

lower reaches of the Feather (Jones and Stokes 1993) and American rivers (Charles Hanson, State Water Contractors, *in litt.*, 1993) on occasion; however, the species now is largely confined to the delta, Suisun Bay, Suisun Marsh, and Napa Marsh. The "Delta" refers to all tidal waters contained within the legal definition of the San Francisco Bay-Sacramento-San Joaquin River Delta, as delineated by section 12220 of the State of California's Water Code of 1969. Generally, the Delta is contained within a triangular area that extends south from the City of Sacramento to the confluence of the Stanislaus and San Joaquin Rivers at the southeast corner and Chipps Island in Suisun Bay.

In recent years, splittail have been found most often in slow moving sections of rivers and sloughs and dead-end sloughs (Moyle et al. 1982, Daniels and Moyle 1983). Reports from the 1950's, however, mention Sacramento River spawning migrations and catches of splittail during fast tides in Suisun Bay (Caywood 1974). California Department of Fish and Game survey data from the last 15 years indicate that the highest catches occurred in shallow areas subject to flooding. Historically, major flood basins, distributed throughout the Sacramento and San Joaquin Valleys, provided spawning and rearing habitat. These flood basins have all been reclaimed or modified into flood control structures (bypasses). Although primarily a freshwater species, splittail can tolerate salinities as high as 10 to 18 parts per thousand (Moyle and Yoshiyama 1992).

On January 10, 1995, a second comment period was opened for 45 days, and a 6-month extension added to the final rulemaking time frame, in accordance with section 4(b)(6)(B)(i) of the Act. A moratorium on listing actions, imposed on April 10, 1995 (Pub. L. 104-6), was lifted on April 26, 1996. Severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996 were followed by passage of the Omnibus Budget Reconciliation Act on April 26, 1996, allowing work to continue on various listing actions in accordance with fiscal year guidance that assigned priorities in a multi-tiered approach in accordance with section 4 of the Act (61 FR 64479). The guidance stated that handling emergency situations was highest priority (Tier 1), and resolving the listing status of outstanding proposed rules was second highest priority (Tier 2). Processing of this proposed rule fell under Tier 2.

On March 19 and March 20, 1998, the California Department of Water Resources and the State Water Contractors, respectively, requested a reopening of the comment period. The basis of this request is that substantial data have been collected since 1995 regarding the abundance and distribution of the splittail. The Service believes that consideration of this and any new information is significant to make the final determination for the Sacramento splittail. For this reason, the Service particularly seeks information concerning abundance and distribution data for this species from 1995-1997. Specifically, the Service seeks comments regarding the paper "Resilience of Splittail in the Sacramento-San Joaquin Estuary" (Sommer et al. 1997), and how the information contained in this paper affects the Service's recommendation for listing the Sacramento splittail as a threatened species.

Written comments may be submitted until July 17, 1998 to the Service office in the ADDRESSES section.

#### Author.

The primary author of this notice is Diane Windham, U.S. Fish and Wildlife Service (see ADDRESSES section).

#### References

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- Moyle, P.B., J.J. Smith, R.A. Daniels, and D.M. Balz. 1982. Distribution and ecology of stream fishes of the Sacramento-San Joaquin Drainage System, California: A review. Univ. Calif. Publ. Zool. 115:225-256.
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- Rutter, C. 1908. The fishes of the Sacramento-San Joaquin basin, with a study of their distribution and variation. U.S. Bull. 27:103-152.

Sommer, T., R. Baxter, and B. Herbold. 1997. Resilience of the Splittail in the Sacramento-San Joaquin Estuary. Transactions of the American Fisheries Society 126:961-976.

#### Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: May 12, 1998.

**Thomas Dwyer,**

*Acting Regional Director, U.S. Fish and Wildlife Service, Region 1.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 980508122-8122-01; I.D. 042498A]

#### Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Control Date for Spiny Dogfish

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

**ACTION:** Advance notice of proposed rulemaking; notice of control date for spiny dogfish fishery.

**SUMMARY:** NMFS announces that anyone entering the spiny dogfish (*Squalus acanthias*) (dogfish) fishery after May 18, 1998 (control date) will not be assured of future access to the dogfish resource in Federal waters if a management regime is developed and implemented under the Magnuson-Stevens Act that limits the number of participants in the fishery. This announcement is intended to promote awareness of potential eligibility criteria for future access to that portion of the dogfish fishery and to discourage new entries into this fishery based on economic speculation while the Mid-Atlantic and New England Fishery Management Councils (Councils) contemplate whether and how access to that portion of the dogfish fishery in Federal waters should be controlled. The potential eligibility criteria may be based on historical participation. This announcement, therefore, gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the dogfish fishery in Federal waters.

