the Magnuson-Stevens Act required the preparation of measures to end overfishing and to rebuild the spiny dogfish stock. A joint FMP was developed by the Mid-Atlantic and New England Fishery Management Councils (Councils) during 1998 and 1999. The Mid-Atlantic Fishery Management Council (MAFMC) was designated as the administrative lead on the FMP.

The regulations implementing the FMP at 50 CFR part 648, subpart L, outline the process for specifying annually the commercial quota and other management measures (e.g., minimum or maximum fish sizes, seasons, mesh size restrictions, trip limits, and other gear restrictions) for the spiny dogfish fishery to achieve the annual target F specified in the FMP. The target F for the 2002 fishing year is 0.03.

The Spiny Dogfish Monitoring Committee (Monitoring Committee), comprised of representatives from states, MAFMC staff, New England Fishery Management Council (NEFMC) staff, NMFS staff and two non-voting, ex-officio industry representatives (one each from the MAFMC and NEFMC regions) is required to review annually the best available information and to recommend a commercial quota and other management measures necessary to achieve the target F for the upcoming fishing year. The Council's Joint Spiny Dogfish Committee (Joint Committee) then considers the Monitoring Committee's recommendations and any public comment in making its recommendation to the two Councils. Afterwards, the MAFMC and the NEFMC make their recommendations to NMFS. NMFS reviews those recommendations to assure they are consistent with the target F level, and

publishes proposed measures for public comment.

**Monitoring Committee Recommendations**

The Monitoring Committee met on September 11, 2001, to review updated stock assessment information. Based on a 3-year average (1999–2001), fishing mortality was estimated at  $F = 0.27$ , far above the overfishing threshold level of 0.11. This level of  $F$  reflects overfishing in the fishery before the FMP was implemented. Using 1999–2001 Northeast Fisheries Science Center (NEFSC) spring survey trawl data and commercial landings data through 2000, the Monitoring Committee noted a reduction in the biomass of adult females (>80 cm) throughout the time series (1978–2001). The average size of female dogfish has declined from greater than 8.8 lb (4 kg) in 1987 to about 4.40 lb (2 kg) in 2000. Since 1990, the estimate of mature female biomass has declined steadily. The decline in estimated biomass of mature females and large males is consistent with cumulative removals from a slow growing stock. These results suggest that total removals have exceeded productive capacity of the stock. The 3-year average of swept area female biomass (>80 cm) for the period 1999–2001, has declined to about 34 percent of the recommended biomass rebuilding target ( $B_{msy}$ ) of 200,000 mt (441 million lb).

NEFMC survey data show a reduction in the biomass of spiny dogfish pups based on the decline in biomass of dogfish less than 35 cm (13.8 inch). The survey indices for pups have continued to be the lowest in the 33-year time series for the past 5 consecutive years (1997–2001), indicating recruitment failure.

The Monitoring Committee estimated the yield associated with a  $F = 0.03$  for 2002 to be 4.0 million lb (1.81 million kg), assuming the current stock size. The Monitoring Committee recommended a 4-million pound (1.81-million kg) commercial quota for spiny dogfish for the 2002–2003 fishing season, divided into the two semi-annual periods as specified in the FMP: 57.9 percent for quota period 1 (May–October), or 2,316,000 lb (1.05 million kg), and 42.1 percent for quota period 2 (November–April), or 1,684,000 lb (763,849 kg). The Monitoring Committee also recommended maintaining a trip limit of 600 lb (272 kg) for quota period 1 and 300 lb (136 kg) for quota period 2 (vessels are prohibited from landing more than the specified amount in any one calendar day). The Monitoring Committee also expressed concern that

even the current restrictive rebuilding strategy may be too liberal to accomplish the rebuilding objectives of the FMP (i.e., rebuilding to SSBmax), even in the long term.

**Joint Spiny Dogfish Committee Recommendations**

The Joint Spiny Dogfish Committee (Joint Committee) met on September 28, 2001, to consider the recommendations of the Monitoring Committee, and to make a recommendation to the Councils. The Joint Committee recommended that the Councils, using whatever means necessary, adopt a fishing mortality rate for the 2002–2003 fishing season that would be consistent with a commercial quota of 8.8 million lb (4 million kg). In addition, the Joint Committee recommended trip limits of 7,000 lb (3,175 kg) for both quota periods.

