

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

[Docket No. 151130999–6225–01]

RIN 0648–XE336

Fishery of the Northeastern United States; Bluefish Fishery; 2016–2018 Bluefish Specifications

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

ACTION: Proposed specifications; request for comments.

SUMMARY: We propose specifications for the 2016–2018 bluefish fishery. This action is necessary to comply with the implementing regulations for the Bluefish Fishery Management Plan that require us to publish specifications and provide an opportunity for public comment. The proposed specifications are necessary to constrain harvest for this species within scientifically sound recommendations to prevent overfishing.

DATES: Comments must be received on or before April 15, 2016.

ADDRESSES: A draft environmental assessment (EA) was prepared for these specifications and describes the proposed action and other considered alternatives, and provides an analysis of their impacts. Copies of the draft Specifications Document, including the draft EA and the Initial Regulatory Flexibility Analysis (IRFA), are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the Internet at www.mafmc.org and www.regulations.gov.

You may submit comments on this document, identified by NOAA–NMFS–2015–1060, by either of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-1060

2. Click the “Comment Now!” icon, complete the required fields

3. Enter or attach your comments.

—OR—

Mail: Submit written comments to John Bullard, Regional Administrator, National Marine Fishery Service, 55

Great Republic Drive, Gloucester, MA 01950. Mark the outside of the envelope, “Comments on the Proposed Rule for Bluefish Specifications.”

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 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 publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Elizabeth Scheimer, Fishery Management Specialist, (978) 281–9236.

SUPPLEMENTARY INFORMATION:**General Specification Background**

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) cooperatively manage the Atlantic bluefish (*Pomatus saltatrix*) fishery. Specifications in this fishery include various catch and landing subdivisions, such as annual catch limits (ACLs), commercial and recreational sector annual catch targets (ACTs), sector-specific landing limits (i.e., the commercial fishery quota and recreational harvest limit), and measures used to manage the recreational fishery (e.g., minimum fish size, bag limits) for the upcoming fishing year.

The Bluefish Fishery Management Plan (FMP) and its implementing regulations establish the Council’s process for establishing specifications. 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 management unit specified in the FMP is U.S. waters of the western Atlantic Ocean, from Florida northward to the U.S./Canada border. The FMP also stipulates how to divide the specification catch limits into commercial and recreational fishery allocations, when and how to adjust commercial and recreational limits by quota transfer between the two sectors, and how to allocate state-by-state quotas.

The annual specifications process requires that the Council’s Scientific and Statistical Committee (SSC) and the

Bluefish Monitoring Committee review the best available scientific information and make recommendations to the Council. The SSC met July 21, 2015, to review a new 2015 benchmark stock assessment and recommend acceptable biological catches (ABCs) for 2016–2018 for this fishery. More details on the SSC’s discussions are provided in the proposed Specifications section below. The Council’s Bluefish Monitoring Committee met on July 27, 2015, to review the SSC’s ABC recommendations and to propose complementary management measures. The Council and the Commission’s Bluefish Management Board met jointly on August 10, 2015, to consider the recommendations of the SSC and the Bluefish Monitoring Committee, receive public comments, and formalize catch limit specifications and commercial and recreational management measures. More complete details on the SSC, Bluefish Monitoring Committee, and Council meeting deliberations can be found on the Council’s Web site (www.mafmc.org).

While the Board action was finalized at the August meeting, the Council’s recommendations must be reviewed by NMFS to ensure that they comply with the FMP and all applicable law. NMFS must also conduct notice-and-comment rulemaking to propose and implement the final specifications.

The Bluefish FMP defines ACL as equal to ABC. The Bluefish Monitoring Committee identifies the relevant sources of management uncertainty, which may be used to reduce the ACL before establishing the recreational and commercial ACTs. Because the bluefish fishery has not fully utilized available ACTs in recent years and management precision is timely, the Bluefish Monitoring Committee did not recommend applying a management uncertainty reduction before establishing sector-specific ACTs. The Bluefish Monitoring Committee recommended allocating 17 percent of the ACL to the commercial fishery and 83 of the ACL percent to the recreational fishery. Estimated discards are then subtracted from each sector ACT to calculate sector Total Allowable Landings (TALs). Using this method ensures that each sector is accountable for its respective discards, rather than simply apportioning the ABC by the allocation percentages to derive the sector TALs. Commercial discards are assumed to be negligible and recreational discards are projected using a 3-year moving average from Marine Recreational Information Program (MRIP) data. The Council may also specify a research set-aside (RSA) quota of up to 3 percent of the TAL, but the

Council did not recommend RSA for 2016–2018. Additionally, the FMP specifies that if the recreational fishery is not projected to land its available harvest limit, then quota may be transferred from the recreational to the commercial sector, up to a commercial quota of 10.5 million lb (4,762 mt). The adjusted commercial quota is then allocated to the coastal states from Maine through Florida in specified shares as outlined in the FMP.

