

Dated: October 15, 2008.

Samuel D. Rauch III,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060418103-6181-02]

RIN 0648-XL29

Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Commercial Period 2 Quota Harvested

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

ACTION: Closure of spiny dogfish fishery.

SUMMARY: NMFS announces that the spiny dogfish commercial quota available to the coastal states from Maine through Florida for the semi-annual quota period, November 1, 2008—April 30, 2009, has been harvested and will not open for the Period 2 fishery. Therefore, effective 0001 hours, November 1, 2008, federally permitted spiny dogfish vessels may not fish for, possess, transfer, or land spiny dogfish until May 1, 2009, when the Period 1 quota becomes available. Regulations governing the spiny dogfish fishery require publication of this notification to advise the coastal states from Maine through Florida that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no Federal commercial quota is available for landing spiny dogfish in these states. This action is necessary because the fishery has exceeded its annual quota.

DATES: Quota Period 2 for the spiny dogfish fishery is closed effective at

0001 hr local time, November 1, 2008, through 2400 hr local time April 30, 2009. Effective November 1, 2008, federally permitted dealers are also advised that they may not purchase spiny dogfish from federally permitted spiny dogfish vessels.

FOR FURTHER INFORMATION CONTACT:

Jamie Goen at (978) 281-9220, or Jamie.Goen@noaa.gov.

SUPPLEMENTARY INFORMATION:

Regulations governing the spiny dogfish fishery are found at 50 CFR part 648.

The regulations require annual specification of a commercial quota, which is allocated into two quota periods based upon percentages specified in the fishery management plan. The commercial quota is distributed to the coastal states from Maine through Florida, as described in § 648.230.

The initial total commercial quota for spiny dogfish for the 2008 fishing year is 4 million lb (1.81 million kg) (71 FR 40436, July 17, 2006). The commercial quota is allocated into two periods (May 1 through October 31, and November 1 through April 30). Vessel possession limits are intended to preclude directed fishing, and they are set at 600 lb (272 kg) for both Quota Periods 1 and 2. Quota Period 1 is allocated 2.3 million lb (1.05 million kg), and Quota Period 2 is allocated 1.7 million lb (763,849 kg) of the commercial quota. The total quota cannot be exceeded, so landings in excess of the amount allocated to Period 1 have the effect of reducing the quota available to the fishery during Period 2.

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial spiny dogfish quota for each quota period and, based upon dealer reports, state data, and other available information, determines when the total commercial quota will be harvested. NMFS is required to publish a notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the Federal spiny dogfish commercial quota

has been harvested and no Federal commercial quota is available for landing spiny dogfish for the remainder of that quota period.

Section 648.4(b) provides that Federal spiny dogfish permit holders agree, as a condition of the permit, not to land spiny dogfish in any state after NMFS has published notification in the **Federal Register** that the commercial quota has been harvested and that no commercial quota for the spiny dogfish fishery is available. The Period 1 fishery was closed on August 20, 2008, for vessels issued Federal permits. However, landings by state waters vessels continued because the states have set a higher commercial quota. NMFS data available through October 8, 2008, estimates the commercial harvest of spiny dogfish to be at 4,800,374 lb (2.18 million kg), well over the 4 million lb (1.81 million kg) quota for the 2008 fishery. Therefore, effective 0001 hr local time, November 1, 2008, landings of spiny dogfish in coastal states from Maine through Florida by vessels holding commercial Federal fisheries permits will continue to be prohibited through April 30, 2009, 2400 hr local time. The 2009 Period 1 quota will be available for commercial spiny dogfish harvest on May 1, 2009. Effective November 1, 2008, federally permitted dealers are also advised that they may not purchase spiny dogfish from vessels issued Federal spiny dogfish permits that land in coastal states from Maine through Florida.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: October 15, 2008.

Emily H. Menashes,

*Acting Director, Office of Sustainable
Fisheries, National Marine Fisheries Service.*
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