



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140214138-4138-01]

RIN 0648-XD139

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

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

ACTION: Proposed specifications; request for comments.

SUMMARY: NMFS proposes specifications for the 2014 Atlantic bluefish fishery, including an annual catch limit, total allowable landings, a commercial quota and recreational harvest limit, and a recreational possession limit. The intent of this action is to establish the allowable 2014 harvest levels and other management measures to achieve the target fishing mortality rate, consistent with the Atlantic Bluefish Fishery Management Plan.

DATES: Comments must be received on or before [insert date 15 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2014-0026, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-

Rulemaking portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0026, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- Mail: Submit written comments to John Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publically accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Copies of the specifications document, including the supplemental 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, the annual catch limit (ACL), annual catch target (ACT), and total allowable landings (TAL) that will control fishing mortality (F). An estimate of annual discards is deducted from the ACT to calculate the TAL that can be harvested during the year by the commercial and recreational fishing sectors. The FMP requires that 17 percent of the ACT be allocated to the commercial fishery, with the remaining 83 percent allocated to the recreational fishery. The Council may also recommend a research set-aside (RSA) quota, which is deducted from the bluefish TAL (after any applicable transfer) in an amount proportional to the percentage of the overall TAL as allocated to the commercial and recreational sectors.

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 scientific information, including, but not limited to, commercial and recreational catch/landing statistics, current estimates of fishing mortality, stock abundance, discards for the recreational fishery, and juvenile recruitment. Based on the recommendations of the Monitoring Committee and SSC, the Council makes a recommendation to the NMFS Greater

Atlantic 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 ensure that they achieve the FMP objectives, and may modify them if they do not. NMFS then publishes proposed specifications in the Federal Register, and after considering public comment, NMFS will publish final specifications in the Federal Register.

Proposed Specifications

Updated Model Estimates

According to Amendment 1 to the FMP, overfishing for bluefish occurs when fishing mortality exceeds the fishing mortality rate that allows maximum sustainable yield (F_{MSY}), or the maximum F threshold to be achieved. The stock is considered overfished if the biomass (B) falls below the minimum biomass threshold, which is defined as $\frac{1}{2} B_{MSY}$. Amendment 1 also established that the long-term target F is 90 percent of F_{MSY} ($F_{MSY} = 0.19$; therefore $F_{target} = 90$ percent of F_{MSY} , or 0.17), and the long-term target B is $B_{MSY} = 324$ million lb (147,052 mt).

An age-structured assessment program (ASAP) model for bluefish was approved by the 41st Stock Assessment Review Committee (SARC 41) in 2005 to estimate F and annual biomass. In September 2013, the ASAP model was updated in order to estimate the current status of the bluefish stock (i.e., 2012 biomass and F estimates) and enable the Monitoring Committee and SSC to recommend 2014 specifications using landings information and survey indices through the 2012 fishing year. The results of the assessment update were as follows: (1) An estimated stock biomass for 2012, $B_{2012} = 277.359$ million lb (125,808 mt); and (2) an estimated fishing

mortality rate for 2012, $F_{2012} = 0.097$. Based on the updated 2012 estimate of bluefish stock biomass, the bluefish stock is not considered overfished: B_{2012} is slightly less than B_{MSY} , but well above the minimum biomass threshold, $\frac{1}{2} B_{MSY}$, of 162 million lb (73,526 mt). Estimates of F have declined from 0.41 in 1991 to 0.097 in 2012. The updated model results also conclude that the Atlantic bluefish stock is not experiencing overfishing; i.e., the most recent F ($F_{2012} = 0.097$) is less than the maximum F overfishing threshold specified by SARC 41 ($F_{MSY} = 0.19$). Bluefish was declared rebuilt in 2009.

2014 Catch Limits

Following the framework implemented by the Council's ACL Omnibus Amendment, the Council recommended that ACL be set to acceptable biological catch (ABC) for 2014 (24.432 million lb, 11,082 mt). No deductions were recommended to account for management uncertainty; therefore, $ABC=ACL=ACT$. The ACT is initially allocated between the recreational fishery (83 percent) and the commercial fishery (17 percent). After deducting an estimate of recreational discards (commercial discards are considered negligible), the recreational harvest limit (RHL) would be 16.927 million lb (7,678 mt) and the commercial quota would be 4.153 million lb (1,884 mt).

The FMP specifies that, if 17 percent of the TAL 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 TAL. The RHL would then be adjusted downward so that the TAL would be unchanged.

