

Fishery Conservation and Management

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other measures, including those in paragraphs (a)(1) through (8) of this section, that are necessary to ensure that the commercial ACL will not be exceeded in any fishing year (May 1–April 30), for a period of 1–5 fishing years. If research quota is specified as described in paragraph (f) of this section, the effective commercial quota will be those commercial landings available after the deduction for the research quota. The measures that may be recommended include, but are not limited to:

- (1) Minimum or maximum fish sizes;
- (2) Seasons;
- (3) Mesh size restrictions;
- (4) Trip limits;
- (5) Research quota set from a range of 0 to 3 percent of the commercial quota;
- (6) [Reserved]
- (7) Other gear restrictions; and
- (8) Changes to AMs and ACT control rules.

(b) *Joint Spiny Dogfish Committee recommendation.* The Councils' Joint Spiny Dogfish Committee shall review the recommendations of the Spiny Dogfish Monitoring Committee. Based on these recommendations, requests for research quota, and any public comments, the Joint Spiny Dogfish Committee shall recommend to the Councils a TAL, and possibly other measures, including those specified in paragraphs (a)(1) through (8) of this section, necessary to ensure that the ACL specified in § 648.230 will not be exceeded in any fishing year (May 1–April 30), for a period of 1–5 fishing years.

(c) *Council recommendations.* (1) The Councils shall review these recommendations and, based on the recommendations and any public comments, recommend to the Regional Administrator a TAL and other measures necessary to ensure that the ACL specified in § 648.230 will not be exceeded in any fishing year, for a period of 1–5 fishing years. The Councils' recommendations must include supporting documentation, as appropriate, concerning the environmental, economic, and other impacts of the recommendations. The Regional Administrator shall initiate a review of these recommendations and may modify the recommended quota and other manage-

ment measures to ensure that the ACL specified in § 648.230 will not be exceeded in any fishing year, for a period of 1–5 fishing years. The Regional Administrator may modify the Councils' recommendations using any of the measures that were not rejected by both Councils.

(2) After such review, NMFS shall publish a proposed rule in the FEDERAL REGISTER specifying a TAL, adjustments to ACL, ACT, and TAL resulting from the accountability measures specified in § 648.233, and other measures necessary to ensure that the ACL will not be exceeded in any fishing year, for a period of 1–5 fishing years. After considering public comments, NMFS shall publish a final rule in the FEDERAL REGISTER to implement the TAL and other measures.

(3) If the annual specifications are not published in the FEDERAL REGISTER prior to the start of the fishing year, the previous year's annual specifications will remain in effect. The previous year's specifications will be replaced by the current year's specifications as of the effective date of the final rule implementing the current year's specifications.

(d) [Reserved]

(e) *Landings applied against the commercial quota.* All spiny dogfish landed for a commercial purpose in the states from Maine through Florida shall be applied against the annual coastwide commercial quota, regardless of where the spiny dogfish were harvested.

(f) *Research quota.* See § 648.22(g).

[76 FR 60642, Sept. 29, 2011, as amended at 76 FR 81850, Dec. 29, 2011; 79 FR 41143, July 15, 2014]

§ 648.233 Spiny dogfish Accountability Measures (AMs).

(a) *Commercial EEZ closure.* The Regional Administrator shall determine the date by which the annual coastwide quota described in § 648.232 will be harvested and shall close the EEZ to fishing for spiny dogfish on that date for the remainder of the fishing year by publishing notification in the FEDERAL REGISTER. Upon the closure date, and for the remainder of the fishing year, no vessel may fish for or possess spiny dogfish in the EEZ, nor may vessels issued a spiny dogfish permit under

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this part land spiny dogfish, nor may dealers issued a Federal permit purchase spiny dogfish from vessels issued a spiny dogfish permit under this part.

(b) *ACL overage evaluation.* The ACL will be evaluated based on a single-year examination of total catch (including both landings and dead discards) to determine if the ACL has been exceeded.

(c) *Overage repayment.* In the event that the ACL has been exceeded in a given fishing year, the exact amount in pounds by which the ACL was exceeded shall be deducted, as soon as possible from a subsequent single fishing year ACL.

[76 FR 60643, Sept. 29, 2011, as amended at 79 FR 41144, July 15, 2014]

§ 648.234 Gear restrictions. [Reserved]

§ 648.235 Spiny dogfish possession and landing restrictions.

(a) *Possession limit.* Vessels issued a valid Federal spiny dogfish permit under § 648.4(a)(11) may:

(1) Possess up to 5,000 lb (2,268 kg) of spiny dogfish per trip; and

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

(b) Regulations governing the harvest, possession, landing, purchase, and sale of shark fins are found at part 600, subpart N, of this chapter.

[76 FR 60643, Sept. 29, 2011, as amended at 78 FR 25864, May 3, 2013; 79 FR 41144, July 15, 2014; 79 FR 46378, Aug. 8, 2014]

§ 648.236 Special Management Zones. [Reserved]

§§ 648.237–648.238 [Reserved]

§ 648.239 Spiny dogfish framework adjustments to management measures.

(a) *Within season management action.* The Councils may, at any time, initiate action to add or adjust management measures if they find that action is necessary to meet or be consistent with the goals and objectives of the Spiny Dogfish FMP.

(1) *Adjustment process.* After the Councils initiate a management action, they shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Councils shall provide the public

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with advance notice of the availability of both the proposals and the analysis for comment prior to, and at, the second Council meeting. The Councils' recommendation on adjustments or additions to management measures must come from one or more of the following categories: Adjustments within existing ABC control rule levels; adjustments to the existing MAFMC risk policy; introduction of new AMs, including sub-ACTs; minimum fish size; maximum fish size; gear requirements, restrictions, or prohibitions (including, but not limited to, mesh size restrictions and net limits); regional gear restrictions; permitting restrictions, and reporting requirements; recreational fishery measures (including possession and size limits and season and area restrictions); commercial season and area restrictions; commercial trip or possession limits; fin weight to spiny dogfish landing weight restrictions; on-board observer requirements; commercial quota system (including commercial quota allocation procedures and possible quota set-asides to mitigate bycatch, conduct scientific research, or for other purposes); recreational harvest limit; annual quota specification process; FMP Monitoring Committee composition and process; description and identification of essential fish habitat; description and identification of habitat areas of particular concern; overfishing definition and related thresholds and targets; regional season restrictions (including option to split seasons); restrictions on vessel size (length and GRT) or shaft horsepower; target quotas; measures to mitigate marine mammal entanglements and interactions; regional management; any other management measures currently included in the Spiny Dogfish FMP; and measures to regulate aquaculture projects. Measures that require significant departures from previously contemplated measures or that are otherwise introducing new concepts may require an amendment of the FMP instead of a framework adjustment.

(2) *Councils' recommendation.* After developing management actions and receiving public testimony, the Councils shall make a recommendation approved by a majority of each Council's members, present and voting, to the