A 2015 benchmark stock assessment used as the scientific basis for these specifications may be found on the Northeast Fisheries Science Center’s Web site (www.nefsc.noaa.gov). The assessment indicates that bluefish are not overfished, and that overfishing is not occurring. The assessment updated

the bluefish stock biological reference points. The previous assessment used Maximum Sustainable Yield (MSY) reference points for fishing mortality and total biomass. The stock recruitment relationship is poorly defined for bluefish, so the 2015 benchmark assessment used Spawning Stock Biomass (SSB) per recruit based reference points as proxies for MSY reference points. This lowered the SSB target level from 324 million lb (147,052 mt) to 245 million pounds (111,228 mt) and lowered the current SSB estimate (191 million pounds in 2014; or 86,534 mt) used to develop the ABCs.

The SSC modified the overfishing limit (OFL) probability distribution derived from the stock assessment, and determined that a lower coefficient of

variation, or CV, to estimate scientific uncertainty was acceptable instead of the previously used 100-percent CV. The SSC stated this was acceptable because the new stock assessment improved treatment of uncertainty. The SSC’s ABC recommendations are based on a 60-percent CV from the OFL and are, therefore, higher than they would have been under the previously used 100-percent CV.

Proposed Specifications

This rule proposes the Council’s ABC recommendation and the commercial and recreational catch limits associated with that ABC for fishing years 2016–2018 as outlined in table 1.

TABLE 1—PROPOSED 2016–2018 BLUEFISH SPECIFICATIONS AND CALCULATIONS

	Current		Proposed					
	2015		2016		2017		2018	
	million lb	mt						
OFL	34.22	15,521	25.76	11,686	26.44	11,995	27.97	12,688
ABC	21.54	9,772	19.45	8,825	20.64	9,363	21.81	9,895
ACL	21.54	9,772	19.45	8,825	20.64	9,363	21.81	9,895
Management Uncertainty	0	0	0	0	0	0	0	0
Commercial ACT	3.66	1,661	3.30	1,500	3.50	1,592	3.70	1,682
Recreational ACT	17.88	8,110	16.14	7,325	17.13	7,770	18.10	8,213
Commercial Discards	0	0	0	0	0	0	0	0
Recreational Discards	3.35	1,520	2.98	1,356	2.98	1,356	2.98	1,356
Commercial TAL	3.66	1,661	3.30	1,500	3.50	1,592	3.70	1,682
Recreational TAL	14.53	6,591	13.15	5,969	14.14	6,414	15.11	6,857
Combined TAL	18.19	8,252	16.46	7,469	17.65	8,006	18.82	8,539
Projected Recreational Landings	12.95	5,875	10.98	4,980	10.98	4,980	10.98	4,90
Transfer	1.58	716	2.17	984	3.16	1,433	4.13	1,873
Commercial Quota	5.24	2,377	5.48	2,485	6.67	3,025	7.84	3,556
Recreational Harvest Limit (RHL)	12.95	5,875	10.98	4,980	10.98	4,980	10.98	4,980

Note: Recreational projections, transfer, and resulting commercial quota and RHL may be adjusted as more up-to-date recreational data become available.

The Council recommended the ABC values proposed by the SSC for 2016–2018. The Bluefish Monitoring Committee recommended using a 3-year average to project future recreational landings as was done in the previous specifications. The Council did not endorse this recommendation, requesting that the most recent available complete year’s landing data be used to project recreational landings.

