

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 040507144-4144-01; I.D. 043004A]

RIN 0648-AQ85

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery

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

ACTION: Proposed 2004 specifications for the Atlantic bluefish fishery; request for comments.

SUMMARY: NMFS proposes 2004 specifications for the Atlantic bluefish fishery, including total allowable landings (TAL), state-by-state commercial quotas, recreational harvest limits, and recreational possession limits. The intent of the specifications is to conserve and manage the bluefish resource.

DATES: Public comments must be received no later than 5 p.m., Eastern Standard Time, on June 3, 2004.

ADDRESSES: You may submit comments, identified by Docket Number 040507144-4144-01 or RIN Number 0648-AQ85, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- E-mail: 2004bluefishspecs@noaa.gov. Include the following document identifier: "Comments-2004 Bluefish Specifications." in the subject line of the message.

- Fax: 978-281-9135.

- Mail: Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Please mark the outside of the envelope, "Comments-2004 Bluefish Specifications."

Copies of supporting documents, including the Environmental Assessment (EA), Initial Regulatory Flexibility Analysis (IRFA), and the Essential Fish Habitat Assessment (EFHA) are available from: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904-6790. The EA, IRFA, and EFHA are accessible via the Internet at <http://www.nero.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, (978) 281-9104.

SUPPLEMENTARY INFORMATION:

Regulations implementing the Atlantic Bluefish Fishery Management Plan (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council) appear at 50 CFR part 648, subparts A and J. Regulations requiring annual specifications are found at § 648.160. The FMP requires that the Council recommend, on an annual basis, a TAL, which is comprised of a commercial quota and a recreational harvest limit.

The FMP also requires that: (1) The TAL for any given year be set based on the fishing mortality rate (F) resulting from the stock rebuilding schedule contained in the FMP, or the estimated F in the most recent fishing year, whichever is lower; and (2) a total of 17 percent of the TAL be allocated to the commercial fishery, as a quota, with the remaining 83 percent allocated as a recreational harvest limit, with the stipulation that, if 17 percent of the TAL is less than 10.50 million lb (4.762 million kg) and the recreational fishery is not projected to land its harvest limit for the upcoming year, the commercial fishery may be allocated up to 10.50 million lb (4.762 million kg) as its quota, provided that the combination of the projected recreational landings and the commercial quota does not exceed TAL.

The Council's recommendations must include supporting documentation, as appropriate, concerning the environmental, economic, and social impacts of the recommendations. NMFS is responsible for reviewing these recommendations to assure they achieve the FMP objectives. NMFS then publishes proposed specifications in the **Federal Register**. After considering public comment, NMFS will publish final specifications in the **Federal Register**.

Proposed 2004 Specifications*Proposed TAL*

On August 5, 2003, the Council adopted specifications for the 2004 Atlantic bluefish fishery. The Council submitted its recommendations and analysis November 24, 2003, and submitted a supplement to clarify and correct the document on January 20, 2004. NMFS has reviewed the Council's recommendation and has found it complies with the FMP objectives. Although these proposed specifications are intended to be in place at the beginning of the fishing year, the delay in implementing the proposed specifications for 2004 should not

compromise this fishery because the Atlantic States Marine Fisheries Commission (ASMFC) measures, which are already in place in applicable states, provide equivalent conservation for bluefish. NMFS is proposing to implement the Council's recommended specifications.

For the 2004 fishery, the stock rebuilding program in the FMP restricts F to 0.31. However, the 2002 fishery (the most recent fishing year for which F can be calculated) produced an F of only 0.184. So, in accordance with the FMP, the measures proposed for 2004 were developed to achieve F=0.184. Projection results indicate that the bluefish stock will increase to an estimated biomass of 165.853 million lb (365.504 million kg) in 2004. This biomass can produce a Total Allowable Catch (TAC) of 34.215 million lb (15.5 million kg) in 2004 at F=0.184. The proposed TAL for 2004 is derived from this value by subtracting estimated discards of 2.365 million lb (1.06 million kg) from the TAC. This results in a proposed TAL for 2004 of 31.85 million lb (14.45 million kg).

