

## Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and ATCA, 16 U.S.C. 971 *et seq.*

NMFS has prepared an IRFA as required by the Regulatory Flexibility Act. As of October 2000, there were 443 directed and incidental swordfish permit holders under the limited access system. This number probably represents the number of active pelagic longline vessels in the fleet since most pelagic longline fishermen land swordfish along with other species. This proposed rule applies to all of these permit holders; however, in 1999, an average of only 20 vessels per month actually reported landings of fish harvested from the Charleston Bump area from February through June.

NMFS considered three alternative actions to regain, in 2001, a portion of the environmental benefits likely lost due to the delay of the closure for the month of February: status quo; extend the Charleston Bump closure through May 31; and extend the Charleston Bump closure through June 30. NMFS found that under status quo, the average permit holder may have earned \$9,230 in net revenues, before payments to the captain and crew, more than originally expected due to the delay in effective date. Although the status quo alternative has minimal economic costs and a number of economic benefits, this alternative is not consistent with the objectives of the August 1, 2000, final rule to reduce bycatch in the Atlantic pelagic longline fishery and it does not regain any of the environmental benefits that may have been lost due to the delay in effective date.

NMFS found that fishing for HMS with pelagic longline gear in the Charleston Bump tends to be more profitable in May than in February. As a result, under the proposed alternative, permit holders could lose an average of \$9,544 each after considering the February earnings that could have accrued due to the delay. However, this alternative is consistent with the objectives of the August 1, 2000, final rule to reduce bycatch in the Atlantic pelagic longline fishery and it does regain some of the environmental benefits that may have been lost due to the delay in effective date.

If the Charleston Bump is closed in May and June, permit holders could lose an average of \$25,207 each after considering the February earnings that could have accrued due to the delay. Although this alternative could recover all of the environmental benefits likely lost due to the delay in effective date,

this alternative has a large economic impact and was not selected because it would be inconsistent with the multi-objective approach previously adapted in the August 1, 2000, final rule.

All of the economic impacts discussed here would occur only in the year 2001. The RIR/IRFA provides further discussion of the economic effects of all the alternatives considered.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

## List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: March 26, 2001.

**William T. Hogarth,**

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 635, is proposed to be amended as follows:

## PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

**Authority:** 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.21, paragraph (c)(2)(ii) is revised to read as follows:

### § 635.21 Gear operation and deployment restrictions.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(ii) In the Charleston Bump closed area from March 1 through May 31, 2001, and from February 1 through April 30 each calendar year thereafter;

\* \* \* \* \*

[FR Doc. 01-7830 Filed 3-26-01; 5:05 pm]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 010319071-1071-01; I.D. 030101H]

**RIN 0648-A053**

### Fisheries of the Northeastern United States; Spiny Dogfish Fishery; 2001 Specifications

**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 2001 fishing year, which is May 1, 2001, through April 30, 2002. To enhance at-sea enforcement, this rule also proposes a revision to the current trip limits that would specify them as possession limits with the provision that these levels be the maximum amount of spiny dogfish that may be landed in 1 calendar day. The intent of this proposed rule is to conserve and manage the spiny dogfish resource in compliance with the Spiny Dogfish Fishery Management Plan (FMP), its implementing regulations, and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Public comments must be received (see **ADDRESSES**) no later than 5 p.m. eastern standard time on April 14, 2001.

**ADDRESSES:** Written comments on the proposed specifications must 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—2001 Spiny Dogfish Specifications." Comments may also be sent via facsimile (fax) to (978) 281-9371. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of supporting documents used by the Spiny Dogfish Monitoring Committee; the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IRFA); and the Essential Fish Habitat Assessment 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 is accessible via the Internet at <http://www.nero.nmfs.gov/ro/doc/nero.html>.

