

#1

I. Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates, under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$141.3 million or more to either state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

J. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://www.dot.gov>.

K. National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of major Federal actions and that they prepare a detailed statement on actions significantly affecting the quality of the human environment. We requested comments on the potential environmental impacts of regulations

applicable to the storage of explosives transported in commerce. We asked for comments on specific safety and security measures that would provide greater benefit to the human environment, or on alternative actions the agency could take that would provide beneficial impacts. No commenters addressed the potential environmental impacts of the proposals in the ANPRM or NPRM.

Safe havens promote the safe storage of hazardous materials in transportation. Safe havens ensure that explosives are stored in a manner that protects them from release into the environment. This final rule does not prohibit or promote the development of safe havens; rather, it ensures that existing and future safe havens meet minimum design and safety criteria. The impact on the environment if any would be a reduction in the environmental risks associated with the unattended storage of explosives in transportation. As a result, we have determined that there are no significant environmental impacts associated with this rule.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Incorporation by reference, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45 and 1.53; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub L. 104–134 section 31001.

■ 2. In § 171.7, in the paragraph (a)(3) table, under the entry “National Fire Protection Association,” the organization’s mailing address is revised and the entry “NFPA 498—Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives, 2010 Edition” is added.

The revision and addition read as follows:

§ 171.7 Reference material.

(a) * * *

(3) *Table of material incorporated by reference.* * * *

Source and name of material

49 CFR reference

*	*	*	*	*	*	*
National Fire Protection Association, 1 Batterymarch Park, Quincy, MA, 1–617–770–3000, www.nfpa.org.						
*	*	*	*	*	*	*
NFPA 498—Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives, 2010 Edition						177.835
*	*	*	*	*	*	*

PART 177—CARRIAGE BY PUBLIC HIGHWAY

■ 3. The authority citation for part 177 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 4. In § 177.835 a new paragraph (k) is added to read as follows:

§ 177.835 Class 1 materials.

* * * * *

(k) *Attendance of Class 1 (explosive) materials.* Division 1.1, 1.2, or 1.3 materials that are stored during transportation in commerce must be attended and afforded surveillance in accordance with 49 CFR 397.5. A safe haven that conforms to NFPA 498 (IBR,

see § 171.7 of the subchapter) constitutes a federally approved safe haven for the unattended storage of vehicles containing Division 1.1, 1.2, or 1.3 materials.

Issued in Washington, DC, on May 27, 2011, under authority delegated in 49 CFR part 106.

Cynthia L. Quarterman,
Administrator.

[FR Doc. 2011–13837 Filed 6–6–11; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 110303179–1290–02]

RIN 0648–XA163

Fisheries of the Northeastern United States; 2011 Specifications for the Spiny Dogfish Fishery

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

ACTION: Final rule.

SUMMARY: NMFS announces specifications and management measures for the spiny dogfish fishery for the 2011 fishing year (FY) (May 1, 2011, through April 30, 2012). NMFS is implementing a spiny dogfish quota of 20 million lb (9,071.85 mt) for FY 2011, and is maintaining the possession limit of 3,000 lb (1.36 mt). These measures are consistent with the Spiny Dogfish Fishery Management Plan (FMP) and promote the utilization and conservation of the spiny dogfish resource.

DATES: Effective July 7, 2011, through April 30, 2012.

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council (MAFMC), including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State St, Dover, DE 19901. The final EA/RIR/IRFA is also accessible via the Internet at <http://www.nero.noaa.gov>.

NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is contained in the Classification section of the preamble of this rule. Copies of the FRFA and the Small Entity Compliance Guide are available from the Regional Administrator, Northeast Regional Office, NMFS, 55 Great Republic Drive, Gloucester, MA 01930-2276, and are also available via the Internet at <http://www.nero.nmfs.gov>.

FOR FURTHER INFORMATION CONTACT: Lindsey Feldman, Fisheries Management Specialist, phone: 978-675-2179, fax: 978-281-9135.

