

States Census 2000, Joint Petitioners must establish that Midlothian is a community for purposes of the Commission's FM allotment policies. The change of community from Orange to Midlothian would result in a net gain of 2,286.8 square kilometers and a net gain of 729,525 persons. In the loss area, adoption of the proposal would leave 2,470 persons in 135 square kilometers receiving two aural broadcast services, 10,720 persons in 77 square kilometers receiving three services, and 19,189 persons in 541 square kilometers receiving four services. In the gain area, the proposal would add a fifth reception service to 252 persons in 56 square kilometers. Substitution of Channel 270A for Channel 255C3 at South Hill would produce a net loss of 2,285.7 square kilometers and a net loss of 39,412 persons. The existing 70 dBu signal for WJMA-FM at Orange does not cover any Urbanized Area. Joint Petitioners state that Midlothian is not located in an Urbanized Area and that the proposed 70 dBu contour of WJMA-FM will cover less than 50 percent of the Richmond Urbanized Area. Under the circumstances described in the petition, no *Tuck* analysis will be necessary to evaluate this change of community proposal.

DATES: Comments must be filed on or before April 11, 2003, and reply comments on or before April 28, 2003.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the petitioner as follows: Mark J. Prak, Brooks Pierce McLendon, Post Office Box 1800, Raleigh, NC 27602; Peter Gutmann, Womble, Carlyle, Sandridge & Rice, PLLC, 1401 Eye Street, NW., Washington, DC 20005; Mark N. Lipp, J. Thomas Nolan, Shook, Hardy & Bacon, 600 Fourteenth Street, NW., Suite 800, Washington, DC 20005; and Brian M. Madden, Leventhal Senter & Lerman, PLLC, 2000 K Street, NW., Suite 600, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418-7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03-47; adopted February 12, 2003 and released February 18, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor,

Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893.

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by removing Channel 271C and by adding Channel 271C0 at Reidsville.

3. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by removing Orange, Channel 255A, and by adding Midlothian, Channel 255B1.

4. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by removing Channel 255C3 and by adding Channel 270A at South Hill.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03-5333 Filed 3-7-03; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 030227050-3050-01; I.D. 020603D]

RIN 0648-AQ34

Fisheries of the Northeastern United States; Proposed 2003 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 2003 fishing year, which is May 1, 2003, through April 30, 2004. 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 is to specify the commercial quota and other management measures, such as trip limits, to address overfishing of the spiny dogfish resource.

DATES: Public comments must be received (see **ADDRESSES**) no later than 5 p.m. eastern standard time on March 25, 2003.

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—2003 Spiny Dogfish Specifications." Comments may also be sent via facsimile (fax) to (978) 281-9135. Comments will not be accepted if submitted via e-mail or the Internet.

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

SUPPLEMENTARY INFORMATION:

Background

NMFS declared spiny dogfish overfished on April 3, 1998, and added this species to that year's list of overfished stocks in its *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. The Mid-Atlantic and New England Fishery Management Councils (Councils) jointly developed the FMP during 1998 and 1999. The Mid-Atlantic Fishery Management Council (MAFMC) was designated as the administrative lead on developing the FMP. The FMP was partially approved by NMFS on September 29, 1999, and the final rule implementing the FMP was published on January 10, 2000.

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, trip 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 2003 fishing year is 0.03.

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 Mid-Atlantic and Northeast 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 Councils' 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 ensure that they are consistent with the target F level, and publishes proposed measures for public comment.

Monitoring Committee Recommendations

The Monitoring Committee met on September 19, 2002, to review updated stock assessment information. Based on a 3-year average (2000–2002), F was estimated to range from 0.27 to 0.44, with the best estimate being $F=0.3$, which was far above the overfishing threshold level of $F=0.11$ specified in the FMP.

According to the most recent (through spring 2002), audited NEFSC spring trawl survey data, the current 3-year (2000–2002) moving average of adult female biomass is 72,600 mt versus 68,400 mt for the previous (1999–2001) value. This is approximately 36 percent of the recommended biomass rebuilding target (B_{msy}) for adult females of 200,000 mt (441 million lb). It is important to note that the biomass rebuilding target will be re-estimated this spring when the spiny dogfish stock assessment is updated. The biomass estimates of adult male dogfish between the two moving 3-year average periods is essentially unchanged. The 2000–2002 average of total stock biomass was 378,000 mt, compared to 380,000 mt for 1999–2001. The Monitoring Committee concluded that, based on recent survey updates, stock abundance, including female spawning stock biomass, appears to be stable. This contrasts with the pronounced declines in previous years.