Under certain conditions, the FMP allows a TAL transfer from the recreational to the commercial fishery, if projections indicate the full recreational landing limit will not be fully harvested. Council analysis using preliminary 2015 landings data to project future landings indicates the recreational fishery is not expected to land its harvest limit in 2016, so quota can be transferred to the

commercial fishery. The amount of transfer was calculated so that the RHL equals expected recreational landings and the final commercial quota does not exceed 10.5 million lb, consistent with the FMP requirement outlining the transfer process. This option represents the preferred alternative recommended by the Council; however, the Council recognized that future updates to the recreational harvest projections may result in a different transfer amount from the recreational sector to the commercial sector. We will use updated 2015 MRIP recreational harvest data as they become available and adjust the 2016 recreational transfer limit, as needed, in the final rule. The Council recommended we re-evaluate the transfer each year, consistent with the FMP requirements, as additional

recreational fishery data become available. Each year in 2017 and 2018, an updated projection for recreational landings will be based on realized recreational landings from the preceding year, and that projection will be used to estimate potential transfers from the recreational fishery to the commercial fishery. Any adjustments to the transfer amount will be published each year in a rule.

We propose the Council-recommended status quo daily recreational possession limit of up to 15 fish per person. Fishing under these catch limits for 2016 through 2018 is not expected to compromise the bluefish stock, nor will fishing at this level present an unacceptably high likelihood of overfishing. The calculation process described above produced the

management measures shown in Table 1. Table 2 presents the proposed state allocations for 2016–2018 using the state commercial quota allocations in the FMP. There were no states that

exceeded their quota in 2015; therefore, no accountability measures are necessary for the 2016 fishing year. In 2017 and 2018, any commercial quota adjustments necessary to account for

overages will be published in the **Federal Register** prior to the start of the respective fishing year.

TABLE 2—2016–2018 PROPOSED INITIAL BLUEFISH STATE COMMERCIAL QUOTAS

State	FMP Percent share	2016 Initial quota		2017 Initial quota		2018 Initial quota	
		kg	lb	kg	lb	kg	lb
ME	0.6685	16,635	36,673	20,231	44,602	23,788	52,443
NH	0.4145	10,314	22,739	12,544	27,655	14,749	32,517
MA	6.7167	167,135	368,469	203,270	448,135	239,003	526,912
RI	6.8081	169,409	373,483	206,037	454,233	242,256	534,082
CT	1.2663	31,510	69,467	38,323	84,487	45,059	99,339
NY	10.3851	258,417	569,712	314,289	692,888	369,538	814,691
NJ	14.8162	368,678	812,796	448,389	988,529	527,211	1,162,302
DE	1.8782	46,736	103,035	56,841	125,312	66,833	147,341
MD	3.0018	74,695	164,675	90,845	200,278	106,814	235,485
VA	11.8795	295,603	651,693	359,515	792,594	422,713	931,924
NC	32.0608	797,783	1,758,810	970,270	2,139,079	1,140,833	2,515,107
SC	0.0352	876	1,931	1,065	2,349	1,253	2,761
GA	0.0095	236	521	288	634	338	745
FL	10.0597	250,320	551,861	304,441	671,178	357,959	789,164
Total	100.0001	2,488,344	5,485,859	3,026,344	6,671,946	3,558,344	7,844,805

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the 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 by the Council, as required by section 603 of the Regulatory Flexibility Act (RFA), to examine the impacts of these proposed specifications on small business entities, if adopted. A copy of the detailed RFA analysis, including the IRFA, is available from NMFS or the Council (see **ADDRESSES**). The Council's analysis made use of quantitative approaches when possible. Where quantitative data on revenues or other business-related metrics that would provide insight to potential impacts were not available to inform the analyses, qualitative analyses were conducted. A summary of the 2016–2018 specifications IRFA analysis follows.

Description of the Reasons Why Action by the Agency Is Being Considered and a Statement of the Objectives of, and Legal Basis for, This Proposed Rule

This action proposes management measures, including annual catch limits, for the bluefish fishery in order to prevent overfishing and achieve

optimum yield in the fishery. A complete description of the action, why it is being considered, and the legal basis for this action are contained in the draft Specifications Document, and elsewhere in the preamble to this proposed rule, and are not repeated here.

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

The Small Business Administration defines a small business as one that is independently owned and operated; not dominant in its field of operation; has annual receipts that do not exceed \$20.5 million in the case of commercial finfish harvesting entities, \$5.5 million in the case of commercial shellfish harvesting entities, \$7.5 million in the case of for-hire fishing entities; or has fewer than 750 employees in the case of fish processors or 100 employees in the case of fish dealers.

This proposed rule affects commercial and recreational fish harvesting entities engaged in the bluefish fishery. Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, beyond those impacted by the proposed action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the IRFA analysis, the ownership

entities, not the individual vessels, are considered to be the regulated entities.