**Alternatives Proposed by the Councils**

The MAFMC and NEFMC voted upon recommendations for year four (2002–2003) management measures at their respective meetings in October and November 2001. The MAFMC adopted the Monitoring Committee recommendations for a commercial quota of 4 million lb (1.81 million kg) and trip limits of 600 lb (272 kg) for quota period 1 (May 1–Oct. 31) and 300 lb (136 kg) for quota period 2 (Nov. 1–April 30). The NEFMC adopted the Joint Committee recommendation for a fishing mortality rate consistent with a commercial quota of 8.8 million lb (4 million kg), and trip limits of 7,000 lb (3,175 kg) for both quota periods.

**Proposed 2002 Measures**

At both Council meetings NMFS noted that it was not possible to modify the FMP target  $F$  through the annual specifications as was recommended by the NEFMC, because such a change would require an FMP amendment. NMFS reviewed both Councils' recommendations and concluded that the MAFMC recommendation would assure that the target  $F$  is not exceeded. NMFS proposes a commercial spiny dogfish quota of 4 million lb (1.81 million kg) for the 2002 fishing year to be divided into two semi-annual periods as follows: 2,316,000 lb (1.05 million kg) for Quota period 1 (May 1, 2001–Oct. 31, 2001); and 1,684,000 lb (763,849 kg) for Quota period 2 (Nov. 1, 2001–April 30, 2002). In addition, NMFS proposes to maintain trip limits of 600 lb (272 kg) for Quota period 1, and 300 lb (136 kg) for Quota period 2 to discourage a directed fishery. The directed fishery has traditionally targeted large mature female spiny dogfish, the stock

component that is most in need of protection and rebuilding. A trip limit level of 7,000 lb (3,175 kg) could result in a directed fishery, which is inconsistent with the rebuilding program. Maintaining the limits of 600 lb (272 kg) and 300 lb (136 kg) for Quota period 1 and Quota period 2, respectively, would allow for the retention of spiny dogfish caught incidentally while fishing for other species, but discourage directed fishing and, therefore, provide protection for mature female spiny dogfish.

This proposed rule would also make a correction to the spiny dogfish regulations, because they mistakenly specify a target  $F=0.08$  to begin on May 1, 2003. The FMP requires that the target of  $F=0.03$  be maintained through the end of the fishing year 2003–2004.

### Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

An IRFA was prepared that describes the impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section of the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows.

The small entities considered in the analysis include 488 vessels that have reported spiny dogfish landings to NMFS in 2000 (the most recent year for which there is vessel-specific data). In addition, there are vessels that are not subject to the Federal reporting requirements because they fish exclusively in state waters. It is not possible to identify these vessels, but some number of them are likely to be impacted. There is no reason to presume the impacts on these vessels would be substantially different from the impact on Federally-permitted vessels.

Furthermore, there are a large number of vessels that have been issued Federal spiny dogfish permits, but have not fished for spiny dogfish (a total of 2,079 vessels were issued the permit in 2001). It is presumed that these vessels are interested in the fishery but have chosen not to participate under the restrictive trip limits. If any of these vessels should choose to participate in the upcoming fishing year, they might experience revenue increases associated with landings of spiny dogfish but those increases cannot be estimated.

NMFS considered three alternatives. The action recommended in this proposed rule includes a commercial

quota of 4 million lb (1.81 million kg), and trip limits of 600 lb (272 kg) during Quota period 1 and 300 lb (136 kg) during Quota period 2. Alternative 2 includes a commercial quota of 8.8 million lb (4 million kg) and trip limit of 7,000 lb (3,175 kg) for both quota periods. Alternative 3 evaluates the impact of having no management measures.

The potential changes in 2002 revenues under the 4 million lb (1.81 million kg) quota were evaluated relative to landings and revenues derived during 2001: 4.6 million lb (2.08 million kg) of landings, valued at \$1,012,000. The analysis is based on the last full fishing year of landings data and assumed that the revenues of the 488 vessels that landed spiny dogfish in 2000 would be reduced proportionately by the proposed action. The reduction in overall gross revenues to the fishery as a whole was estimated to be about \$132,000, or about \$270 per vessel, compared to fishing year 2001.

The proposed trip limits of 600 lb (272 kg) in Quota period 1, and 300 lb (136 kg) in Quota period 2 represent a continuation of the trip limits established for fishing year 2001 and have no new impact. The trip limit analysis projected that, on average, under a 600 lb (272 kg) trip limit for quota period 1, landings exceeded the semi-annual quota of 2,316,000 lb (1.05 million kg) on about September 5, 2000 (128 days into the quota period). During Quota period 2, however, if a 300-lb (136-kg) possession limit was in effect, landings were projected not to exceed the semi-annual quota of 1,684,000 lb (763,849 kg). The analysis projected landings of only 615,000 lb (278,959 kg) during quota period 2. Thus, approximately 1,069,000 lb (484,890 kg) of allowable spiny dogfish landings were projected not to be landed.