However, the stock of adult females remains low as the result of the fact that the fishery targeted larger (female) fish in the 1990s. The survey data indicate a decrease in the average size of female spiny dogfish in recent years. NMFS survey data also show a reduction in the biomass of spiny dogfish pups based on the decline in biomass of dogfish less than 36 cm. The survey indices for pups for the past 6 consecutive years (1997–2002) have continued to be the lowest in the 34-year time series, indicating recruitment failure.

The Monitoring Committee estimated the yield associated with an $F=0.03$ for 2003 to be 4.0 million lb (1.81 million kg), assuming the current stock size. The Monitoring Committee recommended a 4-million lb (1.81-million kg) commercial quota for spiny dogfish for the 2003–2004 fishing season, divided into the two semi-annual periods as specified in the FMP: 57.9 percent for quota period 1 (May–October), or 2,316,000 lb (1.05 million kg); and 42.1 percent for quota period 2 (November–April), or 1,684,000 lb (765,454 kg). The Monitoring Committee also recommended maintaining a trip limit of 600 lb (273 kg) for quota period 1 and 300 lb (137 kg) for quota period 2.

(Vessels are prohibited from landing more than the specified amount in any one calendar day.)

The Spiny Dogfish Monitoring Committee concluded by consensus that discards are a major issue for stock rebuilding and that discard mortality may be overwhelming the FMP objective of rebuilding female spawning stock biomass. As a result of discarding in other fisheries, fishing mortality could be greater than the F that will allow stock rebuilding. The Committee was also concerned with recent increases in Canadian landings, which now exceed U.S. landings. When the FMP was being developed, Canadian landings were of minor importance. Given all these factors, the Monitoring Committee expressed concern that even the current restrictive rebuilding strategy may be too liberal to accomplish the rebuilding objectives of the FMP, even in the long term. The Councils have initiated development of Amendment 1 to the FMP, which will consider changes to the management regime for this fishery.

Joint Spiny Dogfish Committee Recommendations

The Joint Spiny Dogfish Committee (Joint Committee) met on September 30, 2002, to consider the recommendations of the Monitoring Committee, and to make a recommendation to the Councils. The Joint Committee recommended that the Councils adopt a commercial quota of 8.8 million lb (4 million kg) for the 2003 fishing year. In addition, the Joint Committee recommended trip limits of 7,000 lb (3,182 kg) for quota period 1 and 5,000 lb (2,273 kg) for quota period 2.

Alternatives Proposed by the Councils

The MAFMC and NEFMC voted on recommendations for year 5 (2003–2004) management measures at their respective meetings on October 2, 2002, and November 5, 2002. The MAFMC adopted the Monitoring Committee recommendations for a commercial quota of 4 million lb (1.81 million kg) and trip limits of 600 lb (273 kg) for quota period 1 and 300 lb (137 kg) for quota period 2. The NEFMC adopted the Joint Committee recommendation for an F consistent with a commercial quota of 8.8 million lb (4 million kg), and trip limits of 7,000 lb (3,182 kg) and 5,000 lb (2,273 kg) for quota periods 1 and 2, respectively.

Proposed 2003 Measures

NMFS reviewed both Councils' recommendations and concluded that the MAFMC recommendation would better ensure that the target F is not

exceeded. NMFS proposes a commercial spiny dogfish quota of 4 million lb (1.81 million kg) for the 2003 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, 2003 - Oct. 31, 2003); and 1,684,000 lb (765,454 kg) for quota period 2 (Nov. 1, 2003 - April 30, 2004). In addition, NMFS proposes to maintain trip limits of 600 lb (273 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. Trip limit levels of 7,000 lb (3,182 kg) and 5,000 lb (2,273 kg) could result in a directed fishery, which is inconsistent with the rebuilding program. Maintaining the limits of 600 lb (273 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.

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. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action. There are no large entities (vessels) participating in this fishery, as defined in Section 601 of the Regulatory Flexibility Act; therefore, there are no economic impacts resulting from disproportionate sizes of vessels in the fishery. A summary of the analysis follows.

The small entities considered in the analysis include 280 vessels that have reported spiny dogfish landings to NMFS in 2001 (the most recent year for which there is vessel-specific data). In addition, there are vessels that are not subject to the Federal reporting requirements because they fish exclusively in state waters. It is not possible to identify these vessels because data from most of the states are not vessel-specific, but some number of

these vessels are likely to be impacted. There is no reason to presume the impacts on these vessels would be substantially different from the impact on federally permitted vessels.

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 2,825 vessels were issued the permit in 2001). It is presumed that these vessels are interested in the fishery but have chosen not to participate under the restrictive trip 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 because it is impossible to determine both the number of vessels that would participate and their fishing behavior (e.g., level of effort).

