longline category permit for use in the Atlantic Ocean including the Caribbean Sea and the Gulf of Mexico must possess inside the wheelhouse the document provided by NMFS entitled, ''Careful Release Protocols for Sea Turtle Release with Minimal Injury,'' and all vessels with pelagic or bottom longline gear on board must post inside the wheelhouse the sea turtle handling and release guidelines provided by NMFS.

* * * * *

■ 3. Paragraph (d)(3) to § 635.21 is revised to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(d) * * *

(3) The operator of a vessel required to be permitted under this part and that has bottom longline gear on board must undertake the following bycatch mitigation measures to release sea turtles, prohibited sharks, or smalltooth sawfish, as appropriate.

(i) Possession and use of required mitigation gear. Line clippers meeting minimum design specifications as specified in paragraph (d)(3)(i)(A) of this section and dipnets meeting minimum standards prescribed in paragraph (d)(3)(i)(B) of this section must be carried on board and must be used to disengage any hooked or entangled sea turtles, prohibited sharks, or smalltooth sawfish, in accordance with the requirements specified in paragraph (d)(3)(ii) of this section.

(A) Line clippers. Line clippers are intended to cut fishing line as close as possible to hooked or entangled sea turtles, prohibited sharks, or smalltooth sawfish. NMFS has established minimum design standards for line clippers. The Arceneaux line clipper is a model that meets these minimum design standards and may be fabricated from readily available and low-cost materials (65 FR 16347, March 28, 2000). The minimum design standards for line clippers are as follows:

(*1*) A protected cutting blade. The cutting blade must be curved, recessed, contained in a holder, or otherwise designed to minimize direct contact of the cutting surface with sea turtles, prohibited sharks, smalltooth sawfish, or users of the cutting blade.

(*2*) Cutting blade edge. The blade must be able to cut 2.0–2.1 mm monofilament line and nylon or polypropylene multistrand material commonly known as braided mainline or tarred mainline.

(*3*) An extended reach holder for the cutting blade. The line clipper must have an extended reach handle or pole of at least 6 ft (1.82 m).

(*4*) Secure fastener. The cutting blade must be securely fastened to the extended reach handle or pole to ensure effective deployment and use.

(B) Dipnets. Dipnets are intended to facilitate safe handling of sea turtles and access to sea turtles for purposes of cutting lines in a manner that prevents injury and trauma to sea turtles. The minimum design standards for dipnets are as follows:

(*1*) Extended reach handle. The dipnet must have an extended reach handle of at least 6 ft (1.82 m) of wood or other rigid material able to support a minimum of 100 lb (34.1 kg) without breaking or significant bending or distortion.

(*2*) Size of dipnet. The dipnet must have a net hoop of at least 31 inches (78.74 cm) inside diameter and a bag depth of at least 38 inches (96.52 cm). The bag mesh openings may not exceed 3 inches x 3 inches (7.62 cm x 7.62 cm).

(ii) Handling requirements. (A) The dipnets required by this paragraph should be used to facilitate access and safe handling of sea turtles where feasible. The line clippers must be used to disentangle sea turtles, prohibited sharks, or smalltooth sawfish from fishing gear or to cut fishing line as close as possible to a hook that cannot be removed without causing further injury.

(B) When practicable, active and comatose sea turtles must be brought on board immediately, with a minimum of injury, and handled in accordance with the procedures specified in § 223.206(d)(1) of this title.

(C) If a sea turtle is too large or hooked in a manner that precludes safe boarding without causing further damage or injury to the turtle, line clippers described in paragraph (c)(5)(i)(A) of this section must be used to clip the line and remove as much line as possible prior to releasing the turtle.

(D) If a smalltooth sawfish is caught, the fish should be kept in the water while maintaining water flow over the gills and examined for research tags and the line should be cut as close to the hook as possible.

(iii) Corrodible hooks. Vessels that have bottom longline gear on board and that have been issued, or required to have, a limited access shark permit for use in the Atlantic Ocean, including the Caribbean Sea and the Gulf of Mexico, must only have corrodible hooks on board.

(iv) Possess and use a dehooking device that meets the minimum design standards. The dehooking device must be carried on board and must be used to remove the hook from any hooked sea turtle, prohibited shark, or other animal, as appropriate. The dehooking device should not be used to release smalltooth sawfish. NMFS will file with the Office of the **Federal Register** for publication the minimum design standards for approved dehooking devices. NMFS may also file with the Office of the **Federal Register** for publication any additions and/or amendments to the minimum design standards.

* * * * *

[FR Doc. 04–18032 Filed 8–3–04; 2:51 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040507144–4213–02; 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: Final rule, 2004 specifications

SUMMARY: NMFS issues 2004 specifications for the Atlantic bluefish fishery, including total allowable harvest levels (TAL), state-by-state commercial quotas, and a recreational harvest limit and possession limit for Atlantic bluefish off the east coast of the United States. The intent of the specifications is to conserve and manage the bluefish resource and provide for sustainable fisheries.

DATES: Effective September 7, 2004, through December 31, 2004.