SUPPLEMENTARY INFORMATION:

Background

Spiny dogfish were declared overfished by NMFS on April 3, 1998. Consequently, the Magnuson-Stevens Act required NMFS to prepare measures to end overfishing and rebuild the spiny dogfish stock. During 1998 and 1999, the Mid-Atlantic Fishery Management Council (MAFMC) and the New England Fishery Management Council (NEFMC) developed a joint FMP, with the

MAFMC designated as the administrative lead. The FMP implemented a rebuilding program that held fishing mortality rates to a level that would allow the stock to rebuild and that specified a semi-annual quota, allocating 57.9 percent of the coastwide quota to the fishery in Period 1 (May 1–October 30) and 42.1 percent of the quota in Period 2 (November 1–April 30). The FMP also prohibits “finning,” with a maximum of 5 percent fin to carcass ratio by weight; allows for a framework adjustment process; and implements annual FMP review, permit and reporting requirements for the spiny dogfish fishery, and other general administrative requirements (65 FR 1557, January 11, 2000).

The regulations implementing the Spiny Dogfish FMP at 50 CFR part 648, subpart L, outline the process for specifying the commercial quota and other management measures (e.g., minimum or maximum fish sizes, seasons, mesh size restrictions, possession limits, and other gear restrictions) necessary to ensure that the target fishing mortality rate (target F) specified in the FMP will not be exceeded in any FY (May 1–April 30), for a period of 1–5 FYs.

The regulations at § 648.230(b) specify that the Spiny Dogfish Monitoring Committee (MC), which is comprised of representatives from states; MAFMC staff; NEFMC staff; NMFS staff; academia; and two non-voting, ex-officio industry representatives (one each from the MAFMC and NEFMC regions), recommend to the Council’s Joint Spiny Dogfish Committee (Joint Committee) a commercial quota and other management measures necessary to achieve the target F for 1–5 FYs based on the best available information. The Joint Committee considers the MC’s recommendations and any public comment in making its recommendation to the two Councils. The Councils then review the recommendations of the MC and Joint Committee separately and make their recommendations to NMFS. NMFS reviews those recommendations, and may modify them if necessary to assure that the target F will not be exceeded. NMFS then publishes proposed measures for public comment.

A proposed rule for this action was published in the **Federal Register** on March 17, 2011 (76 FR 14644), with public comment accepted through April 18, 2011. Consistent with the Councils’ recommendations, NMFS proposed an FY 2011 commercial quota of 20 million lb (9,071.85 mt), a level that will prevent overfishing, after accounting for other sources of fishing mortality (U.S. discards, recreational catch, and Canadian landings). NMFS also proposed maintaining the possession limit of 3,000 lb (1.36 mt) for FY 2011. A complete discussion of the development of the specifications and management measures appears in the preamble of the proposed rule and is not repeated here.

Final 2011 Specifications and Management Measures

The spiny dogfish commercial quota for FY 2011 is 20 million lb (9,071.85 mt). The current possession limit of 3,000 lb (1.36 mt) remains unchanged. As specified in the FMP, quota Period 1 (May 1 through October 31) is allocated 57.9 percent of the quota (11,580,000 lb (5,252.6 mt)), and quota Period 2 (November 1 through April 30) is allocated 42.1 percent of the quota (8,420,000 lb (3,819.25 mt)). The 2011 spiny dogfish commercial quota is consistent with the 20-million-lb quota adopted by the Atlantic States Marine Fisheries Commission (Commission) on November 12, 2010. However, on March 31, 2011, the Commission approved Addendum 3 to the Interstate FMP to divide the southern region annual quota of 42 percent into state-specific shares and allows for quota transfer between states, rollovers of up to 5 percent, and state-specified possession limits. Although this final rule implements the same commercial quota as the Commission for FY 2011 (20 million lb), the final 2011 quota implemented by the Commission, adjusting for overages from the previous year, is approximately 19.5 million lb (a difference of 500,000 lb from the Federal quota). The issue of quota allocation will be reconsidered by the Councils in the upcoming Amendment 3 to the FMP.

Comments and Responses

NMFS received three comments on the proposed measures by three individuals.

Comment 1: One individual opposed the spiny dogfish commercial quota increase for FY 2011 and commented that the commercial quota should be decreased.