Ownership entities are defined as those entities with common ownership personnel as listed on the permit application. Only permits with identical ownership personnel are categorized as an ownership entity. For example, if five permits have the same seven persons listed as co-owners on their permit applications, those seven persons would form one ownership entity that holds those five permits. If two of those seven owners also co-own additional vessels, that ownership arrangement would be considered a separate ownership entity for the purpose of this analysis.

In preparation for this action, ownership entities are identified based on a list of all permits for the most recent complete calendar year. The current ownership data set used for this analysis is based on calendar year 2014 and contains average gross sales associated with those permits for calendar years 2012 through 2014. In addition to classifying a business (ownership entity) as small or large, a business can also be classified by its primary source of revenue. A business is defined as being primarily engaged in fishing for finfish if it obtains greater than 50 percent of its gross sales from sales of finfish. A description of the specific permits that are likely to be impacted by this action is provided below, along with a discussion of the impacted businesses, which can include multiple vessels and/or permit types.

The ownership database shows that for the 2012–2014 period, 724 affiliate firms held a bluefish commercial permit only, 144 affiliate firms held a bluefish party/charter permit only, and 144 firms held both commercial and party/charter permits. However, not all of those affiliate firms are active participants in the fishery. According to the ownership database, 950 affiliate firms landed bluefish during the 2012–2014 period, with 942 of those business affiliates categorized as small business and 8 categorized as large business.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of This Proposed Rule

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

Federal Rules 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

The Council analyzed four sets of combined catch limit alternatives for each of the fishing years 2016–2018 for the bluefish fishery. The alternatives were as follows:

- Alternative 1 is the Council’s preferred alternative that we are proposing as outlined in this rule’s preamble;

- Alternative 2 is the status quo and would maintain the current measures in effect;

- Alternative 3 is an alternative provided for analytical purposes as the “most restrictive” set of commercial quotas, based on no transfer between the recreational and commercial sectors; and

- Alternative 4 is the counter-point to Alternative 3, a maximum quota transfer of up to 10.5 million lb (4,762 mt) commercial quota.

The preferred alternative represents an increase in commercial quota and a decrease in RHL for all three years 2016–2018 relative to the 2015 implemented limits. The discussion below is based on the conclusions of the IRFA analyses in the draft Specifications Document provided by the Council. Table 3 outlines the available commercial quota and recreational harvest limits for the four alternatives used in the IRFA.

TABLE 3—SUMMARY OF LANDINGS LIMITS BY ALTERNATIVE

Year	Alternative	Commercial quota		Recreational harvest limit	
		million lb	mt	million lb	mt
2016	1	5.48	2,485	10.98	4,980
	2	5.24	2,376	12.95	5,874
	3	3.31	1,501	13.15	5,964
	4	10.5	4,760	5.96	2,703
2017	1	6.67	3,025	10.98	4,980
	2	5.24	2,376	12.95	5,874
	3	3.51	1,592	14.14	6,413
	4	10.5	4,760	7.15	3,243
2018	1	7.84	3,556	10.98	4,980
	2	5.24	2,376	12.95	5,874
	3	3.71	1,682	15.11	6,853
	4	10.5	4,762	8.32	3,773

Commercial Fishery Impacts

To assess the impact of the alternatives on commercial fisheries, the Council conducted a threshold analysis and an 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.

Alternative 1 (the preferred alternative) and Alternative 4 represent increases in commercial quotas relative to 2015. It is expected that Alternatives 1 and 4 would have neutral socio-economic impacts. In recent years, bluefish commercial landings have been substantially lower than the quotas due to market conditions. Unless market conditions change substantially, we expect that commercial landings will be close to 2014 landings despite an increase in fishing opportunity. There is no indication that the market

environment for commercially caught bluefish will change considerably in 2016–2018.

Under the Alternative 2 (status quo) measures, the 2016–2018 specifications would have no change in allowable commercial landings relative to the 2015 limits. As such, it is expected that no change in revenues or fishing opportunities would occur. Alternative 2 would likely result in quota constraints for vessels in New York, Massachusetts, Rhode Island, and North Carolina; however, these quota constraints may not have an economic impact due to the ability to transfer quota from state to state.

Under Alternative 3, the most commercially restrictive alternative considered, 72 out of 942 small firms in the Northeast region are projected to incur revenue losses of 5 percent or more in 2016 when compared to 2015.

