

filed with the Commission within 10 days of the reduction showing (a) date on which, places at which, and extent to which service was expanded and (b) date on which, places at which, and extent to which such expansion of service was discontinued: And provided further, That a licensee of a radio station who has filed an application for authority to discontinue service provided by such station shall during the period that such application is pending before the Commission, continue to file appropriate applications as may be necessary for extension or renewal of station license in order to provide legal authorization for such station to continue in operation pending final action on the application for discontinuance of service. Procedures for discontinuance, reduction or impairment of service by dominant and non-dominant, domestic carriers are in § 63.71 of this chapter. Procedures for discontinuance, reduction or impairment of international services are in § 63.19 of this chapter.

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39. Amend § 63.71 by revising paragraphs (a)(5)(i) and (a)(5)(ii) and by adding paragraph (d) to read as follows:

**§ 63.71 Procedures for discontinuance, reduction or impairment of service by domestic carriers**

\* \* \* \* \*

- (a) \* \* \*
(5) \* \* \*

(i) If the carrier is non-dominant with respect to the service being discontinued, reduced or impaired, the notice shall state: The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments as soon as possible, but no later than 15 days after the Commission releases public notice of the proposed discontinuance. Address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20054, and include in your comments a reference to the § 63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

(ii) If the carrier is dominant with respect to the service being

discontinued, reduced or impaired, the notice shall state: The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments as soon as possible, but no later than 30 days after the Commission releases public notice of the proposed discontinuance. Address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20054, and include in your comments a reference to the § 63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

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(d) Procedures for discontinuance, reduction or impairment of international services are in § 63.19 of this chapter.

**PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

40. The authority citation continues to read as follows:

Authority: 47 U.S.C. 154, 254(k) and 403(b)(2)(B), (c), Pub. L. 104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 225, 226, 228, and 254(k) unless otherwise noted.

41. Amend § 64.1903 by revising paragraph (a) introductory text and by removing paragraph (c) to read as follows:

**§ 64.1903 Obligations of all incumbent independent local exchange carriers.**

(a) An incumbent independent LEC providing in-region, interstate, interexchange services or in-region international interexchange services shall provide such services through an affiliate that satisfies the following requirements:

\* \* \* \* \*

**PART 69—ACCESS CHARGES**

42. The authority citation for part 69 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

**§ 69.116 [Removed]**

43. Remove § 69.116.

**§ 69.117 [Removed]**

44. Remove § 69.117.

**§ 69.126 [Removed]**

45. Remove § 69.126.

**§ 69.127 [Removed]**

46. Remove § 69.127.

**§ 69.612 [Removed]**

47. Remove § 69.612.

[FR Doc. 04-5657 Filed 3-17-04; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No.040311088-4088-01; I.D. 030104A]

RIN 0648-AQ81

**Fisheries of the Northeastern United States; Proposed 2004 Specifications for the Spiny Dogfish Fishery**

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 2004 fishing year, which is May 1, 2004, through April 30, 2005. 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 of this rulemaking is to specify the commercial quota and other management measures, such as possession limits, to rebuild the spiny dogfish resource.

DATES: Public comments must be received (see ADDRESSES) no later than 5 p.m. eastern standard time on April 2, 2004.

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--2004 Spiny Dogfish Specifications." Comments may also be sent via facsimile (fax) to (978) 281-9135. Comments on the specifications may be submitted by e-mail. The mailbox address for providing e-mail comments is DOGAQ81@noaa.gov. Include in the subject line of the e-mail comment the following document identifier:

“Comments–2004 Dogfish specifications.”

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.nmfs.gov./ro/doc/nero.html>.

**FOR FURTHER INFORMATION CONTACT:** Eric Jay Dolin, Fishery Policy Analyst, (978)281–9259, fax (978)281–9135, e-mail [eric.dolin@noaa.gov](mailto:eric.dolin@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, possession 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 2004 fishing year is not to exceed 0.08.

