



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130104009-3416-02]

RIN 0648-XC432

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; 2013 and 2014 Atlantic Bluefish Specifications

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

ACTION: Final rule.

SUMMARY: NMFS issues final specifications for the 2013 and 2014 Atlantic bluefish fishery, including annual catch limits, total allowable landings, commercial quotas and recreational harvest limits, and a recreational possession limit. This action establishes the allowable 2013 and 2014 harvest levels and other management measures to achieve the target fishing mortality rate, consistent with the Atlantic Bluefish Fishery Management Plan and the recommendations of the Mid-Atlantic Fishery Management Council.

DATES: The final specifications for the 2013 and 2014 Atlantic bluefish fishery are effective [insert date 30 days after the date of publication in the FEDERAL REGISTER], through December 31, 2014.

ADDRESSES: Copies of the specifications document, including the Environmental Assessment and Initial Regulatory Flexibility Analysis (EA/IRFA) and other supporting documents for the specifications, are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic

Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The specifications document is also accessible via the Internet at: <http://www.nero.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Management Specialist, (978) 281-9224.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Atlantic bluefish fishery is managed cooperatively by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission). The management unit for bluefish specified in the Atlantic Bluefish Fishery Management Plan (FMP) is U.S. waters of the western Atlantic Ocean. Regulations implementing the FMP appear at 50 CFR part 648, subparts A and J. The regulations requiring annual specifications are found at § 648.162.

The FMP requires the Council to recommend, on an annual basis, an annual catch limit (ACL), annual catch target (ACT), and total allowable landings (TAL) that will control fishing mortality (F). The Council may also recommend a research set-aside (RSA) quota, which is deducted from the bluefish TALs (after any applicable transfer) in an amount proportional to the percentage of the overall TAL as allocated to the commercial and recreational sectors.

Pursuant to § 648.162, the annual review process for bluefish requires that the Council's Bluefish Monitoring Committee and Scientific and Statistical Committee (SSC) review and make recommendations based on the best available data. Based on the recommendations of the Monitoring Committee and SSC, the Council makes a recommendation to the NMFS Northeast Regional Administrator. Because this FMP is a joint plan, the Commission also meets during the annual specification process to adopt complementary measures.

The Council's recommendations must include supporting documentation concerning the environmental, economic, and social impacts of the recommendations. NMFS is responsible for reviewing these recommendations to assure that they achieve the FMP objectives, and may modify them if they do not. NMFS then publishes proposed specifications based on the recommendations in the Federal Register, and after considering public comment, NMFS publishes final specifications in the Federal Register. A proposed rule for this action published in the Federal Register on February 20, 2013 (78 FR 11809), and comments were accepted through March 7, 2013.

#### Final 2013 Specifications

A description of the process used to estimate bluefish stock status and fishing mortality, as well as the process for deriving the ACL and associated quotas and harvest limits, is provided in the proposed rule and in the bluefish regulations at §§ 648.160 through 648.162. The stock is not overfished or experiencing overfishing, and the catch limits described below reflect the best available scientific information on bluefish. The final 2013 bluefish ABC, ACL, and ACT are specified at 27.472 million lb (12,461 mt).

The ACT is initially allocated between the recreational fishery (83 percent = 22.801 million lb, 10,342 mt) and the commercial fishery (17 percent = 4.670 million lb, 2,118 mt). After deducting an estimate of recreational discards (commercial discards are considered negligible), the recreational TAL would be 19.190 million lb (8,704 mt) and the commercial TAL would be 4.670 million lb (2,118 mt).

However, the FMP specifies that, if 17 percent of the ACT is less than 10.5 million lb, and the recreational fishery is not projected to land its harvest limit for the upcoming year, the commercial fishery may be allocated up to 10.5 million lb as its quota, provided that the

combination of the projected recreational landings and the commercial quota does not exceed the ACT. The recreational harvest limit (RHL) would then be adjusted downward so that the ACT would be unchanged. Based on updated data, the recreational fishery landed 11,184,173 lb (5,073 mt) of bluefish in 2012. Assuming recreational landings in 2013 are consistent with those from 2012, the Council's proposed transfer of 4.686 million lb (2,126 mt) from the recreational sector to the commercial sector can be approved. This transfer results in an adjusted commercial quota of 9.357 million lb (4,244 mt), and an adjusted RHL of 14.504 million lb (6,579 mt).

