

**FOR FURTHER INFORMATION CONTACT:** Peter Christopher, Fishery Management Specialist, 978-281-9288.

#### Correction

In the **Federal Register** of June 1, 1999, in FR Doc. 99-13828, on page 29257, in the 3<sup>rd</sup> column, in the 16<sup>th</sup> line, the weight "35,000 lb" should read "30,000 lb".

Dated: June 22, 1999.

**Bruce C. Morehead,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[I.D. 060899B]

#### Fisheries of the Northeastern United States; Spiny Dogfish Fishery

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

**ACTION:** Notice of availability of a fishery management plan for spiny dogfish; request for comments.

**SUMMARY:** NMFS announces that the Mid-Atlantic and New England Fishery Management Councils (Councils) have submitted the Fishery Management Plan for Spiny Dogfish (FMP) for Secretarial review and are requesting comments from the public. The FMP proposes management measures to control fishing mortality, a definition of overfishing, a 5-year rebuilding schedule, and an identification and description of essential fish habitat (EFH). The purpose of the FMP is to conserve spiny dogfish to achieve optimum yield from this resource. The FMP will achieve this overall goal primarily by eliminating overfishing and rebuilding the spiny dogfish stock to meet the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Comments on the FMP must be received on or before August 30, 1999.

**ADDRESSES:** Send comments to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930-3799. Mark the outside of the envelope: "Comments on Spiny Dogfish FMP."

Copies of the FMP including the final environmental impact statement,

regulatory impact review, and supplement of May 1999, are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19904-6790.

**FOR FURTHER INFORMATION CONTACT:** Richard A. Pearson, Fishery Policy Analyst, at 978-281-9279.

**SUPPLEMENTARY INFORMATION:** Domestic landings of spiny dogfish (*Squalus acanthias*) on the East Coast rapidly increased from 9.92 million lb (4,500 metric tons (mt)) in 1989 to 61.72 million lb (28,000 mt) in 1996, then declined to approximately 41.89 million lb (19,000 mt) in 1997. During this period, the fishing mortality rate (F) rose from below 0.1 during the 1980's to 0.3 in 1997. In addition to the overall increase in landings, the landings disproportionately contain females, because they grow to a larger size than males and are, therefore, preferred for processing. Because of the directed fishing effort on adult female spiny dogfish, including discard mortality, the spawning stock biomass (SSB) has severely declined.

The spiny dogfish, a common small shark, inhabits the temperate and sub-Arctic latitudes of the North Atlantic Ocean. In the Northwest Atlantic, they range from Labrador to Florida, but are most abundant from Nova Scotia to Cape Hatteras. They migrate seasonally, moving north in spring and summer and south in fall and winter. Spiny dogfish are considered a unit stock in the Northwest Atlantic Ocean. The management unit for this FMP is the entire spiny dogfish stock along the Atlantic coast of the United States.

Spiny dogfish is a long-lived, slow growing species. Fifty percent of the female population is mature at 12 years of age. This species bears live young after a 2-year gestation period. Litter sizes range from 2 to 15 pups. Therefore, a small spawning stock produces correspondingly low recruitment, making spiny dogfish especially vulnerable to overfishing.

The 26th Northeast Regional Stock Assessment Workshop (SAW 26) in March 1998 concluded that spiny dogfish are overexploited. SAW 26 reported that minimum biomass estimates of mature females ( $\geq 80$  cm) have declined by over 50 percent since 1989 and that recruitment of juvenile dogfish was the lowest on record in 1997. The combination of increased fishing mortality, declining biomass of mature females, and low recruitment have contributed to the overfished condition of the stock.

NMFS notified the Councils on April 3, 1998, that spiny dogfish was being added to the 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 Act. The Magnuson-Stevens Act requires remedial action for stocks that are designated overfished, and requires the Regional Fishery Management Councils to prepare measures within 1 year of notification to end overfishing and to rebuild the overfished stock.

The FMP proposes management measures to control fishing mortality, a definition of overfishing, a 5-year stock rebuilding schedule, and identification and description of EFH. The FMP was developed jointly by the Councils. The Mid-Atlantic Fishery Management Council (Mid-Atlantic Council) has the administrative lead on the FMP.

The proposed management measures to control fishing mortality include: (1) Permit and reporting requirements for owners of commercial vessels, operators, and dealers; (2) the establishment of a Spiny Dogfish Monitoring Committee; (3) a framework adjustment process; (4) an annual commercial quota; (5) seasonal (semi-annual) allocation of the commercial quota; (6) a prohibition on finning; and (7) annual FMP review.

The FMP would eliminate overfishing and rebuild the spiny dogfish stock through a two-step reduction in F. The first step would reduce F from current levels (approximately 0.3) to 0.2 beginning the second quota period of year one (November 1999–April 2000). F would be reduced to 0.03 for the remaining 4 years of the rebuilding schedule.