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.

**Spiny Dogfish Monitoring Committee Recommendations**

The Spiny Dogfish Monitoring Committee (Monitoring Committee) met in Baltimore on September 10, 2003, to review the stock assessment results and develop quota and possession limit recommendations for the 2004 fishing year. The Monitoring Committee reviewed the recent stock assessment for spiny dogfish (37th Northeast Regional Stock Assessment Review Committee (SARC) -- September 2003), which concluded that the spiny dogfish stock is overfished and overfishing is not occurring. Estimated fishing mortality in 2002 was  $F = 0.09$  and is near the threshold ( $F = 0.11$ ) at which overfishing is deemed to occur. The female spawning portion of the biomass has declined by about 75 percent since 1988 and is at 29 percent of the biomass target. Estimates of the exploitable and total biomass in 2002 are about 140,000 mt and 371,000 mt, respectively, about half of the peak level observed in 1985. Recent reductions in female spawning stock biomass cannot be replaced quickly due to the reproductive biology of spiny dogfish, and the current low level of female spawning stock biomass is expected to result in low recruitment for the next several years. Recruitment estimates from 1997 to 2003 represent the seven lowest values in the entire series. Given low current female spawning biomass, poor recruitment and reduced pup survivorship, the SARC recommended that total removals (landings, discards, Canadian catch) should be lower than those derived from the estimated rebuilding  $F$  (0.03), and also urged that the targeting females should be avoided.

The Monitoring Committee discussed potential management measures and adopted the MAFMC staff recommendation to maintain the status quo in 2004. This would mean an annual incidental catch of 4 million lb (1.81 million kg) which would be divided into two semi-annual quota periods (quota period 1 = 2.316 million

lb (1.05 million kg) and quota period 2 = 1.684 million lb (763,849 kg)), and possession limits 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).

**Joint Spiny Dogfish Committee Recommendations**

On October 7, 2003, the Joint Spiny Dogfish Committee (Joint Committee) voted to set the 2004 quota at 8 million lb (3.62 million kg). It also voted to have no possession limit in the Exclusive Economic Zone (EEZ), deferring to the states to establish possession limits.

**Alternatives Proposed by the Councils**

Following the Joint Committee meeting, on October 7, 2003, the MAFMC reviewed the Monitoring Committee and Joint Committee recommendations, and adopted recommended specifications for the 2004 fishing year. Those specifications would set an annual quota of 4 million lb (1.81 million kg), to be divided into two semi-annual quota periods for the 2004 fishing year. The quota for period 1 would be 2.316 million lb (1.05 million kg) and for period 2 would be 1.684 million lb (763,849 kg). The MAFMC recommended that the possession limits for both quota periods not exceed 1,500 lb (680 kg). On October 21, 2003, the NEFMC reviewed the Monitoring Committee and Joint Committee recommendations, and voted to adopt a 4.4 million-lb (2 million-kg) quota for the 2004 fishing year, with a 1,500-lb (680-kg) possession limit for incidental catch.

**Alternative Adopted by the Atlantic States Marine Fisheries Commission**

On December 17, 2003, the Atlantic States Marine Fisheries Commission’s (ASMFC) Spiny Dogfish and Coastal Shark Management Board approved specifications for the 2004–2005 fishing year, setting a 4-million-lb (1.81-million kg) annual quota, with possession limits of 600 lb (272 kg) in quota period 1 and 300 lb (136 kg) in quota period 2. The ASMFC’s specifications apply to state waters only.

**Proposed 2004 Measures**

NMFS reviewed both Councils’ recommendations and concluded that maintaining the status quo, which is the same as the Monitoring Committee’s recommendation, would better 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 2004 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, 2004 - Oct. 31, 2004); and 1,684,000 lb (765,454 kg) for quota period 2 (Nov. 1, 2004 - April 30, 2005). In addition, NMFS proposes to maintain possession 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. Maintaining the limits of 600 lb (272 kg) and 300 lb (136 kg) for quota periods 1 and 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.