The Council projected an estimated annual recreational harvest for 2014 of 13.179 million lb (5,978 mt). As such, it is expected that a transfer of up to 3.340 million lb (1,515 mt)

from the recreational sector to the commercial sector could be approved. This option represents the preferred alternative recommended by the Council in its specifications document. The actual transfer amount in the final rule, if any, will depend on the final 2013 recreational landings data.

RSA

The Council preliminarily approved two research projects that would utilize bluefish RSA quota and forwarded them to NOAA's Grants Management Division. The Council preliminarily approved 632,418 lb (287 mt) of RSA quota for use by these projects during 2014. Proportional adjustments of these amounts to the commercial and recreational allocations would result in a final commercial quota of 7.269 million lb (3,297 mt), and a final RHL of 13.179 million lb (5,978 mt). NMFS staff will update the commercial and recreational allocations based on the final 2014 RSA awards as part of the final rule for the 2014 specifications.

Proposed Recreational Possession Limit

The Council recommended, and NMFS proposes, to maintain the current recreational possession limit of up to 15 fish per person to achieve the RHL for 2014.

Proposed State Commercial Allocations

The proposed state commercial allocations for the recommended 2014 commercial quota are shown in Table 1, based on the percentages specified in the FMP. These quotas do not reflect any adjustments for quota overages that may have occurred in some states in 2013. Any potential deductions for states that exceeded their quota in 2013 will be accounted for in the final rule.

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

| State | Percent Share | 2014 Council-Proposed Commercial Quota (lb) | 2014 Council-Proposed Commercial Quota (kg) |
|--------------|----------------------|--|--|
| ME | 0.6685 | 48,593 | 22,041 |
| NH | 0.4145 | 30,130 | 13,667 |
| MA | 6.7167 | 488,233 | 221,459 |
| RI | 6.8081 | 494,877 | 224,472 |
| CT | 1.2663 | 92,047 | 41,752 |
| NY | 10.3851 | 754,888 | 342,411 |
| NJ | 14.8162 | 1,076,980 | 488,510 |
| DE | 1.8782 | 136,525 | 61,927 |
| MD | 3.0018 | 218,199 | 98,973 |
| VA | 11.8795 | 863,514 | 391,683 |
| NC | 32.0608 | 2,330,480 | 1,057,088 |
| SC | 0.0352 | 2,559 | 1,161 |
| GA | 0.0095 | 691 | 313 |
| FL | 10.0597 | 731,233 | 331,682 |
| Total | 100.0001 | 7,268,949 | 3,297,140 |

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 proposed rule is consistent with the Atlantic Bluefish FMP, other provisions of the

Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

These proposed specifications are exempt from review under Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA), which describes the economic impact this proposed rule, if adopted, would have on small entities.

Description of the Reasons Why Action by the Agency is Being Considered

A description of the action and why it is being considered are contained at the beginning of this preamble and in the SUMMARY.

Statement of the Objective of, and Legal Basis for, this Proposed Rule

The statement of the objective and the legal basis for this action are contained at the beginning of this preamble and in the SUMMARY.

Description and Estimate of the Number of Small Entities to Which this Proposed Rule Would Apply

An active participant in the commercial sector was defined as any vessel that reported having landed 1 or more pound (0.45 kg) in the Atlantic bluefish fishery in 2011. 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 in 2011.¹ 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 the Projected Reporting, Record-Keeping, and Other Compliance Requirements of this Proposed Rule

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

Federal Rule Which May Duplicate, Overlap, or Conflict with this Proposed Rule

NMFS is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

Small businesses operating in commercial and recreational (i.e., party and charter vessel operations) finfish fisheries have been defined by the Small Business Administration as firms with gross revenues of up to \$19.0 and \$7.0 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

¹ Some of these vessels were also identified in the Northeast dealer data; therefore, double counting is possible.

businesses; thus, there would be no disproportionate impacts between large and small entities as a result of the proposed rule.

