



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 250506-0079; RTID 0648-XE827]

Fisheries of the Northeastern United States; Atlantic Spiny Dogfish Fishery; 2025 Specifications

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

ACTION: Final rule.

SUMMARY: NMFS is implementing specifications for the 2025 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 Atlantic spiny dogfish fishery to prevent overfishing while enabling optimum yield, using the best scientific information available.

DATES: Effective May 9, 2025.

ADDRESSES: 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: Laura Deighan, Fishery Policy Analyst, Laura.Deighan@noaa.gov or (978) 281-9184.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic and New England Fishery Management Councils (collectively, the Councils) jointly manage the Atlantic Spiny Dogfish Fishery Management Plan (FMP), with the Mid-Atlantic Council serving as the administrative lead. Additionally, the Atlantic States Marine Fisheries Commission (Commission) manages the spiny dogfish fishery in state waters from Maine to North Carolina through a separate, 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 five 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 2025, as recommended by the Councils. The Commission voted to implement complementary specifications on February 4, 2025, during its winter meeting.

At their respective December 2024 meetings, both Councils voted to adopt 2025 spiny dogfish specifications using an ABC of 7,626 metric tons (mt), as provided by the Mid-Atlantic Council's Scientific and Statistical Committee (SSC) at its November 20, 2024, meeting. The Councils determined that a 50-percent probability of overfishing (*i.e.*, an ABC equal to the overfishing limit (OFL)) was an acceptable level of risk for the 2025 specifications given: (1) Industry testimony that reductions in the commercial quota risk the sustainability of the commercial spiny dogfish industry, and (2) that the stock is expected to increase to 113 percent of its biomass target in 2026 (from 101 percent in 2022) under these catch limits. After accounting for estimated catch from other sources (*i.e.*, Canadian landings, domestic discards, and recreational landings), this results in a commercial quota of 4,236 mt. This action includes no changes to other management measures, such as trip limits.

The proposed rule for this action published in the **Federal Register** on March 26, 2025 (90 FR 13724), and comments were accepted through April 10, 2025. NMFS received seven 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 2025 Specifications

This action implements the Councils’ recommendations for the 2025 Atlantic spiny dogfish catch specifications (table 1), which are consistent with the ABC provided by the Mid-Atlantic Council’s SSC in November and the best available science. The resulting coastwide commercial quota is 4,236 mt, which is an 18-percent decrease from the initial 2024 commercial quota. It is a 9-percent decrease from the current 2024 commercial quota, which was reduced on September 30, 2024, (89 FR 79452) to account for an ACL overage in 2023. The decrease from 2024 is the result of a higher, corrected 2022 discard estimate; discards that were higher than expected in 2023; and a more precautionary discard estimate for 2025. This action makes no changes to the 7,500-pound (lb; 3,402-kilogram) trip limit.

Table 1 – Final 2025 Atlantic Spiny Dogfish Fishery Specifications

	Million lb	Metric tons
ABC	16.81	7,626
ACL = ACT	16.8	7,622
TAL	9.58	4,347
Commercial Quota	9.34	4,236

While these specifications result in a reduction in the commercial quota, they are based on the highest ABC allowable under the National Standard 1 requirements that

NMFS prevent overfishing with at least a 50-percent probability. The 2025 commercial quota is slightly higher than landings in recent years (*i.e.*, 8.5 million lb (3,855 mt) in 2023, with fishing year 2024 catch currently trending lower than that of 2023).

Comments and Responses

The public comment period for the proposed rule ended on April 10, 2025. Four individual members of the public, one non-governmental organization, and four commercial fishermen commented on the proposed rule. Three commercial fishermen submitted a single comment, resulting in seven unique comments. One comment from a member of the public was not germane to this action, and one comment from a member of the public did not provide sufficient context and information for NMFS to respond. In total, five unique comments were relevant to the action and are addressed below. No changes were made to the final rule as a result of these comments.

Comment 1: Four commercial fishermen opposed the reduction in the Atlantic spiny dogfish commercial quota. These commenters cited concerns about the impact of reduced quotas on an already declining industry, the risk that the industry may permanently lose access to some markets, the negative economic impact on associated industries (*e.g.*, shipping, processing), and the negative ecological impacts of increased spiny dogfish predation on other species under reduced quotas.

