



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 210225-0031]

RTID 0648-XX069

Fisheries of the Northeastern United States; Atlantic Spiny Dogfish Fishery; Revised 2021 and Projected 2022 Specifications

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes revised specifications for the 2021 Atlantic spiny dogfish fishery based on the Mid-Atlantic Fishery Management Council's updated risk policy, and projected status quo specifications for fishing year 2022, as recommended by the Mid-Atlantic and New England Fishery Management Councils. This action is necessary to establish allowable harvest levels to prevent overfishing while enabling optimum yield, using the best information available. This rule also informs the public of the proposed fishery specifications and provides an opportunity for comment.

DATES: Comments must be received by [*insert date 15 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2021-0004, by the following method:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to <https://www.regulations.gov/docket?D=NOAA-NMFS-2021-0004>,
2. Click the “Comment Now!” icon, complete the required fields, and

3. Enter or attach your comments.

Instructions: 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 by NMFS. All comments received are 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, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). If you are unable to submit your comment through *www.regulations.gov*, contact Cynthia Ferrio, Fishery Policy Analyst, *Cynthia.Ferrio@noaa.gov*.

Copies of the Supplemental Information Report (SIR) and other supporting documents for this action are available upon 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 <http://www.mafmc.org/supporting-documents>.

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

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council and the New England Fishery Management Council 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 Councils' FMP requires the specification of an annual catch limit

(ACL), annual catch target (ACT), and total allowable landings (TAL). These limits and other management measures may be set for up to five fishing years at a time, with each fishing year running from May 1 through April 30. This action proposes revised specifications for the 2021 spiny dogfish fishery as well as projects specifications for 2022, based on the Mid-Atlantic Council's updated risk policy.

The spiny dogfish fishery is currently operating under multi-year specifications for 2019-2021, based on a 2018 assessment update. The commercial quota is already projected to increase approximately 14 percent from fishing year 2020 to 2021 under these initial specifications. However, the Mid-Atlantic Council recently updated its risk policy to accept a higher level of risk for stocks at or above biomass targets (85 FR 81152; December 15, 2020). At its meeting on September 8, 2020, the Mid-Atlantic Council's Scientific and Statistical Committee's (SSC) recommended that the projected Acceptable Biological Catch (ABC) and resulting commercial quota for the 2021 spiny dogfish fishery be recalculated using this new approach. Applying the new risk policy would increase the 2021 ABC 9 percent from what was initially projected (24 percent above 2020).

The joint New England and Mid-Atlantic Council Spiny Dogfish Monitoring Committee also recommended revising the 2021 specifications to reflect the updated risk policy at its September 2020 meeting, consistent with the SSC. The Monitoring Committee derived its recommendations for the remainder of the revised specifications from the recommended ABC using the process defined in the FMP. Expected Canadian landings (45 mt) were deducted from the ABC to calculate the ACL, which was set equal to the ACT because no overages have occurred in recent years. The estimate of U.S. discards (3,992 mt) was deducted from the ACT to derive the TAL, and expected U.S. recreational landings (53 mt) were removed from the TAL to calculate the final coastwide commercial quota.

The Monitoring Committee also recommended projecting status quo specifications for fishing year 2022. There is a research track stock assessment for spiny dogfish scheduled in 2022, and little additional or new data will be available to inform 2022 specifications prior to the assessment. Therefore, the Monitoring Committee determined that status quo catch limits would be appropriate until the upcoming assessment can inform specifications for the 2023 fishing year and beyond. Both Councils and the Commission reviewed and approved SSC and Monitoring Committee recommendations at their respective meetings in October and December, and all recommended revised and projected 2021 and 2022 spiny dogfish specifications based on the updated Mid-Atlantic Council risk policy.

Proposed Specifications

This action proposes the Councils' recommendations for revised 2021 and projected status quo 2022 spiny dogfish specifications to maintain compliance with the Mid-Atlantic Council's updated risk policy. These proposed catch limits are consistent with the SSC, Monitoring Committee, and Commission recommendations as well. Although currently projected 2021 specifications were already increasing compared to fishing year 2020, these revised catch limits are nearly 10 percent higher after applying the new risk policy. A comparison of the originally projected and proposed revised 2021-2022 specifications is summarized below in Table 1.

Table 1 -- Comparison of Original (Current) and Revised (Proposed) Spiny Dogfish Fishery Specifications for Fishing Years 2021 and 2022

	Originally Projected 2021 (Current)		Revised 2021-2022 (Proposed)		Percent Change
	Million lb	Metric tons	Million lb	Metric tons	
ABC	35.37	16,043	38.58	17,498	9
ACL = ACT	35.26	15,994	38.48	17,453	9
TAL	27.60	12,519	29.68	13,461	8
Commercial Quota	27.42	12,438	29.56	13,408	8

The Councils did not recommend any other changes to the spiny dogfish fishery. Therefore, all other fishery management measures, including the 6,000-lb (2,722-kg) Federal trip limit, would remain unchanged for fishing years 2021 and projected to be unchanged for 2022 under the proposed action. The Councils will review the projected 2022 specifications to determine if any changes need to be made prior to their implementation. Changes may occur if quota overages trigger accountability measures, or if new stock information results in changes to the ABC recommendations. NMFS will publish a notice prior to the 2022 fishing year to confirm or announce any necessary changes. NMFS expects the 2022 stock assessment to inform development of the next set of specifications beginning in 2023.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined 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 action is not a significant action under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

The Councils conducted an evaluation of the potential socioeconomic impacts of the proposed measures in conjunction with a SIR. There are no proposed regulatory changes in this spiny dogfish action, so none are considered in the evaluation. The proposed specifications would slightly increase 2021 spiny dogfish catch limits in accordance with the Mid-Atlantic Council's updated risk policy, and project status quo

specifications for 2022.

According to the Northeast Fisheries Science Center commercial ownership database, 2,305 separate vessels held commercial spiny dogfish permits in 2019, the most recent year of fully available data. A total of 1,726 commercial entities owned those permitted vessels, and of those entities, 1,716 are categorized as small businesses and 10 as large businesses. Of those small businesses with commercial spiny dogfish permits, 1,315 had some revenue in 2019.

The proposed specifications for 2021 and projected specifications for 2022 are expected to provide similar fishing opportunities when compared to the 2020 fishing year. Although the proposed specifications increase the commercial quota, there are no proposed changes to the daily possession limits or other measures that are likely to change fishing behavior. Entities issued a commercial spiny dogfish permit may experience a slight positive impact related to potentially higher landings throughout the course of the entire year. However, based on market conditions, substantial changes in fishing behavior, or increases in short-term landings are not expected as a result of these specifications. As such, the proposed action is not expected to have an impact on the way the fishery operates or the revenue of small entities. Overall, analyses indicate that the proposed specifications will not substantially change: fishing effort, the risk of overfishing, prices/revenues, or fishery behavior. Additionally, this action will not have a significant impact on small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

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

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

Dated: February 25, 2021.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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