**FOR FURTHER INFORMATION CONTACT:** Richard A. Pearson, Fishery Policy Analyst, (978) 281-9279, fax (978) 281-9135, e-mail [rick.a.pearson@noaa.gov](mailto:rick.a.pearson@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Spiny dogfish were declared overfished by NMFS on April 3, 1998, and added to the list of overfished stocks in the 1998 Report on the Status of the Fisheries of the United States, prepared pursuant to section 304 of the Magnuson-Stevens Act. Because spiny

dogfish has been declared to be overfished, the Magnuson-Stevens Act requires the responsible Regional Fishery Management Council(s) to prepare measures to end overfishing and to rebuild the spiny dogfish stock. To address overfishing and other concerns, the Mid-Atlantic (MAFMC) and New England (NEFMC) Fishery Management Councils developed a joint Spiny Dogfish FMP during 1998 and 1999. The MAFMC was designated as the administrative lead for 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, trip limits, and other gear restrictions) for the spiny dogfish fishery to achieve the annual fishing mortality rate (F) target specified in the FMP. The target F specified in the FMP for the 2001 fishing year is 0.03.

The implementing regulations require that the Spiny Dogfish Monitoring Committee (Monitoring Committee), comprised of representatives from states, MAFMC staff, NEFMC staff, NMFS staff, and two non-voting, ex-officio industry representatives (one each from the MAFMC and NEFMC regions) review annually the best available information and 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.

In 2000, the Councils were unable to reach agreement on a recommendation for the fishing year 2000 specifications. Therefore, NMFS issued an interim final rule implementing specifications at 65 FR 25887, May 4, 2000. The interim final rule implementing the 2000 specifications established a total quota of 4.5 million lb (2,041 mt), of which 4 million lb (1,814 mt) was allocated to the commercial fishery and 500,000 lb (226.7 mt) was set aside for spiny dogfish exempted experimental fishing projects. As required by the FMP, 57.9 percent of the commercial quota (2,316,000 lb (1,050,520 kg)) was allocated to period 1 (May 1, 2000–Oct. 31, 2000), and 42.1 percent of the commercial quota (1,684,000 lb (763,850 kg)) was allocated to period 2 (Nov. 1, 2000–April 30, 2001). In addition, the

interim final rule established trip limits of 600 lb (272 kg)/trip for period 1, and 300 lb (136 kg)/trip for period 2. These measures were determined to be necessary to achieve the target F of 0.03 that was specified in the FMP rebuilding schedule for the 2000 fishing year.

#### **Monitoring Committee Recommendations**

The Monitoring Committee met on November 17, 2000, to review updated stock assessment information. F estimates from the Beverton-Holt model have increased from less than 0.05 prior to 1990 to greater than 0.3 since about 1995. F has exceeded the overfishing threshold level of 0.11 since 1991. Using audited Northeast Fisheries Science Center (NEFSC) spring survey trawl data, the Monitoring Committee compared mean number per tow and biomass per tow values for female spiny dogfish at length for three periods: 1985–1988, 1995–1997, and 1998–2000. The Monitoring Committee noted a reduction in the biomass of adult females (>85cm) throughout the time series. Biomass of large mature females was over 882 million lb (400 million kg) in 1990. Since 1990, the estimate of mature female biomass has declined steadily. The 3-year moving average of swept-area female biomass for the period 1998–2000 declined to about 128 million lb (58 million kg), or about 29 percent of the Monitoring Committee's originally recommended biomass rebuilding target (Bmsy) of 200,000 mt (441 million lb). Also, the Monitoring Committee indicated that the large accumulation of female biomass between 60 and 90 cm evident in the 1995–1997 time period had been greatly reduced. This large accumulation of female biomass had provided the opportunity to rebuild spiny dogfish relatively quickly. Updated projections of future stock sizes under the FMP's target F of 0.03 indicate that, due to the recent reduction in the portion of the female stock between 60–90 cm, the time period necessary to rebuild the adult female biomass to the Monitoring Committee's originally recommended target has been extended from 10 years to approximately 17 years.

Coincident with the dramatic reduction in the adult female portion of the stock since the onset of the directed fishery in 1989, spiny dogfish pup production has also significantly declined. The survey indices for pups have been the lowest in the 33-year time series for the past 4 consecutive years (1997–2000), indicating recruitment failure.