#### Final 2013 RSA, Commercial Quota, and RHL

Two projects that will utilize bluefish RSA were approved by NOAA's Grants Management Division. A total RSA quota of 715,819 lb (325 mt) was approved for use by these projects during 2013. Proportional adjustments of this amount to the commercial and recreational allocations result in a final commercial quota of 9.076 million lb (4,117 mt) and a final RHL of 14.069 million lb (6,382 mt).

#### Final 2014 Specifications

The final 2014 bluefish ABC, ACL, and ACT are specified at 27.057 million lb (12,273 mt). The ACT is initially allocated between the recreational fishery (83 percent = 22.458 million lb, 10,187 mt) and the commercial fishery (17 percent = 4.600 million lb, 2,087 mt). After deducting an estimate of recreational discards (commercial discards are considered negligible), the recreational TAL would be 18.846 million lb (8,548 mt) and the commercial TAL would be 4.600 million lb (2,087 mt).

Assuming recreational landings in 2014 are consistent with those from 2012, the Council's proposed transfer of 4.342 million lb (1,969 mt) from the recreational sector to the commercial sector can be approved. This transfer results in an adjusted commercial quota of

8.942 million lb (4,056 mt), and an adjusted RHL of 14.504 million lb (6,579 mt).

Final 2014 RSA, Commercial Quota, and RHL

The Council preliminarily approved 703,385 lb (319 mt) of RSA quota for future research projects. Proportional adjustments of this amount to the commercial and recreational allocations results in a final commercial quota of 8.674 million lb (3,934 mt) and a final RHL of 14.069 million lb (6,382 mt).

Final Recreational Possession Limit

The current recreational possession limit of up to 15 fish per person is maintained to achieve the RHL for both 2013 and 2014.

Final State Commercial Allocations

The final state commercial quotas for 2013 and the preliminary 2014 commercial quotas are shown in Table 1, based on the percentages specified in the FMP. If any state overages occur in 2013 that alter the 2014 quotas, NMFS will publish a rule to implement the revised 2014 quotas.

Table 1. Final Bluefish Commercial State-by-State Allocations for 2013 and 2014 (including RSA deductions).

State	Percent Share	2013 Commercial Quota (lb)	2013 Commercial Quota (kg)	2014 Commercial Quota (lb)	2014 Commercial Quota (kg)
ME	0.6685	60,673	27,521	57,985	26,302
NH	0.4145	37,620	17,064	35,953	16,308
MA	6.7167	609,606	276,513	582,603	264,264
RI	6.8081	617,902	280,275	590,531	267,860
CT	1.2663	114,929	52,131	109,838	49,822
NY	10.3851	942,548	427,533	900,796	408,595
NJ	14.8162	1,344,713	609,952	1,285,146	582,933
DE	1.8782	170,465	77,322	162,914	73,897

MD	3.0018	272,443	123,578	260,374	118,104
VA	11.8795	1,078,179	489,054	1,030,419	467,390
NC	32.0608	2,909,829	1,319,876	2,780,933	1,261,410
SC	0.0352	3,195	1,449	3,053	1,385
GA	0.0095	862	391	824	374
FL	10.0597	913,014	414,136	872,570	395,792
Total	100.0001	9,075,976	4,116,795	8,673,941	3,934,435

## Comments and Responses

The public comment period for the proposed rule ended on March 7, 2013. Two comments were received from individuals on the proposed rule. A summary and response to the concerns raised by the commenters are included below.

Comment 1: One commenter generally criticized NMFS and the data used to set catch limits, but had no clear evidence to support their claims.

Response: Atlantic bluefish are not overfished, nor are they subject to overfishing; therefore, there is no scientific basis for making changes to the quotas based on this comment. NMFS used the best scientific information available and is approving specifications for the bluefish fishery that are consistent with the FMP and recommendations of the Council.

Comment 2: A charter/party boat operator in the Atlantic bluefish fishery in Massachusetts opposed the recreational possession limit of 15 fish due to increased fishing pressure and recommended reducing the possession limit.

Response: Atlantic bluefish are not overfished; nor are they subject to overfishing. There is no scientific basis for reducing the recreational possession limit. The RHL has not been exceeded in recent years with a possession limit of 15 fish, so it appears that a reduction in the possession limit would unnecessarily reduce recreational landings. NMFS used the best

scientific information available and is approving specifications for the bluefish fishery that are consistent with the FMP and the recommendations of the Council.