Response: The spiny dogfish fishery was declared rebuilt on June 22, 2010, based on an analysis of biological reference points presented at the Transboundary Resource Assessment Committee (TRAC) meeting in January 2010. In the fall of 2010, the NMFS Northeast Fisheries Science Center (NEFSC) updated the spiny dogfish stock status using the population modeling approach from the 43rd Stock Assessment Workshop (43rd SAW, 2006), 2009 catch data, and results from the 2010 spring bottom trawl survey. The update specified that the female spawning stock biomass (SSB) for 2010 is 164,066 mt (362 million lb), about 3 percent above the maximum spawning stock biomass, SSB_{max} (159,288 mt), the maximum sustainable yield biomass (B_{msy}) proxy. The 2010 NEFSC stock status update confirmed that overfishing of spiny dogfish is not occurring, the stock is not overfished, and the stock has been rebuilt since 2008. The quota increase of 5 million lb (2,268 mt) for FY 2011 is justified because as the stock continues to be rebuilt, the fishery is no longer constrained to $F_{rebuild}$, and fishing mortality rates can increase without compromising the status of the current or future stock.

Comment 2: Two individuals supported the increase in the FY 2011 commercial spiny dogfish quota. One individual noted that maintaining the current possession limit of 3,000 lb (1.36 mt) would not allow for the development of a directed spiny dogfish fishery.

Response: NMFS agrees that increasing the FY 2011 commercial spiny dogfish quota will allow utilization of the spiny dogfish resource, while still protecting the stock from overfishing.

NMFS does not agree that the possession limit should be increased for FY 2011. The FMP was developed to halt depletion of reproductively mature female spiny dogfish and to allow the stock to rebuild. Because the commercial fishery concentrated primarily on mature females, the FMP established possession limits to control the directed fishery for spiny dogfish and allow for the reproductively mature female portion of the population to rebuild. The Councils did not consider

alternatives that would have increased the FY 2011 possession limits specifically to limit the development of a large-scale directed fishery and allow the stock to fully rebuild. It is for these reasons that the possession limit is maintained at 3,000 lb (1.36 mt) for FY 2011.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this rule is consistent with the Spiny Dogfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866 (E.O. 12866).

Pursuant to section 604 of the Regulatory Flexibility Act, NMFS has prepared a final regulatory flexibility analysis (FRFA), which is included in this final rule, in support of the FY 2011 spiny dogfish specifications and management measures. The FRFA describes the economic impact that this final rule, along with other non-preferred alternatives, will have on small entities.

The FRFA incorporates the economic impacts and analysis summarized in the IRFA, a summary of the significant issues raised by the public, and a summary of analyses prepared to support the action (i.e., the EA and the RIR). The contents of these documents are not repeated in detail here. A copy of the IRFA, the RIR, and the EA are available upon request (see **ADDRESSES**).

Statement of Objective and Need

A description of the reasons why this action is being considered, and the objectives of and legal basis for this action, is contained in the preamble to the proposed rule and this final rule and is not repeated here.

Summary of Public Comment on IRFA and Agency Response

NMFS received three comments from three individuals on the proposed measures. While the comments were not specifically directed to the IRFA, two individuals were supportive of the positive economic impact the increase in the commercial quota would have on the spiny dogfish fishing industry. In addition, one individual stated that due to the low ex-vessel value of spiny dogfish, the possession limit should be increased to allow for the development of a directed spiny dogfish fishery that can supply a burgeoning market. The response to this comment is in the

“Comments and Responses” section in the preamble to this rule.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

The entities potentially affected by this rule include vessels with Federal spiny dogfish permits. According to NMFS permit file data, 3,020 vessels were issued Federal spiny dogfish permits, while only 398 of these vessels were active in the fishery in FY 2009. All of these potentially affected businesses are considered small entities under the standards described in NMFS guidelines because their gross receipts do not exceed \$4 million annually (13 CFR 121.201(2006)).

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action does not contain any new collection-of-information, reporting, recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules.

Minimizing Significant Economic Impacts on Small Entities

NMFS and the Council considered three distinct alternatives for this rule, which are assessed in greater detail in the IRFA. The potential impacts of each alternative were evaluated using information from FY 2009, as that is the most recent year for which data are complete. The action recommended in this rule (Alternative 2) specifies a commercial quota for spiny dogfish of 20 million lb (9,071.85 mt), which is higher than quota in the Status Quo (Alternative 1) option that would maintain the FY 2011 commercial quota for spiny dogfish at 15 million lb (5,443.11 mt). Alternative 3 would specify a commercial quota of 31.4 million lb (14,242.8 mt), a level set to achieve the existing F_{target} of 0.207. None of the alternatives propose to modify the current 3,000-lb (1.36-mt) possession limit.