The Monitoring Committee initially calculated the yield projection at  $F=0.03$  for 2001 to be about 3.5 million lb (1.59 million kg) using a mean estimated population size. After considering the uncertainty and variability in the population estimates for spiny dogfish that were previously described in the interim final rule (65 FR 25887, May 4, 2000), the Monitoring Committee recommended a commercial quota of 4 million lb (1.814 mt), which was determined to achieve  $F=0.03$  in 2001. As specified in the FMP, the 4-million lb (1.814-mt) recommended quota would be divided into two semi-annual periods as follows: 57.9 percent for period 1 (May 1–Oct. 31, 2000)–2,316,000 lb (1,050,512 kg); and 42.1 percent for period 2 (Nov. 1, 2000–April 30, 2001)–1,684,000 lb (763,849 kg). The Monitoring Committee recommended that possession limits remain the same as the 2000 fishing year: 600 lb (272 kg) for quota period 1, and 300 lb (136 kg) for quota period 2. The Monitoring Committee also recommended that up to an additional 500,000 lb (226.7 mt) of spiny dogfish be allocated for exempted experimental fishery projects to examine the feasibility of a male-only spiny dogfish fishery, and to improve information on spiny dogfish bycatch and discard mortality.

#### **Joint Spiny Dogfish Committee Recommendations**

The Joint Spiny Dogfish Committee met on December 7, 2000, to consider the recommendations of the Monitoring Committee, and to make a recommendation to the Councils. The Joint Spiny Dogfish Committee recognized that the Councils are obliged to set a commercial quota consistent with  $F=0.03$  and adopted the Monitoring Committee recommendation for a 4-million lb (1.81-million kg) quota to be allocated to the commercial fishery and 500,000 lb (226,796 kg) to be allocated for exempted experimental fisheries. The Joint Committee did not adopt the Monitoring Committee's possession limit, but made a recommendation for possession limits of 5,000 lb (2,268 kg) for both quota periods.

#### **Alternatives Proposed by the Councils**

The MAFMC met on December 12–14, 2000, and the NEFMC met on January 23 - 25, 2001, to consider the recommendations of the Joint Spiny Dogfish Committee and to recommend specifications for the 2001 fishing year. Both Councils adopted the Joint Committee's quota recommendation to allocate 4 million lb (1.81 million kg) to the commercial fishery, and 500,000 lb

(226,796 kg) for exempted experimental fishing projects for fishing year 2001. period 1 (May 1 through October 31) would be allocated 2,316,000 lb (1,050,512 kg), and period 2 (November 1 through April 30) would be allocated 1,684,000 lb (763,849 kg).

The two Councils differed on their possession limit recommendations. The MAFMC adopted the Monitoring Committee's recommendation for possession limits of 600 lb (272 kg) and 300 lb (136 kg) for periods 1 and 2, respectively. The NEFMC adopted the Joint Committee's recommendation for a possession limit of 5,000 lb (2,268 kg) for both quota periods. Both Councils also recommended prohibiting vessels from landing more than the specified limit in 1 calendar day, and revising the trip limit to a possession limit.

#### Proposed 2001 Measures

NMFS proposes a commercial spiny dogfish quota of 4 million lb (1.81 million kg) for the 2001 fishing year, as recommended by both Councils. The quota would be divided into two semi-annual periods as follows: 2,316,000 lb (1,050,512 kg) for period 1 (May 1, 2001–Oct. 31, 2001); and 1,684,000 lb (763,849 kg) for period 2 (Nov. 1, 2001–April 30, 2002). This level was recommended by the Monitoring Committee, and was determined to achieve the target  $F=0.03$ , as specified in the FMP for the 2001–2002 fishing year. Although the Monitoring Committee and both Councils recommended that an additional 500,000 lb (226,796 kg) be allocated for experimental fishing projects, the FMP and its implementing regulations do not contain a provision to allow for the allocation of such an exempted quota set-aside. Only through Secretarial interim action was it possible to implement such a provision for the 2000 fishing year. Therefore, NMFS has not proposed such an allocation.