The IRFA considered three alternatives. The action recommended in this proposed rule includes a commercial quota of 4 million lb (1.81 million kg), and trip limits of 600 lb (273 kg) during quota period 1 and 300 lb (136 kg) during quota period 2. Alternative 2 includes a commercial quota of 8.8 million lb (4 million kg) and trip limits of 7,000 lb (3,182 kg) for quota period 1 and 5,000 lb (2,273 kg) for quota period 2. Alternative 3 evaluates the impact of having no management measures.

The potential changes in 2003 revenues under the 4-million lb (1.81-million kg) quota were evaluated relative to landings and revenues derived during 2001: 4.94 million lb (2.25 million kg) of landings, valued at \$1,126,000. The analysis is based on the last full fishing year of landings data for 280 vessels. The reduction in gross revenues to the fishery as a whole was estimated to be about \$214,259, or about \$765 per vessel, compared to fishing year 2001. The information necessary to perform a profitability assessment was not available. Therefore, we have used changes in gross revenues in lieu of profitability.

The proposed trip limits of 600 lb (272 kg) in quota period 1, and 300 lb (136 kg) in quota period 2 represent a continuation of the trip limits established for fishing year 2001 and would have no new impact. The trip limit analysis projected that, on average, under a 600-lb (273-kg) trip limit for quota period 1, landings would exceed the semi-annual quota of 2,316,000 lb (1.05 million kg) on about September 5 (128 days into the quota period). During quota period 2, however, if a 300-lb (136-kg) possession limit was in effect, landings were projected not to exceed

the semi-annual quota of 1,684,000 lb (763,849 kg). The analysis projected landings of only 615,000 lb (279,545 kg) during quota period 2. Thus, approximately 1,069,000 lb (485,909 kg) of allowable spiny dogfish landings were projected not to be landed. Although the commercial quota is 4 million lb (1.81 million kg), total projected landings would only reach 2.93 million lb (1.33 million kg). However, the analysis does not account for behavioral changes by vessel operators that could impact the amount of landings. Also, since vessels without Federal permits are not captured in the analysis, yet their landings count towards the quota, it is likely that additional landings will occur. In fact, during the 2002 fishing year, under identical trip limits and commercial quota, period 1 was open for 61 days under a 600-lb (272-kg) trip limit and period 2 was open for 20 days under a 300-lb (136-kg) trip limit. Higher trip limits established by some states in 2002 weakened the effectiveness of the trip limit measures.

Under Alternative 2, the quota would increase to 8.8 million lb (4 million kg). This represents an increase from landings in fishing year 2001 of 3.86 million lb (1.8 million kg), valued at \$878,280. Assuming that the increase is shared among the 280 vessels that landed spiny dogfish in fishing year 2001, each vessel would experience revenue increases of \$3,137. However, this quota is inconsistent with the target F required by the FMP.

Under Alternative 2, the trip limit model indicates that with trip limits of 7,000 lb (3,175 kg) and 5,000 lb (2,273 kg) during quota periods 1 and 2, respectively, the semi-annual quota of 5,095,200 lb (2.32 million kg) would be exceeded on average approximately 55 days into quota period 1 and the semi-annual quota of 3,704,800 lb (1.68 million kg) would be exceeded approximately 92 days into quota period 2. However, based on the 2002 fishery, it is likely that the allocations would be landed sooner. More vessels would find it profitable to land spiny dogfish under trip limits of 7,000 lb (3,175 kg) and 5,000 lb (2,273 kg) while the season was open.

Under Alternative 3, with no quota or management measures, landings are projected to be 25 million lb (11.36 million kg) in 2003–2004. This represents an increase from 2001 landings of 20.06 million lb (9.12 million kg). Increases in gross revenues to vessels would be about \$4.57 million. Gross revenues for vessels engaged in the spiny dogfish fishery would be expected to increase, on average, by

about \$16,327 per vessel in fishing year 2003. Although unrestricted fishing would result in higher short-term landings and revenues, compared to fishing year 2001, this would be inconsistent with the rebuilding program established in the FMP, as required by the Magnuson-Stevens Act.

According to 2001 landings information, the impact of the proposed specifications for the 2003 fishing year will be greatest in Massachusetts, which accounted for the largest share of the

landings (79.2 percent), followed by New Hampshire (10.6 percent), Rhode Island (6.7 percent), and Virginia (1.8 percent). The top four ports that landed spiny dogfish in 2001 were Chatham, MA (64.8 percent); Gloucester, MA (6.2 percent); Plymouth, MA (4.8 percent); and Newport, RI (4.6 percent).

It has been determined that this proposed rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

This proposed rule does not contain or involve any information collection requirements that require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

Dated: March 5, 2003.

Rebecca Lent,

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

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