Response: National Standard 1 requires NMFS to prevent overfishing, and the National Standard 1 guidelines require at least a 50-percent probability of doing so. These specifications include the highest allowable ABC expected to prevent overfishing with a 50-percent probability. While the Mid-Atlantic Council's risk policy would typically require a lower ABC with a 46-percent probability of overfishing for a stock just above its target (*e.g.*, Atlantic spiny dogfish), the Councils took into account industry testimony regarding the potential economic impacts of quota reductions and set the specifications based on the highest allowable ABC.

To ensure the ABC is not exceeded, the specifications must consider expected catch from other sources when setting the commercial quota. The 2025 specifications use reasonable estimates for other sources of fishing mortality: The most recent three-year average of Canadian landings; the most recent five-year average of recreational landings; and a discard set-aside that is the mid-point of the most recent five-year average and the previously accepted “model-based projection” (generated by applying the 2022 ratio of discards to total catch to the year-specific ABC). The Atlantic Spiny Dogfish Committee recommended using the average of these two estimates as a reasonable approach to deal with uncertainty, as Atlantic spiny dogfish discards can be highly variable. The use of a lower and less precautionary discard estimate would result in a higher quota, but would increase the risk of an ACL overage in 2025. The Atlantic Spiny Dogfish FMP and regulations at 50 CFR 648.233(c) require a reduction in a future-year ACL, and thus the commercial quota, when an overage occurs. The 2025 commercial quota is intended to provide the industry with the highest allowable quota while minimizing the risk of a quota reduction in a future fishing year due to an ACL overage.

Comment 2: One commercial fisherman opposed to the specifications also stated that “take” should only include dogfish landings and not live discards.

Response: “Catch, take, or harvest” is defined under the Magnuson-Stevens Act as including, but is not limited to, “any activity that results in killing any fish or bringing any live fish on board a vessel” (§ 600.10). While “take” may be defined differently under other statutes, those definitions do not apply to these specifications or catch accounting within the Atlantic spiny dogfish fishery and are not discussed further.

The performance of the Atlantic spiny dogfish fishery is evaluated based on total dead catch (*i.e.*, commercial and recreational landings and dead discards). Live discards are not included in the calculation of total dead catch. The estimates of dead discards, and the methods used to calculate them, are considered the best scientific information

available. First, observer data is used to generate ratios of Atlantic spiny dogfish discards-to-total-catch by stock area, gear, and mesh size annually. These ratios are applied to total catch reported on dealer reports to generate estimates of total Atlantic spiny dogfish discards (*i.e.*, both live and dead discards) by stock area and gear type. The estimated dead discards are then calculated by applying a stock area- and gear-specific discard mortality rate to the total discards by gear and area. This estimate of dead discards is included in the calculation of total dead catch that is compared to the catch limits.

Comment 3: Three commercial fishermen who opposed the specifications raised concerns with the information that factored into the 2025 quota being lower than that of 2024 (*i.e.*, the higher, corrected 2022 discard estimate; discards that were higher than expected in 2023; and a more precautionary discard estimate for 2025). Specifically, the commenters took issue with the use of discard estimates, rather than actual numbers. The commenters raised concerns with the correction to the 2022 discards and that the correction was made “3 years later.”

Response: When setting forward-looking specifications and commercial quotas (*i.e.*, 2025 catch limits), other sources of fishing mortality must be estimated because actual catch information is not yet available. The estimates used to set the 2025 specifications, including the dead discards, are based on data from previous fishing years and represent reasonable estimates (see *Comment 1*).

When calculating catch for previous years, the total number of discards and dead discards are estimated because fishermen and fishery observers cannot record all discards or directly observe all discard mortality. Previous years’ discard estimates, and the methods used to calculate them, are based on the best scientific information available (see *Comment 2*).

Final 2022 data for Atlantic spiny dogfish became available in calendar year

2023. In 2024, NMFS identified a difference between the area- and gear-specific discard mortality rates used in Atlantic spiny dogfish catch accounting and the stock assessment. The discard mortality rates used in the Catch Accounting and Monitoring System were updated to those used in the assessment. The updated discard mortality rates were applied to the 2022 catch information available at that time (*i.e.*, inclusive of any late data), resulting in a higher estimate of 2022 dead discards. This discard estimate, along with actual information on 2023 catch and 2024 catch limits that became available in 2024, was incorporated into the projections that informed the 2025 ABC and catch limits. These updates contributed to the 2025 ABC and quota being lower than those of 2024. This difference is not the result of a payback from the 2025 quota, but 2025 catch limits based on current projections that reflect the best estimates of stock biomass and productivity. These updates ensure the catch limits comply with National Standard 2 requirements to use the best scientific information available and National Standard 1 requirements to prevent overfishing.