NMFS proposes to implement the spiny dogfish possession limits that were recommended by the Monitoring Committee and the MAFMC. These limits are: 600 lb (272 kg) for period 1, and 300 lb (136 kg) for period 2. The FMP discourages a directed fishery during the rebuilding period, because the directed fishery has traditionally targeted large mature female spiny dogfish, the stock component that is most in need of protection and rebuilding. A trip limit level of 5,000 lb (2,268 kg) could result in a directed fishery, which is inconsistent with the FMP. The proposed lower limits of 600 lb (272 kg) and 300 lb (136 kg) for period 1 and period 2, respectively, would allow fishermen to retain spiny

dogfish caught incidentally, while discouraging directed fishing and, thereby, providing protection to mature female spiny dogfish.

An analysis of the trip limits examined the expected reduction in the regulatory discards of spiny dogfish based on economic decisions of vessel owners when faced with the subject trip limits. This analysis indicates that trip limits, in combination with a low commercial quota, will produce a high level of regulatory discards, because spiny dogfish are encountered, landed, and discarded in nearly all major fisheries in the region. However, the goal of the FMP and the 2001 specifications is to eliminate the directed fishery in order to meet the  $F=0.03$  target. According to the FMP, high discards are also associated with the directed spiny dogfish fishery. Because the spiny dogfish landed in this fishery are primarily large females, smaller dogfish are usually discarded. Thus, providing for a low trip limit that eliminates the directed fishery should decrease the mortality of female spiny dogfish. In addition, since spiny dogfish is a low value species that is difficult to handle onboard vessels, the projection of spiny dogfish discards in the trip limit analyses is thought to be overestimated; vessel owners are expected to make efforts to avoid spiny dogfish while targeting other species because of the effort associated with discarding them. The proposed trip limits are intended to result in faster rebuilding of the adult spawning stock. Although discarding of spiny dogfish will likely continue in non-directed fisheries, it is not expected to cause negative impacts that have not already been considered in the FMP.

This rule also proposes changing the landing limits to be possession limits, with the provision that these limits be the maximum amount of spiny dogfish that may be landed in 1 calendar day. The intent of this proposed change would be to enhance at-sea enforcement and to prohibit multiple landings in the same day. This change would be consistent with recent changes in the landing limits for several other Mid-Atlantic fisheries.

#### Classification

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

The MAFMC prepared an IRFA that describes the impact this proposed rule, if adopted, would have on small entities. A copy of the complete IRFA can be obtained from the MAFMC (see **ADDRESSES**) or via the Internet at <http://www.nero.nmfs.gov/ro/doc/nero.html>. A summary of the analysis follows:

[www.nero.nmfs.gov/ro/doc/nero.html](http://www.nero.nmfs.gov/ro/doc/nero.html). A summary of the analysis follows:

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 would not duplicate, overlap, or conflict with other Federal rules, nor would it establish any new reporting or recordkeeping requirements.

The proposed rule would apply to 596 vessels that reported spiny dogfish landings to NMFS in 1999, all of which are small entities. However, any of the 2,759 vessels that obtained Federal spiny dogfish permits in 2000 could potentially be affected by the proposed measures. Vessels that did not have a Federal fishery permit in 1999, such as vessels that fish in state waters only, were not included in the analysis. Although it is likely that the measures would have some impact on the activity of these vessels, should their owners choose to acquire a Federal spiny dogfish permit, the magnitude of this impact could not be determined.

The MAFMC's analysis of the action considered three alternatives. The MAFMC's alternative (Alternative 1) includes a commercial quota of 4 million lb (1,814 mt); possession limits of 600 lb (272 kg) during period 1 and 300 lb (136 kg) during period 2; and a 500,000-lb (2,268-kg) experimental fishery quota. (The experimental fishery quota is not included in this proposed rule.) The NEFMC's alternative (Alternative 2) includes a commercial quota of 4 million lb (1,814 mt); a possession limit of 5,000 lb (2,268 kg) for both quota periods; and a 500,000-lb (2,268-kg) experimental quota. The Councils' Alternative 3 would be no management action (Status Quo), which would result in an open fishery in the absence of annual specifications.

