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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 160301165-6165-01]

RIN 0648-BF88

Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Proposed 2016-2018 Specifications

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

ACTION: Proposed specifications; request for comments.

SUMMARY: This rulemaking proposes catch limits, commercial quotas, and possession limits for the spiny dogfish fishery for the 2016-2018 fishing years. The proposed action was developed by the Mid-Atlantic and New England Fishery Management Councils pursuant to the fishery specification requirements of the Spiny Dogfish Fishery Management Plan. These management measures are supported by the best available scientific information and reflect recent declines in spiny dogfish biomass, and are expected to result in minor positive economic impacts for the spiny dogfish fishery while maintaining the conservation objectives of the Spiny Dogfish Fishery Management Plan.

DATES: Comments must be received on or before **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Copies of the specifications, including the Environmental Assessment and Regulatory Impact Review (EA/RIR), and other supporting documents for the action are

available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The framework is also accessible via the Internet at: <http://www.greateratlantic.fisheries.noaa.gov>.

You may submit comments, identified by NOAA-NMFS-2016-0061, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking portal. Go to www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2016-0061, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- **Mail:** NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope “Comments on Spiny Dogfish Specifications.”

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: William Whitmore, Fishery Policy Analyst, (978) 281-9182.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic spiny dogfish (*Squalus acanthias*) fishery is jointly managed by the New England and Mid-Atlantic Fishery Management Councils. The Atlantic States Marine Fisheries Commission also manages the spiny dogfish fishery in state waters from Maine to North Carolina through an interstate fishery management plan. The Federal Spiny Dogfish Fishery Management Plan (FMP) was implemented in 2000, when spiny dogfish were determined to be overfished. The spiny dogfish stock was declared to be successfully rebuilt in 2010, and it continues to be above its target biomass.

The regulations implementing the FMP at 50 CFR part 648, subpart L, outline the process for specifying an annual catch limit (ACL), commercial quota, possession limit, and other management measures for a period of 1–5 years. The Mid-Atlantic Council’s Scientific and Statistical Committee (SSC) reviews the best available information on the status of the spiny dogfish population and recommends acceptable biological catch (ABC) levels. This recommendation is then used as the basis for catch limits and other management measures developed by the Council’s Spiny Dogfish Monitoring Committee and Joint Spiny Dogfish Committee (which includes members of both Councils). The Councils then review the recommendations of the committees and make their specification recommendations to NMFS. NMFS reviews those recommendations, and may modify them if necessary to ensure that they are consistent with the FMP and other applicable law. NMFS then publishes proposed measures for public comment.

Spiny Dogfish Stock Status Update

In November 2015, the Northeast Fisheries Science Center updated spiny dogfish stock status, using the most recent catch and biomass estimates from the spring trawl surveys, and a new model to help account for the missing spring 2014 trawl survey value. Updated estimates indicate that the female spawning stock biomass (SSB) for 2015 was 371 million lb (168,207 mt), about 6 percent above the target maximum sustainable yield biomass proxy (SSB_{max}) of 351 million lb (159,288 mt). The 2015 fishing mortality (F) estimate for the stock was 0.21, below the overfishing threshold (F_{MSY}) of 0.2439. Therefore, the spiny dogfish stock is not currently overfished or experiencing overfishing.

However, the 3-year average survey index of female SSB dropped substantially in 2015. This decline was not unexpected and is primarily due to (1) high variance in the survey, and (2) poor spiny dogfish pup production (i.e., recruitment to the dogfish stock). The 2012 survey index value (a point estimate) was very high. Because of this, it was expected that the 3-year average survey index would decline as that high value worked out of 3-year average calculation. Further, the 2015 survey index value was the lowest value in 15 years. As a result, the 3-year average survey index has declined. Similar to the expected reduction in the 3-year average survey index, the effect of poor pup production has been anticipated for some time. Poor pup production from approximately 1997-2003 has reduced SSB. Because of the formulaic method used to drive the ABC, consistent with the Council's risk policy, a reduction in the SSB calculated from the 3-year average survey index leads directly to a reduction in the ABC value.

The Mid-Atlantic Council's Scientific and Statistical Committee reviewed this information and recommended reducing the ABC levels for spiny dogfish for the 2016-2018 fishing years. The ABC recommendations were based on an overfishing level (OFL) of median catch at the F_{MSY} proxy and the Council's risk policy. The resulting new spiny dogfish ABCs

are 52.1 million lb (23,617 mt) for 2016, 50.8 million lb (23,045 mt) for 2017, and 49.9 million lb (22,635 mt) for 2018 (decreases from 62.4 million lb (28,310 mt) in 2015).

Proposed Specifications

The Councils’ Spiny Dogfish Monitoring Committee and the Commission's Spiny Dogfish Technical Committee met in Fall 2015 to determine the resulting ACLs and quotas following the FMP’s process. To calculate the commercial quota for each year, deductions were made from the ABC to account for Canadian landings (143,300 lb (65 mt)), U.S. discards (11.494 million lb (5,214 mt)), and U.S. recreational harvest (68,343 lb (31 mt)). The resulting ACLs and commercial quotas are summarized in Table 1.