**DATES:** Comments must be received by June 17, 1998.

**ADDRESSES:** Comments should be addressed to Dr. Christopher M. Moore, Acting Executive Director, Mid-Atlantic Fishery Management Council, 300 South New Street, Dover DE 19904.

**FOR FURTHER INFORMATION CONTACT:** Rick Pearson, Fishery Policy Analyst, 978-281-9324.

**SUPPLEMENTARY INFORMATION:**

**Background**

For most of the first two decades of extended jurisdiction under the Magnuson-Stevens Act, dogfish was considered to be underutilized and of minor economic importance. With the decline of more traditional groundfish resources in recent years, an increase in directed fishing for dogfish has resulted in a nearly sixfold increase in landings in the last 7 years. The lack of any regulations pertaining to the harvest of dogfish in the exclusive economic zone, combined with the recent expansion of the fishery led the Councils to initiate development of a management plan for the species.

The most recent stock assessment conducted by NMFS for dogfish (SAW-26, 1998) indicates that the stock in the Northwest Atlantic has begun to decline and the spawning stock has declined significantly since 1989 as a result of an increase in exploitation. Expansion of the fishery has resulted in a dramatic increase in fishing mortality (F). This increased F has been focused primarily on mature females due to their larger size. The increased F, in combination with the removal of a large portion of the adult female stock, has resulted in the species' being designated overfished. The Assistant Administrator for Fisheries, NMFS, on April 3, 1998, notified the Councils of this designation, thus initiating the 1-year

time frame for development of a fishery management plan as required by the Magnuson-Stevens Act.

SAW-26 recommended that a management program be developed promptly for this species and that targets for stock biomass and F be established. In addition, the recent prominence of this species in the Northwest Atlantic ecosystem and evidence of the effects of F on stock abundance, including decreased indices of large fish, resulted in the Councils' decision to implement a fishery management plan for dogfish.

The Councils held scoping hearings in the New England and Mid-Atlantic regions during the fall of 1997 to begin the process of developing a fishery management plan for the dogfish fishery (FMP). The purpose of the scoping hearings was to determine the scope of issues to be addressed and to identify the significant issues and problems relating to the management of dogfish.

Foremost among the problems and issues that were identified during the dogfish scoping hearings was the status of the resource. The assessment conducted in 1994 indicated that the stock was stable, but possibly beginning to decline. Landings have increased since that assessment, prompting concerns that the stock may be overfished. Since current levels of fishing effort may exceed the level required to achieve optimum yield for dogfish, the Councils will be considering limiting access to the dogfish fishery during FMP development.

The Councils intend to address whether and how to limit entry of commercial vessels into this fishery in the dogfish FMP. The Councils' publication of this control date is to

discourage speculative entry into the dogfish fishery while potential management regimes to control access into the fishery are discussed and possibly developed by the Councils. The control date will help to distinguish established participants from speculative entrants to the fishery. Although participants are notified that entering the fishery after the control date will not assure them of future access to the dogfish resource on the grounds of previous participation, additional and/or other qualifying criteria may be applied. The Councils may choose different and variably weighted methods to qualify participants based on the type and length of participation in the fishery or on the quantity of landings.

This notification hereby establishes May 18, 1998 for potential use in determining historical or traditional participation in the Federal waters dogfish fishery. This action does not commit the Councils to develop any particular management regime or to use any specific criteria for determining entry to the fishery. The Councils may choose a different control date or a management program that does not make use of such a date. The Councils may also choose to take no further action to control entry or access to the fishery. Any action by the Councils will be taken pursuant to the requirement for FMP development established under the Magnuson-Stevens Act.

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

Dated: May 11, 1998.

**David L. Evans,**

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

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