Comment 4: Three commenters opposed to the specifications suggested unused 2024 quota should be rolled over to 2025, noting that the 2024 quota was reduced to account for an overage in 2023 and 2024 catch is trending below the 2024 quota.

Response: The Atlantic spiny dogfish fishery is managed under the Atlantic Spiny Dogfish FMP with implementing regulations at § 648 subpart L. The FMP and regulations at § 648.233(c) require a subsequent fishing year ACL be reduced by the amount the ACL is exceeded. The FMP does not authorize the rollover of unused quota in a subsequent fishing year. However, actual catch information is incorporated into stock assessments and projections that inform future catch limits.

Comment 5: One non-governmental organization commented that NMFS should not set the commercial quota any higher than the proposed 9.3 million lb (4,236 mt). The commenter expressed concerns that NMFS endorsed the Mid-Atlantic Council setting the

specifications higher than what was originally discussed at its October 2024 meeting and that the Council suspended its risk policy based on industry requests for higher quota. The commenter cautioned against the erosion of precautionary buffers for spiny dogfish, which is a slow-growing species, and disagreed that the specifications include sufficient precaution.

Response: NMFS is implementing a quota at, and not greater than, the proposed 9.3 million lb (4,236 mt). Catch specifications must comply with the Magnuson-Stevens Act National Standards and their guidelines, which include requirements to prevent overfishing and achieve optimum yield (National Standard 1) and to provide for the sustained participation of fishing communities and minimize adverse economic impacts on such communities (National Standard 8). The Councils' decision to consider specifications with a 50-percent probability of overfishing was based on industry testimony that reductions to the commercial quota would create a significant risk to the future of the industry. In 2024, the last remaining southern spiny dogfish processor closed. The industry has raised concerns that the sole remaining processor, which is critical to the viability of the fishery, may close if catch decreases. The Councils further based their recommendations on current stock projections, which indicate the stock is expected to increase to 113 percent of its target under these catch limits. After weighing this information, the Council recommended specifications using the highest ABC allowable under National Standard 1 (*i.e.*, a 50-percent probability of overfishing; § 600.310(f)(2)(i)) to minimize adverse economic impacts on the industry. NMFS agrees that the Councils' recommended specifications balance the requirements of National Standards 1 and 8.

As described in response to *Comment 1*, the specifications account for reasonable estimates of other sources of catch. The highest source of uncertainty within the specifications is the discard estimate, as annual discards can vary. To account for

uncertainty, the 2025 discard estimate uses the average of two reasonable methods for estimating discards. It represents an increase from the amount set aside for discards in 2024. The Councils agreed, and NMFS concurs, that substantial precaution is taken, and uncertainty accounted for, within these specifications.

Comment 6: One commenter expressed cautious support for the proposed specifications. The commenter noted concerns about the economic impacts that reduced quotas may have on the fishing industry, particularly small businesses, and suggested NMFS monitor the economic impacts on the spiny dogfish industry.

Response: As noted in response to *Comment 5*, NMFS must comply with the Magnuson-Stevens Act National Standards, including National Standards 1 and 8, when setting catch specifications. Typically, the Mid-Atlantic Council's risk policy requires an ABC based on a 46-percent probability of overfishing for a stock just above its biomass target, such as Atlantic spiny dogfish. The Mid-Atlantic Council voted to waive its risk policy when recommending these specifications due to industry testimony about the potential for negative economic impacts from quota reductions.

The National Standard 8 guidelines specify that the requirement to account for the importance of fishery resources to fishing communities is within the context of the conservation requirements of the Magnuson-Stevens Act (§ 600.345(b)(1)). In other words, the National Standard 8 requirements do not supersede the National Standard 1 requirements to prevent overfishing. An ABC with more than a 50-percent probability of overfishing would risk overfishing, stock depletion, reduced stock productivity, and lower quotas in future years. Sustainable management of the stock, including the prevention of overfishing, is intended to ensure the long-term viability of both the Atlantic spiny dogfish stock and the industry that relies on that stock.