#### Classification

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

This final rule is exempt from review under Executive Order 12866.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

The FRFA included in this final rule was prepared pursuant to 5 U.S.C. 604(a), and incorporates the IRFA and a summary of analyses completed to support the action. A public copy of the EA/RIR/IRFA is available from the Council (see ADDRESSES).

The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated here.

#### Final Regulatory Flexibility Analysis

##### Statement of Objective and Need

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

##### Summary of Significant Issues Raised in Public Comments

Two comments were submitted on the proposed rule. However, none were specific to the IRFA or to the economic impacts of the proposed rule more generally.

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

Small businesses operating in commercial and recreational (i.e., party and charter vessel operations) fisheries have been defined by the Small Business Administration as firms with gross revenues of up to \$4.0 and \$6.5 million, respectively. The categories of small entities likely to be affected by this action include commercial and charter/party vessel owners holding an active Federal permit for Atlantic bluefish, as well as owners of vessels that fish for Atlantic bluefish in state waters. All federally permitted vessels fall into the definition of small businesses; thus, there would be no disproportionate impacts between large and small entities as a result of the final rule.

An active participant in the commercial sector was defined as any vessel that reported having landed 1 or more lb (0.45 kg) in the Atlantic bluefish fishery in 2011 (the last year for which there are complete data). The active participants in the commercial sector were defined using two sets of data. The Northeast seafood dealer reports were used to identify 742 vessels that landed bluefish in states from Maine through North Carolina in 2011. However, the Northeast dealer database does not provide information about fishery participation in South Carolina, Georgia, or Florida. South Atlantic Trip Ticket reports were used to identify 768 vessels that landed bluefish in North Carolina, and 791 vessels that landed bluefish on Florida's east coast. Some of these vessels were also identified in the Northeast dealer data; therefore, double counting is possible. Bluefish landings in South Carolina and Georgia were near zero in 2011, representing a negligible proportion of the total bluefish landings along the Atlantic Coast. Therefore, this analysis assumed that no vessel activity for these two states took place in 2011. In recent years, approximately 2,000 party/charter vessels may have been active in the bluefish fishery and/or have caught bluefish.

#### Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

#### Description of the Steps Taken to Minimize Economic Impact on Small Entities

Specification of commercial quota, recreational harvest levels, and possession limits is constrained by the conservation objectives of the FMP, under the authority of the Magnuson-Stevens Act. The 2013 commercial quota contained in this final rule is 12 percent lower than the 2012 quota, but significantly higher than actual 2012 bluefish landings. All affected states will receive decreases in their individual commercial quota allocation in comparison to their respective 2012 individual state allocations. However, the magnitude of the increase varies depending on the state's relative percent share in the total commercial quota, as specified in the FMP. The 2014 commercial quota contained in this final rule is 4 percent lower than the 2013 quota.

The 2013 and 2014 RHL contained in this final rule is approximately 19 percent lower than the RHL in 2012. The 2013 and 2014 RHL is the same as the total estimated recreational bluefish harvest for 2013 and 2014, and therefore it does not constrain recreational bluefish harvest below a level that the fishery is anticipated to achieve. The possession limit for bluefish will remain at 15 fish per person, so there should be no impact on demand for party/charter vessel fishing and, therefore, no impact on revenues earned by party/charter vessels. No negative economic impacts on the recreational fishery are anticipated.

The impacts on revenues associated with the proposed RSA quota were analyzed and are expected to be minimal. Assuming that the full RSA quota 715,819 lb (325 mt) for 2013 and 703,385 lb (319 mt) for 2014 is landed and sold to support the proposed research projects, then all of the participants in the fishery would benefit from the improved fisheries data yielded from

each project.

### 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 small entity compliance guide will be sent to all holders of Federal permits issued for the Atlantic bluefish fishery.

In addition, copies of this final rule and guide (i.e., permit holder letter) are available upon request, and posted on the Northeast Regional Office’s website at [www.nero.noaa.gov](http://www.nero.noaa.gov).

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

Dated: May 2, 2013.

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Alan D. Risenhoover, Director, Office of Sustainable Fisheries,  
performing the functions and duties of the Deputy Assistant Administrator  
for Regulatory Programs, National Marine Fisheries Service.

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