Proposed Commercial Quota and Recreational Harvest Limit

If the TAL for the 2004 fishery were allocated based on the percentages specified in the FMP, the commercial quota would be 5.414 million lb (2.456 million kg), with a recreational harvest limit of 26.435 million lb (11.990 million kg). However, recreational landings from the last several years were much lower than the recreational allocation for 2004, ranging between 8.30 and 15.5 million lb (3.74 and 7.05 million kg, respectively). Since the recreational fishery is not projected to land its 26.435 million-lb (11.990 million-kg) harvest limit in 2004, the FMP allows the specification of a commercial quota of up to 10.5 million lb (4.76 million kg). Therefore, consistent with the FMP and regulations governing the bluefish fishery, the Council recommended, and NMFS proposes, to transfer 5.085 million lb (2.036 million kg) from the initial 2004 recreational allocation of 26.435 million lb (11.990 million kg), resulting in 21.350 million lb (9.684 million kg) for a 2004 proposed recreational harvest limit and a proposed quota of 10.5 million lb (4.76 million kg). The proposed 2004 commercial quota would be the same as was allocated in 2003 and also as implemented by the states for 2004 under the ASMFC's Interstate Fishery Management Plan for Atlantic Bluefish. A Notice of Request for Proposals was published in the **Federal Register** to solicit research proposals for

2004 that could utilize research set-aside (RSA) TAC authorized by the FMP, based on research priorities identified by the Council (January 27, 2003; 68 FR 3864). One research project that would utilize bluefish RSA has been approved by the NOAA Grants Office. Therefore, a 297,750-lb (135,057-kg) RSA is also proposed. Due to the allocation of the bluefish RSA, the

proposed commercial quota for 2004 is 10.401 million lb (4.718 million kg) and the proposed recreational harvest limit is 21.150 million lb (9.59 million kg).

Proposed Recreational Possession Limit

The Council also recommends maintaining the current recreational possession limit of 15 fish to meet the recreational harvest limit.

Proposed State Commercial Allocations

The annual commercial quota for bluefish will be distributed to the states (see Table 1.). Proposed state commercial allocations for the 2004 commercial quotas are shown in the table below, based on the percentages specified in the FMP, less the proposed RSA allocation.

TABLE 1—ANNUAL BLUEFISH STATE COMMERCIAL QUOTAS

State	% of quota	2004 Commercial Quota (lb)	2004 Commercial Quota (kg)	2004 Commercial Quota (lb) With Research Set-Aside	2004 Commercial Quota (kg) With Research Set-Aside
ME	0.6685	70,193	31,839	69,536	31,541
NH	0.4145	43,523	19,742	43,116	19,557
MA	6.7167	705,254	319,901	698,660	316,907
RI	6.8081	714,851	324,254	708,168	321,220
CT	1.2663	132,962	60,311	131,719	59,747
NY	10.3851	1,090,436	494,619	1,080,242	489,990
NJ	14.8162	1,555,701	705,661	1,541,158	699,058
DE	1.8782	197,211	89,454	195,367	88,617
MD	3.0018	315,189	142,969	312,242	141,631
VA	11.8795	1,247,348	565,793	1,235,687	560,498
NC	32.0608	3,366,384	1,526,982	3,334,913	1,512,691
SC	0.0352	3,696	1,676	3,661	1,661
GA	0.0095	998	453	988	448
FL	10.0597	1,056,269	479,121	1,046,394	474,636
Total	100.0000	10,500,015	4,762,727	10,401,851	4,744,652

Classification

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

The Council prepared an IRFA 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 the action are provided in the preamble of this proposed rule. A summary of the IRFA follows:

An active participant in the commercial bluefish fishery sector is defined as being any vessel that reported having landed one or more pounds of bluefish to NMFS-permitted dealers during calendar year 2002. Vessels fishing for bluefish with a Federal permit intending to sell their catch must do so to NMFS-permitted dealers. All vessels affected by this rulemaking have gross receipts less than \$3.5 million and are considered to be small entities under the Regulatory Flexibility Act (RFA). Since there are no large entities participating in this fishery, there are no disproportionate effects resulting from small versus large entities. Since costs are not readily available, vessel profitability cannot be determined directly. Therefore, changes in gross revenue were used as a proxy

for profitability. Of the active, Federally-permitted vessels in 2002, 928 landed bluefish from Maine to North Carolina. Dealer data do not cover vessel activity from South Carolina to Florida. South Atlantic Trip Ticket Report data indicate that 1,004 vessels landed bluefish in North Carolina, including those with Federal permits and those fishing only in state waters. These data also indicate that bluefish landings in South Carolina and Georgia represented less than 1/10 of 1 percent of total landings. Therefore, it was assumed that no vessels landed bluefish from those states. According to South Atlantic Trip Ticket Report data, 101 commercial vessels landed bluefish to dealers on Florida's east coast in 2002.