NMFS collects and analyzes economic and social data on the importance of fisheries to communities, as required under National Standard 8 (§ 600.345(c)). In

addition, the Regulatory Flexibility Act (RFA) requires NMFS to analyze the impacts of these catch specifications on small business entities. Information on the expected impacts of these catch specifications, including the basis for certification that this action would not have a significant economic impact on a substantial number of small entities, can be found in the proposed rule and in the SIR for this rule. Additional economic analysis of the Atlantic spiny dogfish fishery can be found in the 2024-2026 Atlantic Spiny Dogfish Specifications Environmental Assessment (EA; both the SIR and EA are posted at <http://www.mafmc.org/supporting-documents>).

Comment 7: One commenter expressed general support for the specifications and noted the importance of protecting fisheries.

Response: NMFS agrees and is implementing the specifications as recommended by the Mid-Atlantic and New England Councils.

Comment 8: Three members of the commercial fishing industry asserted that the reduced quota would have an economic impact on commercial fishermen and commercial fishing support industries (e.g., shipping). The commenters state that roughly 100 people in the Commonwealth of Virginia rely on the spiny dogfish fishery, and the fishery makes up the majority of the industry's wintertime work. The commenters state that the reduced quota could potentially cause financial hardship to these individuals, and assert that this contradicts the RFA analysis in the proposed rule for these specifications.

Response: The RFA requires that an agency consider whether an action will have a significant impact on a substantial number of small businesses entities and ways to minimize impacts on small business entities. As provided in the proposed rule, this action would maintain spiny dogfish specifications and commercial quota at a level above recent landings (i.e., 8.5 million lb (3,855 mt) in 2023, with 2024 catch currently trending lower than that of 2023). As a result, the specifications are expected to have an economic impact similar to recent years. There is no information that the action might impact small

businesses differently than large businesses. Further, as discussed throughout this document, these specifications are based on the highest allowable ABC under National Standard 1, and there are no available alternatives that would reduce impacts on small business entities. While the commenters suggest that the reduced quota could potentially have a negative economic impact to the fishery and related businesses, they do not provide evidence that the proposed specifications would be expected to have a significant impact on a substantial number of small businesses nor contest the factual basis for certification under the RFA. No changes were made as a result of these comments.

Classification

NMFS is issuing this rule pursuant to section 305(d) of the Magnuson-Stevens Act (16 U.S.C. 1855(d)). The reason for using this regulatory authority is that in a previous action taken pursuant to section 304(b) of the Magnuson-Stevens Act (16 U.S.C. 1854(b)), the FMP and implementing regulations created the process by which specifications are developed through a NMFS rulemaking process distinct from that of 304(b). See 50 CFR 648.232. As such, NMFS is issuing this rule pursuant to section 305(d). The NMFS Assistant Administrator has determined that this final rule is consistent with the Atlantic Spiny Dogfish FMP and other applicable law.

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date. The 2025 fishing year began on May 1, 2025. The Commission adopted a complementary coastwide quota, which went into effect on May 1, 2025. Under the Commission's Interstate Fishery Management Plan for Spiny Dogfish, the coastwide quota is allocated among the relevant states. State management agencies implement annual management measures intended to achieve the state's allocated quota over the fishing year. A delay in the date of effectiveness of the Federal quota substantially beyond May 1 would be contrary to the public interest as it could create misalignment with state management, confusion with state agencies as they prepare their annual

management measures, and confusion in the spiny dogfish industry around current quotas. 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. 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 as soon as possible for the 2025 fishing year.

This final rule is exempt from review under Executive Orders 12866 and 14192.

NMFS has determined that this action would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes; therefore, consultation with Tribal officials under E.O. 13175 is not required, and the requirements of sections (5)(b) and (5)(c) of E.O. 13175 also do not apply. A Tribal summary impact statement under section (5)(b)(2)(B) and section (5)(c)(2)(B) of E.O. 13175 is not required and has not been prepared.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during 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. We received one comment regarding the RFA analysis. The comment did not contest the factual basis for the certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

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

Dated: May 6, 2025.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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