A large portion of affected vessels identified in the analysis would likely experience revenue losses under any of the alternatives. Under Alternative 3, with no quota or management measures, landings are projected to be 22.0 million lb (9,979 mt) in 2001–2002, based on an analysis prepared by the Monitoring Committee. This represents an increase from 2000 landings of 6.7 million lb (3,039 mt), but it also represents a 32-percent decrease from 1999 landings. Although unrestricted fishing would result in higher short-term landings, as compared to 2000, a continuation of unrestricted fishing would result in continually decreasing harvests over the long-term, due to continued declines in stock size resulting from overfishing. As landings declined over the long-term,

revenues would correspondingly decline for a large portion of the industry.

The potential changes in revenues under the 4-million lb (1,814 mt) quota (preferred alternative) were evaluated relative to landings and revenues derived during the 2000 - 2001 fishing year (6.7 million lb (3,039 mt) of landings, valued at \$1.072 million). The analysis assumed that the revenues of the 596 vessels that landed spiny dogfish in 1999 would be reduced proportionately by the proposed action. The reduction in overall gross revenues to vessels was estimated to be about \$432,000, or about \$725 per vessel, compared to 2000-2001.

Of the 596 vessels, 36 would be expected to experience a reduction in total gross revenues (all species combined) of more than 5 percent as a result of the 2.7-million lb (1224 mt) reduction from actual 2000 landings. This represents 6 percent of the vessels landing spiny dogfish in 1999. The remaining 560 vessels would be expected to experience a reduction in total gross revenues of less than 5 percent.

The analysis of the Alternative 1 possession limits of 600 lb (272 kg) in period 1, and 300 lb (136 kg) in period 2 is based on possible economic decisions of vessel owners during spiny dogfish trips. The analysis includes estimates of the reduction in the number of trips, the level of landings during the quota period, and projected closure dates of the quota periods. The analysis projected that, on average, under a possession limit of 600 lb (272 kg) for period 1, landings will exceed the semi-annual quota of 2,316,000 lb (1,050 mt) on about September 5, 2001 (128 days into the quota period). During 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 (764 mt). The analysis projected landings of only 615,213 lb (279 mt) during period 2 based on a 5 year average from 1994-1998. Thus, approximately 1,069,000 lb (485 mt) of allowable spiny dogfish landings were projected not to be landed. Although the commercial quota would be 4 million lb (1,814 mt), total landings under this alternative are projected to reach only 2,930,663 lb (1,329 mt). However, the analysis does not account for behavioral changes by vessel operators, which could impact the amount of landings. These changes could not be analyzed. Also, since vessels without Federal permits are not captured in the analysis, additional landings are likely to occur.

Under the Alternative 2 possession limit of 5,000 lb (2,268 kg), period 1 landings would exceed the semi-annual quota of 2,316,000 lb (1,050 mt) on about June 11, 2001 (42 days into the quota period). During quota period 2, the analysis projects that landings would exceed the semi-annual quota of 1,684,000 lb (764 mt) on about December 10, 2001 (40 days into the quota period).

For Quota Period 1, a possession limit of 5,000-lb (2,268-kg) is estimated to eliminate approximately 26 percent of fishing trips. Because the 600-lb (136-kg) possession limit is expected to eliminate any directed fishing on spiny dogfish, this possession limit is estimated to eliminate a maximum of 21 percent of fishing trips, but only to the extent that the possession limits on spiny dogfish would make those trips unprofitable. For Quota Period 2, a possession limit of 5,000-lb (2,268-kg) is estimated to eliminate approximately 22 percent of fishing trips. Eliminating a directed fishery as in Quota Period 1, a Quota Period 2 possession limit of 300 lb (136 kg) is estimated not to eliminate any fishing trips. The analysis indicates that some vessels would stop landing spiny dogfish because the possession limits would reduce revenue below operating costs. The Alternative 1 possession limits could eliminate 21 percent of trips in period 1. The Alternative 2 trip limit could eliminate 26 percent and 22 percent of trips in periods 1 and 2, respectively. The number of trips eliminated under a 5,000-lb (2,268-kg) possession limit increases because the length of the season under the higher trip limit would be significantly reduced. Revenues from spiny dogfish were estimated using an ex-vessel value of 16 cents per pound. It is possible that the effort from the eliminated spiny dogfish trips could move into other fisheries where vessels could make up for some or all of the lost revenue. However, it is not clear at what level this would occur or how much additional revenue it would create for the vessels.