Maintaining the status quo would also be consistent with the measures being implemented under the ASMFC's Interstate Fishery Management Plan in state waters. This would have the benefit of establishing consistent management measures in Federal and state jurisdictions for the first time since the FMP was enacted.

#### 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 255 vessels that have reported spiny dogfish landings to NMFS in 2002 (the most recent year for which there are vessel-specific data). In addition, there are vessels that are not subject to the Federal reporting requirements because they fish exclusively in state waters. 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 2,915 vessels were issued the permit in 2002).

It is presumed that these vessels are interested in the fishery but have chosen not to participate under the restrictive possession 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.

The IRFA considered four alternatives. The action recommended in this proposed rule includes a commercial quota of 4 million lb (1.81 million kg), and possession limits of 600 lb (272 kg) during quota period 1 and 300 lb (136 kg) during quota period 2. Alternative 2 evaluates the MAFMC proposal of an annual bycatch quota of 4 million lb (1.81 million kg), to be divided into two semi-annual quota periods for the 2004 fishing year. The quota for period 1 would be 2.316 million lb (1.05 million kg) and for period 2 would be 1.684 million lb (763,849 kg). The possession limits for both quota periods would not exceed 1,500 lb (680 kg). Alternative 3 evaluates the NEFMC proposal of an annual 4.4 million-lb (2 million-kg) quota for the 2004 fishing year, with a 1,500-lb (680-kg) possession limit for both periods. Alternative 4 evaluates the impact of having no management measures (no action).

The potential changes in 2004 revenues under the 4-million lb (1.81-million kg) quota were evaluated relative to landings and revenues derived during 2002: 4.76 million lb (2.2 million kg) of landings, valued at \$970,000. The analysis is based on the last full fishing year of landings data and assumed that the revenues of the 255 vessels that landed spiny dogfish in 2002 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 \$155,200, or about \$609 per vessel, compared to fishing year 2002.

The proposed possession limits of 600 lb (272 kg) in quota period 1, and 300 lb (136 kg) in quota period 2 represent a continuation of the possession limits established for fishing year 2002 and would have no new impact.

Under Alternative 2, the gross revenue impacts would be similar to impacts anticipated for Alternative 1 since the recommended quotas are

identical. The possession limit, however, would increase to 1,500 lb (680 kg). The magnitude of increases in gross revenue associated with the larger possession limit is not known. Recent possession limit analyses conducted by the Northeast Fisheries Science Center suggested that trip-level profitability associated with landing spiny dogfish was marginal when 1,500 or fewer pounds of spiny dogfish were retained. As such, an increase from status quo possession limits upward to 1,500 lb (680 kg) may not be expected to increase direct fishing for dogfish or provide significant increases in associated economic benefits.

Under Alternative 3, the quota would be 4.4 million lb (2.2 million-kg). This represents a 7.5 percent decrease in landings relative to the landings in 2002. The reduction in overall gross revenues to the fishery as a whole under this alternative was estimated to be about \$72,750, or about \$285 per vessel, compared to fishing year 2002.

Under Alternative 4, which would implement no management measures, landings are projected to be 25 million lb (11.36 million kg) in 2003-2004. This would constitute a 525 percent increase in fishing opportunity compared to the status quo (4.0 million pounds (1.81 million kg)) and a 425 percent increase in fishing opportunity compared to actual FY2002 landings (4.76 million lb (2.2 million kg)). Although the short-term social and economic benefits of an unregulated fishery would be much greater than those associated with Alternatives 1 through 3, fishing mortality is expected to rise above the threshold level that allows the stock to replace itself ( $F_{REP} = 0.11$ ) such that stock rebuilding could not occur. In the long term, unregulated harvest would lead to depletion of the spiny dogfish population which would eventually eliminate the spiny dogfish fishery altogether.

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

Dated: March 12, 2004.

**Rebecca Lent,**

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

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