In addition, in 2002, approximately 2,063 party/charter vessels caught bluefish in either state or Federal waters. All of these vessels are considered small entities under the RFA having gross receipts of less than \$5 million annually. Since the possession limits would remain at 15 fish per person, there should be no impact on demand for party/charter vessel fishing, and therefore, no impact on revenues earned by party/charter vessels.

The Council analyzed three alternatives. The TAL recommendation and RSA are unchanged in the alternatives, as the TAL is the level that

would achieve the target F in 2004, and the RSA is the amount allocated through the grants process. The difference between the preferred alternative (Alternative 1) and Alternatives 2 and 3, therefore, relates only to the manner in which the overall TAL is allocated between the commercial and recreational components of the bluefish fishery. Under Alternative 1, the commercial quota allocation is 10.401 million lb (4.718 million kg), with a recreational harvest limit of 21.150 million lb (9.68 million kg). Under Alternative 2, the commercial quota allocation is 5.363 million lb (2.433 million kg) with a recreational harvest limit of 26.188 million lb (11.878 million kg). Under Alternative 3, the commercial quota allocation is 9.493 million lb (4.346 million kg) with a recreational harvest limit of 22.058 million lb (10.100 million kg).

The preferred commercial quota represents a less than 1-percent decrease from the 2003 commercial quota, with the decrease due to the amount specified for the RSA. The 2004 recreational harvest limit would be 21 percent lower than the recreational harvest limit specified for 2003. However, the recreational harvest limit would still be about twice the recreational landings for 2002. Bluefish landings for the 2000–2002 period

ranged from 29 to 59 percent lower than the recreational harvest limits specified in those years, and a projection based on preliminary recreational data for 2003 indicates that landings will be 46 percent lower than the recreational harvest limit specified for 2003. Therefore, under this alternative, no vessels would realize significant revenue reductions. A total of 928 vessels were projected to incur revenue losses as a result of the proposed commercial quota allocation, with 95 percent of those estimated to incur losses of less than 1 percent, and none to incur losses greater than 5 percent. The affected entities would be mostly smaller vessels that land bluefish in Massachusetts, New Jersey, New York and North Carolina. In addition, economic analysis of South Atlantic Trip Ticket Report data indicated that, on average, the slight reduction in the commercial quota from 2003 to 2004 would be expected to result in small reductions in revenue for fishermen that land bluefish in North Carolina (0.05 percent) and Florida (0.03 percent).

The allocations specified in Alternative 2 represent a 49-percent decrease in the commercial quota from the 2003 commercial quota, and a 2-percent decrease in the recreational

harvest limit from the 2003 recreational harvest limit. The 2004 recreational harvest limit would be more than twice the 2003 projected recreational landings. The reduction in the commercial quota would cause 15 vessels to have revenue losses of 50 percent or more, while 123 would have revenue losses from 5 to 49 percent. An additional 790 vessels would incur revenue losses of less than 5 percent of their total ex-vessel revenue. Also, evaluation of South Atlantic Trip Ticket Reports indicates an average of 4.43 and 0.03-percent reductions in revenue for fishermen that land bluefish in North Carolina and Florida, respectively.

Alternative 3 represents a 9-percent decrease in the total allowable commercial landings for bluefish in 2003 versus 2004. The 2004 recreational harvest limit would be 17 percent lower than the estimated recreational landings in 2003. Under this scenario, a total of 53 vessels would incur revenue losses from 5 to 19 percent due to the reduction in the commercial quota. An additional 875 commercial vessels would incur revenue losses of less than 5 percent of their total ex-vessel revenue. Also, evaluation of South Atlantic Trip Ticket Reports indicate reduction in revenues of 0.82 and 0.05-

percent for fishermen that land bluefish in North Carolina and Florida, respectively.

The Council further analyzed the impacts on revenues of the proposed RSA specified in all three alternatives. The social and economic impacts of this proposed RSA are expected to be minimal. Assuming the full RSA is allocated for bluefish, the set-aside amount could be worth as much as \$101,235 dockside, based on a 2002 price of \$0.34 per pound for bluefish. Assuming an equal reduction among all 928 active dealer reported vessels, this could mean a reduction of about \$109 per individual vessel. Changes in the recreational harvest limit would be insignificant (less than 1 percent decrease), if 2 percent of the TAL is used for research. It is unlikely that there would be negative impacts. A copy of this analysis is available from the Council (see **ADDRESSES**).

Dated: May 14, 2004.

Rebecca Lent,

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

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