The primary management measure in the FMP is an annual commercial quota that would be allocated semi-annually, based upon the percentage of commercial landings for each semi-annual period during the years 1990–1997. The first period (May 1–Oct. 31) would receive 57.9 percent of the annual commercial quota; the second period (Nov. 1–April 30) would receive the remaining 42.1 percent of the annual commercial quota.

The annual commercial quota would be based upon the recommendations of the Spiny Dogfish Monitoring Committee, the Joint Spiny Dogfish Committee, and the Councils. The annual quota would be established by the Regional Administrator at a level to assure that the target F specified in the FMP is not exceeded.

Any owner of a vessel wanting to fish for spiny dogfish within the EEZ for sale, or wanting to transport and deliver for sale any spiny dogfish taken within

the EEZ, would be required to obtain a Federal commercial vessel permit for that purpose. Any dealer of spiny dogfish would be required to obtain a Federal dealer permit. Anyone who operates a vessel for the purpose of fishing commercially for spiny dogfish would be required to obtain an operator's permit. Specific requirements regarding permitting requirements are discussed in the FMP and proposed rule.

### Overfishing Definition

The FMP's overfishing definition consists of two components: (1) A maximum F threshold and a target F, and (2) a minimum SSB threshold and an SSB target. The overfishing definition specifies an F threshold level, whereby F in excess of this level would be defined as overfishing. The definition also specifies a target F that would allow stock rebuilding. Overfishing for spiny dogfish occurs when F exceeds the level associated with a pup-per-recruit ratio of 1.0, designated as  $F_{rep}$ .  $F_{rep}$  represents the level that allows for the production of 1.0 female pup per female recruit to the adult stock; that is, the level that allows the adult female portion of the stock to replace itself.  $F_{rep}$  is currently estimated to be 0.11. The current F level of 0.3 exceeds  $F_{rep}$ . The target F ( $F_{target}$ ) specified in the FMP represents the mortality rate that would produce an average of 1.5 pups-per-recruit and is estimated to be 0.08.

The SSB component of the overfishing definition is based upon the level of adult female SSB that maximizes average recruitment, referred to as  $SSB_{max}$ .  $SSB_{max}$  was selected as a proxy value for  $B_{msy}$  (the biomass level that would produce maximum sustainable yield).  $SSB_{max}$  was determined to be 440 million lb (200,000 mt) SSB. Spiny dogfish is

defined as overfished when adult female SSB falls below the threshold level of  $\frac{1}{2}$   $SSB_{max}$ , which is 220 million lb (100,000 mt) SSB. The Councils have chosen a biomass rebuilding target of 397 million lb (180,000), which is 90 percent of  $SSB_{max}$ .

The most recent stock assessment data presented by the NMFS Northeast Fisheries Science Center (NEFSC) (1998) and the Dogfish Technical Committee indicate that, based upon a 3-year moving average of NEFSC survey data, the total adult female spiny dogfish SSB is currently about 280 million lb (127,000 mt). This is below the SSB rebuilding target specified in the FMP. The FMP proposes to rebuild the adult female spiny dogfish stock to 396 million lb (180,000 mt) over a 5-year rebuilding period, whereby F is reduced from 0.3 to 0.2 beginning the second quota period of year one (November 1999–April 2000) and then further reduced to 0.03 for the remaining 4 years of the rebuilding schedule.

### Essential Fish Habitat

The FMP includes the Councils' identification and description of EFH for juvenile and adult spiny dogfish, and evaluation of fishing activities and non-fishing activities that may adversely affect EFH. The FMP does not propose any specific management measures to address adverse effects from fishing, but it makes conservation, enhancement, and research recommendations to address non-fishing activities. The FMP states that the Councils intend to review and, if necessary, amend the EFH designations for spiny dogfish at least every 5 years. The FMP also authorizes the revision of EFH components using the framework process.

### Supplement to the FMP

Following initial review of the Council's FMP submission, NMFS

identified several areas that required clarification or additional information. These areas included discussion of sections addressing the Paperwork Reduction Act, Marine Mammal Protection Act, Endangered Species Act, EFH, the overfishing definition, and national standard 9. As a result, the Councils submitted a Supplement to the FMP on May 12, 1999.

This NOA requests comments on the FMP, including comments on the amended biomass rebuilding target and the associated 5-year rebuilding schedule. A proposed rule that would implement the FMP will be published in the **Federal Register** for public comment after NMFS has evaluated it under the procedures of the Magnuson-Stevens Act. Public comments on the proposed rule must be received by August 30, 1999, the end of the comment period on the FMP, to be considered in the decision concerning approval or disapproval of the FMP. All comments received by August 30, 1999, whether specifically directed to the FMP or to the proposed rule, will be considered in the approval/disapproval decision on the FMP. Comments received after that date will not be considered in the approval/disapproval decision on the FMP. All comments received on the FMP or on the proposed rule will be responded to in the preamble to the final rule.

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

Dated: June 24, 1999.

**George H. Darcy,**

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