ADDRESSES: Copies of supporting documents, including the Environmental Assessment (EA) and Regulatory Impact Review (RIR), Final Regulatory Flexibility Analysis (FRFA), and Essential Fish Habitat Assessment (EFHA) are available from: Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. The EA/RIR/FRFA/EFHA are accessible via the Internet at *http://www.nero.nmfs.gov*.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 978–281–9104, fax 978–281–9135, e-mail *myles.a.raizin@noaa.gov*.

SUPPLEMENTARY INFORMATION: Regulations implementing the 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, TAL, which is comprised of a commercial quota and recreational harvest limit. This rule implements final specifications for the Atlantic bluefish fishery for 2004 that are unchanged from the proposed specifications published on May 19, 2004 (69 FR 28875). A complete discussion of the development of these specifications is included in the proposed rule and is not repeated here. These measures are the same as those implemented for 2004 by the states under the Atlantic States Marine Fisheries Commission's Interstate FMP.

Final Specifications

TAL

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. Therefore, in accordance with the FMP, the measures established 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 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 TAL for 2004 of 31.85 million lb (14.45 million kg).

Commercial Quota and Recreational Harvest Limit

Consistent with the FMP and regulations governing the bluefish fishery, NMFS has transferred 5.085 million lb (2.036 million kg) from the initial 2004 recreational allocation of 26.435 million lb (11.990 million kg) to the commercial fishery, resulting in a 2004 recreational harvest limit of 21.350 million lb (9.684 million kg) and a commercial quota of 10.5 million lb (4.76 million kg). The 2004 commercial quota would be the same as was allocated in 2003 and also as implemented by the states for 2004 under the Atlantic States Marine Fisheries Commission'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 specified. Due to the allocation of the bluefish RSA, the adjusted commercial quota for 2004 is 10.401 million lb (4.718 million kg) and the adjusted recreational harvest limit is 21.150 million lb (9.59 million kg).

Recreational Possession Limit

A recreational possession limit of 15 fish will be maintained for the 2004 fishing year.

State Commercial Allocations

The annual commercial quota for bluefish will be distributed to the states (See Table 1.), 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

Comments and Responses

One set of comments was received during the comment period on the proposed rule, as follows:

Comment: The commenter opposes the transfer of allocation from the recreational sector to the commercial sector because he believes it is unfair to anglers who endure strict regulations. He believes it fails to reward recreational fishers who do not fully attain their allocation and negates the conservation benefits their underharvest creates.

Response: The poundage transfer provision was included in Amendment 1 to the FMP (Amendment 1) to ensure that commercial landings would not be unnecessarily reduced if the recreational fishery is not expected to attain its harvest limit. The FMP stipulates that such a transfer may be made if the recreational fishery is not projected to land its harvest limit for the upcoming year. 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). Since the recreational fishery is not projected to land its harvest limit in 2004, this allows the specification of a commercial quota of up to 10.5 million lb (4.76 million kg). The TAL for 2004 is 31.85 million lb (14.45 million kg). This is consistent with an F of 0.184 which is actually less than the maximum level of F of 0.310 specified in the FMP as the rebuilding target for 2004. A commercial harvest of 10.5 million lb (4.76 million kg) does not result in overfishing based on the

overfishing definition in the FMP. Overfishing occurs when F is greater than Fmsy = 0.310 (the F that produces maximum sustainable yield). Since the stock condition is improving, and the overall TAL maintains a very low F, there is no reason to reduce allowed landings by the commercial sector. The transfer is not constraining to recreational fishermen, since the remaining recreational harvest limit is more than double the average recreational landings over the last several years.

Comment: The commenter believes that the proposed rule is not written in plain English since most readers would not know what F represents.

Response: F is defined as ''fishing mortality rate'' in the **SUPPLEMENTARY INFORMATION** section of the proposed rule.

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 National Marine Fisheries Service (NMFS), pursuant to section 604 of the Regulatory Flexibility Act (RFA), has prepared a final regulatory flexibility analysis (FRFA) in support of the 2004 bluefish specifications. The FRFA describes the economic impact that this final rule will have on small entities.

The FRFA incorporates the economic impacts summarized in the initial regulatory flexibility analysis (IRFA) summary found in the Classification section of the proposed rule, the comments on, and responses to the proposed rule, and the corresponding economic analyses prepared by Council for these specifications. For the most part, those impacts are not repeated here. A copy of the IRFA, the FRFA, the RIR and the EA are available from NMFS, Northeast Regional Office and on the Northeast Regional Office Website (see **ADDRESSES**). A description of the reasons why this action is being considered, and the objectives of, and legal basis for, the final rule is found in the preamble to the final rule and is not repeated here.

One set of comments was submitted on the proposed rule, but it was not specific to the IRFA or the economic impact of the rule. NMFS has responded to the comment in the Comments and Responses section of the preamble to this final rule. No changes were made to the final rule as a result of the comments received.

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 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.

There are no recordkeeping, reporting, or other compliance requirements associated with these final specifications that would increase costs and negatively impact profitability of vessels prosecuting the bluefish fishery. In addition, none of the alternatives to these final specifications would further mitigate the economic impacts to vessels prosecuting the fishery. Therefore, there are no opportunities for vessels to further increase profits from implementation of alternatives other than those published as part of this rule.

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**).

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

Dated:August 2, 2004.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 04–18050 Filed 8–5–04; 8:45 am]

BILLING CODE 3510–22–S