Assuming that the quota will be fully attained and that FY 2011 prices for spiny dogfish will be similar to those in FY 2009, Alternatives 2 and 3 would increase revenue levels for affected businesses, thereby having a positive economic impact on small entities. The positive economic impacts would be greater under Alternative 3 than Alternative 2. In contrast, Alternative 1 (status quo) would maintain the current revenue levels. Total spiny dogfish revenue from the last complete FY (2009) was reported as \$2.360 million. Using the average FY 2009 price/lb

(\$0.22), landing the full FY 2010 quota of 15 million lb (5,443.11 mt), (and also the FY 2011 quota under Alternative 1) would yield \$3.300 million in fleet revenue. Applying the same approach, revenue would be expected to increase to \$4.400 million under the proposed action (Alternative 2), and \$6.898 million under Alternative 3. The quota level under Alternative 2 will allow the highest level of harvest of spiny dogfish while taking into account scientific uncertainty about the stock. Although the level of increased revenue for small entities will be less than under Alternative 3, Alternative 2 is more likely to prevent overfishing of the spiny dogfish resource and promote a more stable stream of commercial landings and revenues over the long term.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as small entity compliance guide (guide) was prepared and will be sent to all holders of permits issued for the spiny dogfish fishery. In addition, copies of this final rule and guide (i.e., permit holder letter) are available from the Northeast Regional Administrator (see

ADDRESSES) and may be found at the following Web site: <http://www.nero.noaa.gov/nero/>.

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

Dated: June 1, 2011.

Eric C. Schwaab,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

[FR Doc. 2011-13974 Filed 6-6-11; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 110223162-1295-02]

RIN 0648-XA184

Fisheries Off West Coast States; West Coast Salmon Fisheries; 2011 Management Measures; Correction

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

ACTION: Final rule; correcting amendment.

SUMMARY: NMFS established fishery management measures for the 2011 ocean salmon fisheries off Washington, Oregon, and California and the 2012 salmon seasons opening earlier than May 1, 2012. The final rule published on May 4, 2011, included an incorrect area description for minimum size requirements for the commercial salmon fishery. This action corrects the incorrect language.

DATES: Effective June 7, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Busby at 206-526-4323.

SUPPLEMENTARY INFORMATION: A final rule published May 4, 2011 (76 FR 25246), describes annual management measures for managing the harvest of salmon in the area managed by the Pacific Fishery Management Council (Council). This correcting amendment revises a table in that rule to make it consistent with the text of the rule and the Council’s recommendations.

Need for Correction

In the final rule regarding 2011 salmon management measures (76 FR 25246, May 4, 2011), Section 1, part B on page 25251 consists of a table of Minimum Size for salmon caught in the commercial fishery. There are two errors in this table, rendering it inconsistent with the rule text and the Council’s recommendations for the 2011 salmon management measures, as adopted at their April 2011 meeting. The corresponding text describing the fishing area and geographic boundaries in Section 1, part A, is correct as published on May 4, and is consistent with the Council’s recommendations for the 2011 management measures for the salmon fishery. In the table, the area listed as “Cape Falcon to Horse Mt.” is corrected to read “Cape Falcon to OR/CA Border.” The area listed as “Horse Mt. to US-Mexico Border” is corrected to read “OR/CA Border to U.S./Mexico Border.” The table here replaces the table in 76 FR 25246, Section 1:

B. Minimum Size (Inches) (See C.1)

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon, OR	28.0	21.5	16.0	12.0	None.
Cape Falcon to OR/CA Border	28.0	21.5	None.
OR/CA Border to U.S./Mexico Border	27.0	20.5	None.

Metric equivalents: 28.0 in = 71.1 cm, 27.0 in = 68.6 cm, 21.5 in = 54.6 cm, 20.5 in = 52.1 cm, 16.0in = 40.6 cm, and 12.0 in = 30.5 cm.