Table 1. Proposed 2016-2018 ACL and commercial quota specifications for the spiny dogfish fishery.

Fishing Year	ACL (lb)	ACL (mt)	Commercial Quota (lb)	Commercial Quota (mt)	Change from 2015 (Percent)
2016	51,923,272	23,552	40,360,761	18,307	-20
2017	50,662,228	22,980	39,099,717	17,735	-23
2018	49,758,333	22,570	38,195,822	17,325	-25

Because of the proposed harvest reductions, the Councils initially recommended the status quo spiny dogfish trip limit of 5,000 lb (2,268 kg) in their October and December 2015 meetings. This recommendation was submitted to NMFS when the Councils took final action. However, these reduced quotas are still significantly higher than actual landings in recent years due to limited demand. At their April 2016 meetings both Councils voted to request an increase in the trip limit to 6,000 lb (2,722 kg), based upon input from the Commission and a number of fishing industry representatives.

In this rule, NMFS is proposing the status quo (5,000 lb (2,268 kg)) trip limit because this was the recommendation originally submitted to us by the Councils. However, we will review

the Commission's and Councils' more recent requests along with other public comments, and consider increasing the trip limit to 6,000 lb (2,722 kg), as recommended by the Councils and Commission, in the final rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the Spiny Dogfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for the purpose of E.O. 12866.

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA consists of the specifications document, the EA for the specifications, and this preamble to the proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A copy of this analysis is available from the Councils (see **ADDRESSES**).

Description of the Reasons Why Action by the Agency is Being Considered and Statement of Objectives of, and Legal Basis for, this Proposed Rule

A description of the action, why it is being considered, and the legal basis for this action are contained in the Background section of the preamble and in the **SUMMARY** of this proposed rule and are not repeated here.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of this Proposed Rule

This action does not introduce any new reporting, recordkeeping, or other compliance requirements.

Federal Rules Which May Duplicate, Overlap, or Conflict with this Proposed Rule

This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

This proposed rule would impact fishing vessels, including commercial fishing entities. In 2014, there were 2,473 vessels that held an open access spiny dogfish permit. Cross-referencing those permits with vessel ownership data revealed that 1,830 entities owned those vessels. According to the Small Business Administration (SBA), firms are classified as finfish or shellfish firms based on the activity from which they derive the most revenue. Using the \$5.5 million cutoff for shellfish firms (NAICS 114112) and the \$20.5 million cutoff for finfish firms (NAICS 114111), 18 entities (1.0 percent) qualified as large businesses in 2014. Of the 1,812 small entities, 570 were finfish small entities, 580 were shellfish small entities, and 244 were for-hire small entities. Additionally, 418 small entities had no revenue in 2014. On average, for small entities, spiny dogfish is responsible for a small fraction of total landings, and active participants derive a small share of gross receipts from the spiny dogfish fishery.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

These proposed specifications include management measure alternatives for 1) the spiny dogfish ACLs and associated commercial quotas, and 2) spiny dogfish trip limits, which are fully described in the EA supporting this action (see **ADDRESSES**). The preferred ACL/quota alternative described in the preamble of this proposed rule (Alternative 2), as well as Alternative

3, represent reductions (20-25 percent for Alternative 2; 50-51 percent for Alternative 3) in the allowable landings as compared to the no action alternative. Therefore, as compared to the other alternatives, the no action alternative would have a higher potential of minimizing short-term economic impacts on small entities. However, the potential negative economic impacts of Alternatives 2 and 3 are unlikely to be realized because they would not constrain landings in the fishery, and not result in revenue losses commensurate with the quota reductions. Average spiny dogfish landings for 2012-2014 was approximately 22 million lb (9,979 mt), which is lower than any of the analyzed quota alternatives. Therefore, the proposed action is expected to have neutral economic impacts compared to no action in the short-term, but have potentially low positive impacts in the long-term due to maintaining sustainability of the spiny dogfish resource.

Regarding spiny dogfish trip limits, the proposed action is to maintain the status quo (5,000 lb (2,268 kg)). Higher trip limits were considered in Alternative 4 (6,000 lb (2,722 kg)) and Alternative 5 (7,000 lb (3,175 kg)). In general, higher trip limits could result in greater immediate revenue per trip, but would increase the potential for an abbreviated season if the quota or processing capacity is reached. Large increases in trip limits may also contribute to lower and more unstable prices. Given the currently limiting overall demand for spiny dogfish, trip limits may not have a large effect on overall revenue across the fishery, only the rate of

landings. Therefore, the alternatives with higher trip limits may help minimize economic impacts, but only if prices remain relatively stable and demand increases.

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

Dated: June 15, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National

Marine

Fisheries

Service.

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