Although more vessels would find it profitable to land spiny dogfish under a trip limit of 5,000 lb (2,268 kg) while the season is open, the season would close sooner than under the lower trip limits. Under the lower trip limits, vessels may still be able to make profitable trips by directing on other species and landing up to the trip limit of 600 lb (272 kg) or 300 lb (136 kg) of spiny dogfish. Revenues from spiny dogfish alone would be minimal, but the lower trip limits would likely end the directed fishery, consistent with the FMP. If major spiny dogfish markets were

eliminated as a result of low supply due to a low trip limit or quick closure of the fishery, much of the revenue from the spiny dogfish fishery would also be drastically reduced.

The impact of the proposed specifications for the 2001 fishing year would be greatest in Massachusetts, North Carolina, Maryland, Maine, and New Jersey, which account cumulatively for 90 percent of spiny dogfish landings from 1988 through 1997. The communities of Wachapreague, VA, Plymouth, MA, and Scituate, MA have benefitted from dogfish landings that made up 76 percent, 74 percent, and 21 percent, respectively, of the value of all landed fish, based on 1997 NMFS landings data. Because these communities have recently derived a relatively high percentage of their fishing income from spiny dogfish, they would be most affected by the commercial quota and trip limit in the proposed specifications. These impacts were also experienced in the 2000 fishing year. Two of these communities, Plymouth and Scituate, are suburban areas of a large city and are substantially engaged in the businesses of the metropolitan area. The other community, Wachapreague, has significant fishing activities, but also attracts retirees and tourism, and is substantially dependent on these two sectors for economic activity. The analysis also concludes that small vessels (25 to 49 ft (7.6 to 14.9 m)) constitute 91 percent of affected vessels (those vessels experiencing a reduction in revenues of greater than 5 percent) under a 4-million lb (1,814-mt) commercial quota. However, if no action is taken, communities benefitting from dogfish landings would experience greater lost revenues in the long-term due to stock collapse as a result of allowing a directed fishery in the short-term. Long-term benefits to the stocks and revenues resulting from rebuilt stocks are expected to outweigh the short-term negative impacts to the sectors of the fishing industry that have utilized the spiny dogfish resource.

In summary, under alternative 1, a possession limit of 300 lb (136 kg) in quota period 2 would prevent the quota from being exceeded and the fishery would not close, although spiny dogfish revenues per trip would be low due to the low trip limit and low value of spiny dogfish. The lower trip limit would be more likely to cause the loss of spiny dogfish markets as a result of low supply. The spiny dogfish revenue losses associated with a trip limit of 300 lb (136 kg) in quota period 2 is expected to be higher than those associated with a trip limit of 600 lb (272 kg) in period

1 because the entire quota is projected to not be landed.

The Alternative 2 possession limit of 5,000 (2268 kg) lb would allow higher per-trip revenues from spiny dogfish and could reduce regulatory discards during the time the fishery was open. However, both quota periods would close after an estimated 41-day season. Even under this option, a large number of vessels would suffer revenue losses compared to 1999 revenues because of the overall quota level. Also, the high trip limit would encourage directed spiny dogfish fishing, which is inconsistent with the objectives of the FMP. Further, long-term revenues to participants in the fishery would likely be reduced due to future reductions in landings that could be required due to overfishing caused by directed fishing on spiny dogfish.

Under the no action alternative, the spiny dogfish fishery would remain unregulated and fishing mortality could be expected to increase to an F of 0.43. With no restrictions, the FMP projects that landings would increase to about 22.0 million lb (997.9 mt) in fishing year 2001. This would actually be a 32 percent decline from 1999 levels (the last year of an unregulated fishery) due to continued reductions in the stock size. Although revenues would increase in comparison to 2000, long term revenues from an unregulated fishery would continuously decline as stock size is reduced, due to overfishing.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 26, 2001.

