

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