Of those firms, 43 percent had gross sales of \$10,000 or less, likely indicating that their dependence on fishing is small. In 2017, 68 small firms likely would be faced with revenue reductions of 5 percent or more (60 percent with gross sales of \$10,000 or less), and in 2018, 61 small firms likely would be faced with revenue reductions of 5 percent or more (61 percent with gross sales less than \$10,000). For large firms that landed bluefish in the Northeast during 2012–2014, the potential overall revenue reduction is 0.01 percent for each year in 2016–2018. Assuming no change in prices, the average decrease in revenue distributed among all firms that landed bluefish in the Northeast would be \$780 per firm in 2016, \$649 in 2017, and \$518 in 2018.

The South Atlantic Trip Ticket Report data indicate that 757 vessels landed commercial bluefish quota in North

Carolina from 2012–2014. On average, these vessels generated 8.9 percent of their total ex-vessel revenue from bluefish landings. Landings are projected to decrease in North Carolina by 43 percent as a consequence of Alternative 3 quota in 2016 relative to 2014; however, this analysis may overestimate the negative impact to small businesses because quota may be transferred between states. Alternative 3 represents a 40-percent reduction in 2017 and 36-percent reduction in 2018 for North Carolina relative to 2014 landings. If commercial quota is transferred from a state or states that do not land their entire bluefish quotas, as was done frequently in previous years, the number of affected entities could change. Under this alternative, the amount of potential surplus quota available to be transferred is low for all years 2016–2018, but transfers could lessen the adverse economic impact on vessels landing in the state(s) receiving quota transfers. Such transfers cannot be predicted or projected, as each occurs on a case-by-case basis by agreement between states.

Recreational Fishery Impacts

It is very difficult to calculate the economic value of recreational fisheries. No changes to the recreational fishing season, minimum fish size, or per-angler possession limit are being proposed. Because these measures are not changing, it is not expected that there will be any associated economic impact on the recreational fishery. The only potential variable that may have an economic on impact recreational fisheries and regulated small business

entities that participate in them are the various landing limits under consideration. Using the preliminary 2015 recreational landings data, Alternative 1 (preferred) proposes an RHL (10.98 million lb, 4,980 mt) that is approximately 15 percent lower than the 2015 limit; however, the proposed RHL is the same as 2015 landings. As such, the proposed RHL is not expected to be constraining, and, therefore, is not expected to impact recreational fisheries. Under the Alternative 2 (status quo), the RHL (12.95 million lb, 5,874 mt) is approximately 15 percent above the recreational landings for 2015 (10.98 million lb, 4,980 mt). The RHLs for Alternative 3 (13.15 million lb, 5,964 mt) and Alternative 4 (5.96 million lb, 2,703 mt) in 2016 are approximately 20 percent above and 46 percent below the recreational landings for 2015, respectively. Alternative 4, which we are not recommending, is the only alternative that could potentially have negative impacts on the recreational fishery by risking a closure. None of the analyses indicate that the proposed measures will have a negative impact on recreational fishing. The proposed RHLs each year are not anticipated to limit recreational catch or negatively impact recreational fishing revenue, because the RHLs will be based on realized landings from the preceding year.

Summary

The Council selected Alternative 1 (preferred) over Alternative 2 (status quo), Alternative 3 (no transfer), and Alternative 4 (maximum transfer), stating that the Alternative 1 measures were consistent with the advice

provided to the Council by its SSC and Bluefish Monitoring Committees. The Council analysis indicates the proposed measures would have less negative economic impacts than the most restrictive Alternative 3, while also benefitting from the potential for increased efficiency of flexible sector quota transfer. Alternative 2, the status quo alternative, is not feasible because it could result in combined landings that are higher than the ABC, which is inconsistent with the Council's risk policy on overfishing and is in violation of the Magnuson-Stevens Fishery Conservation and Management Act. Alternative 4 is not preferred because it represents significant decreases in recreation limits below historical catch and it is not expected that the commercial sector would fully utilize the resulting quota. The proposed measures in Alternative 1 contain the second largest overall increase in commercial quota and the second lowest overall reduction in RHL of all the analyzed alternatives when compared to 2015 measures. As such, NMFS is proposing to implement the Council's preferred ABCs, ACLs, ACTs, commercial quotas, and recreational harvest limits, as presented in Table 1 of this proposed rule preamble.

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

Dated: March 24, 2016.

Eileen Sobeck,

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

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