**William T. Hogarth,**

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

#### PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.14, paragraph (aa)(7) is revised to read as follows:

#### § 648.14 Prohibitions.

\* \* \* \* \*

(aa) \* \* \*

(7) Possess more than the possession limit of spiny dogfish specified under § 648.235. The possession limit is the maximum amount that may be landed in any calendar day.

\* \* \* \* \*

3. Section 648.235 is revised to read as follows:

#### § 648.235 Possession and trip limit restrictions.

(a) *Quota Period 1.* From May through October 31, vessels issued a valid Federal spiny dogfish permit specified under § 648.4(a)(11) may:

(1) Possess up to 600 lb (272 kg) of spiny dogfish per trip;

(2) Land only one trip of spiny dogfish per calendar day.

(b) *Quota Period 2.* From November 1 through April 30, vessels issued a valid Federal spiny dogfish permit specified under § 648.4(a)(11) may:

(1) Possess up to 300 lb (136 kg) of spiny dogfish per trip;

(2) Land only one trip of spiny dogfish per calendar day.

[FR Doc. 01-7937 Filed 3-29-01; 8:45 am]

BILLING CODE 3510-22-S

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 010105005-1005-01; I.D. 120600A]

RIN 0648-AO64

#### Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fishery; Amendment 9

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

**ACTION:** Proposed rule.

**SUMMARY:** NMFS proposes a regulation to implement a portion of Amendment 9 to the Coastal Pelagic Species Fishery Management Plan (FMP), which was submitted by the Pacific Fishery Management Council (Council) for review and approval by the Secretary of Commerce (Secretary), and which was approved on March 22, 2001.

Amendment 9 was prepared to provide for the documentation of bycatch in the coastal pelagic species fishery (CPS), to ensure that a standardized reporting methodology to assess the amount and type of bycatch is in place, to propose any necessary conservation and management measures to minimize bycatch, and to ensure that Indian fishing rights will be met according to treaties between the U.S. and specific tribes. This proposed rule would codify the procedures in Amendment 9 designed to ensure that Indian fishing rights will be met according to those

treaties. This proposed rule also would codify a provision in the FMP that authorizes the Regional Administrator, Southwest Region, to require observers on fishing vessels for scientific purposes should such observers be necessary. The intent of this proposed rule is to codify provisions in the FMP and in Amendment 9 that are in need of codification.

**DATES:** Comments must be received by May 14, 2001.

**ADDRESSES:** Copies of Amendment 9, which includes an environmental assessment/regulatory impact review, may be obtained from Donald O. McIssac, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, Oregon, 97201.

**FOR FURTHER INFORMATION CONTACT:** James Morgan, Sustainable Fisheries Division, NMFS, at 562-980-4036.

**SUPPLEMENTARY INFORMATION:** The Council submitted Amendment 9 for Secretarial review on November 21, 2000. NMFS published a notice of availability for Amendment 9 in the **Federal Register** on December 21, 2000 (65 FR 80411), announcing a 60-day public comment period, which ended on February 20, 2001. The Secretary approved Amendment 9 on March 22, 2001.

On June 10, 1999, Amendment 8 to the Northern Anchovy Fishery Management Plan was partially approved by the Secretary. The portions of Amendment 8 approved by the Secretary added four species to the plan, implemented limited entry to prevent overcapitalization, and changed the name of the plan to the Coastal Pelagic Species Fishery Management Plan. Other provisions were not approved. The optimum yield (OY) for squid and the bycatch provisions in Amendment 8 were not approved because they did not conform to National Standards 1 and 9, respectively, of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Amendment 8, contrary to National Standard 9 failed to include a standardized reporting methodology to assess the amount and type of bycatch in the CPS fishery and did not explain whether additional management measures to minimize bycatch and the mortality of unavoidable bycatch were practicable. Also, Amendment 8 failed to provide an estimate of maximum sustainable yield (MSY) for squid, a necessary component to determine OY.

At its meeting in June 1999, the Council directed its Coastal Pelagic Species Management Team (CPSMT) to recommend appropriate revisions to the