When the 2014 specifications were set last year, there were three alternatives considered in the IRFA of the Original EA. Since the bluefish stock was updated in 2013, the Council recommended an additional alternative to be considered for the 2014 specifications through a supplement to the Original EA. The IRFA in the Draft Supplemental EA for this action addresses two alternatives (including a no action/status quo alternative) for the 2014 Atlantic bluefish fishing year. No additional alternatives are considered in this action because there is no other alternative that would both achieve the stated goals and objectives of the FMP and minimize cost to the fishery. Any other alternative considered would need to be more restrictive than the proposed action due to the specifications process and the National Standard 1 guideline requirement that catch limits cannot exceed the SSC's recommended ABC. Both quota alternatives considered in this analysis are based on various commercial harvest levels for bluefish (a low and medium level of harvest). For analysis of impacts of both alternatives, the maximum potential RSA quota of 3 percent of the TAL (703,385 lb (319 mt) for the No Action Alternative and 632,418 lb (287 mt) for the Preferred Action Alternative) was used. For analysis of impacts of the No Action Alternative, the recommended transfer of 4.342 million lb (1,970 mt) from the recreational sector to the commercial sector was used. For analysis of impacts of the Preferred Action Alternative, the transfer of 3.340 million lb (1,515 mt) from the recreational sector to the commercial sector was used.

The No Action Alternative would implement a TAL of 23.446 million lb (10,635 mt). The Preferred Action Alternative would implement a TAL of 21.081 million lb (9,562 mt). The proposed 2014 Atlantic bluefish specification alternatives are shown in Table 2, along with the

resulting commercial quota and RHL after any applicable transfer described earlier in the preamble and after deduction of the RSA quota. The Preferred Action Alternative (Council’s preferred) would allocate 7.269 million lb (3,297 mt) to the commercial sector, and 13.179 million lb (5,978 mt) to the recreational sector for 2014. The No Action Alternative would allocate 8.674 million lb (3,934 mt) to the commercial sector and leave 14.069 million lb (6,381 mt) available to the recreational sector.

Table 2. Proposed 2014 Atlantic Bluefish Specification Alternatives for TAL, Commercial Quota, and RHL.

| Year | Alternatives | TAL (million lb) | TAL (mt) | Commercial Quota (million lb) | Commercial Quota (mt) | RHL (million lb) | RHL (mt) |
|------|------------------|------------------|----------|-------------------------------|-----------------------|------------------|----------|
| 2014 | No Action | 23.446 | 10,635 | 8.674 | 3,934 | 14.096 | 6,381 |
| | Preferred Action | 21.081 | 9,562 | 7.269 | 3,297 | 13.179 | 5,978 |

Commercial Fishery Impacts

To assess the impact of the alternatives on commercial fisheries, the Council conducted a threshold analysis and analysis of potential changes in ex-vessel gross revenue that would result from each alternative, using Northeast dealer reports and South Atlantic Trip Ticket reports.

Under the No Action Alternative, nine vessels were projected to incur revenue losses of more than 5 percent, while 147 vessels would incur revenue losses of less than 5 percent, and 586 vessels would incur no revenue losses. The Preferred Action Alternative would likely result in quota reductions for vessels in New York and Massachusetts, which could have negative economic impacts. Under the Preferred Action Alternative, 69 vessels were projected to incur revenue losses of more than 5 percent, 594 vessels would incur losses of less than 5 percent, and 79 vessels would see no revenue changes. The majority of vessels with greater than 5 percent of

revenue losses had gross sales of \$10,000 or less, which may indicate that the dependence on fishing for some of these vessels is small. If commercial quota is transferred from a state or states that do not land their entire bluefish quota for 2014, as was done in 2011 and frequently in previous years, the number of affected entities could change, thus changing the adverse economic impact on vessels landing in the state(s) receiving quota transfers for both alternatives.

Recreational Fishery Impacts

Under the No Action Alternative, the recommended RHL for the recreational sector (14.069 million lb, 6,381 mt) is approximately 22 percent above the recreational landings for 2011 (11.499 million lb, 5,216 mt). The Preferred Action Alternative RHL (13.179 million lb, 5,978 mt) is approximately 14 percent above the recreational landings for 2011. It is not anticipated that the recommend RHL will result in decreased demand for party/charter boat trips or affect angler participation in a negative manner. Overall, it is not expected that the final recreational management measures will affect gross revenues of businesses providing goods and services to anglers participating in the party/charter boat, private/rental boat, and shore fisheries for bluefish.

RSA Quota Impacts

For analysis of each alternative, the maximum RSA quota amount (3 percent of the TAL) was deducted from the initial overall TAL adjusted 2014 commercial quotas and RHLs under each alternative. Specifications of RSA quota are expected to benefit all participants in the fishery as a result of improved data and information for management or stock assessment purposes.

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

Dated: April 7, 2014

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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