Although the commercial quota is 4 million lb (1.81 million kg), total projected landings would only reach 2.93 million lb (1.33 million kg). However, the analysis does not account for behavioral changes by vessel operators that could impact the amount of landings. Also, since vessels without Federal permits are not captured in the analysis, yet their landings count towards the quota, it is likely that additional landings will occur. In fact, during the 2001 fishing year, under identical trip limits and commercial quota, period 1 was open for 52 days under a 600-lb (272-kg) trip limit and period 2 was open for 20 days under a 300-lb (136-kg) trip limit.

Under Alternative 2, the quota would increase to 8.8 million lb (4 million kg). This represents an increase from

landings in fishing year 2001 of 4.2 million lb (1.91 million kg), valued at \$924,000. Assuming that the increase is shared among the 488 that landed spiny dogfish in fishing year 2000, each vessel would experience revenue increases of \$1,893. However, this quota is inconsistent with the target  $F$  required by the FMP.

Under Alternative 2, trip limits of 7,000 lb (3,175 kg), the semi-annual quota of 5,095,200 lb (2.31 million kg) would be exceeded on average approximately 55 days into quota period 1 and the semi-annual quota of 3,704,800 lb (1.68 million kg) would be exceeded approximately 80 days into quota period 2.

Although more vessels would find it profitable to land spiny dogfish under a trip limit of 7,000 lb (3,175 kg) while the season is open, the season would close sooner than under the lower trip limits. Vessels may still be able to make profitable trips by directing on other species and landing up to the trip limit of 600 lb (272 kg) or 300 lb (136 kg) of spiny dogfish. Revenues from spiny dogfish alone would be minimal, but the lower trip limits would likely end the directed fishery, consistent with the FMP. If major spiny dogfish markets are eliminated as a result of low supply due to a low trip limit or quick closure of the fishery, much of the revenue from the spiny dogfish fishery would also be drastically reduced.

Under Alternative 3, with no quota or management measures, landings are projected to be 24.9 million lb (11,294 mt) in 2002–2003. This represents an increase from 2001 landings of 20.3 million lb (9.2 million kg). Increases in gross revenues to vessels would be about \$4.5 million. Gross revenues for vessels engaged in the spiny dogfish fishery would be expected to increase, on average, by about \$9,151 per vessel in fishing year 2002. Although unrestricted fishing would result in higher short-term landings and revenues, compared to fishing year 2001, this would be inconsistent with the rebuilding program established in the FMP, as required by the Magnuson-Stevens Act.

According to 2000 landings information, the impact of the proposed specifications for the 2002 fishing year will be greatest in Massachusetts which accounted for the largest share of the landings (28.5 percent), followed by New Jersey (25.8 percent), North Carolina (14.1 percent), New Hampshire (11.5 percent) and New York (9.4 percent). The top four ports which landed spiny dogfish in 2000 included Chatham, MA (21 percent); Point Pleasant, NJ (17.4 percent); Hampton

Bay, NY (8.5 percent); and Portsmouth, NH (8.3 percent).

The proposed correction to the target F will have no impact on any business entity, since it does not modify the status quo.

It has been determined that this proposed rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

This proposed rule does not contain or involve any information collection requirements that require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 18, 2002.

**Rebecca Lent,**

*Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

#### **PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.230, paragraph (a) is revised to read as follows:

#### **§ 648.230 Catch quotas and other restrictions.**

(a) *Annual review.* The Spiny Dogfish Monitoring Committee will annually

review the following data, subject to availability, to determine the total allowable level of landings (TAL) and other restrictions necessary to assure a target fishing mortality rate (F) of 0.2 in 1999 through April 30, 2000, a target F of 0.03 from May 1, 2000, through April 30, 2004, and a target F of 0.08 thereafter will not be exceeded: Commercial and recreational catch data; current estimates of F; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling data; impact of gear other than otter trawls and gill nets on the mortality of spiny dogfish; and any other relevant information.

\* \* \* \* \*

[FR Doc. 02-6983 Filed 3-21-02; 8:45 am]

**BILLING CODE 3510-22-S**