

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648****[I.D. 101403A]****New England Fishery Management Council; Public Meeting**

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

**ACTION:** Public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) will hold a 3-day Council meeting on November 4–6, 2003, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

**DATES:** The meeting will be held on Tuesday, November 4, 2003, beginning at 9 a.m. and on Wednesday and Thursday November 5 and 6, beginning at 8:30 a.m.

**ADDRESSES:** The meeting will be held at the Holiday Inn, One Newbury Street, Peabody, MA 01960; telephone (978) 535-4600. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465-0492.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, New England Fishery Management Council, (978) 465-0492.

**SUPPLEMENTARY INFORMATION:****Tuesday, Wednesday, and Thursday, November 4–6, 2003**

Following introductions, the Council will receive reports on recent activities from the Council Chairman and Executive Director, the NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and representatives of the U.S. Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. For the remainder of the day the Council will focus on discussion, selection, and approval of final management measures for inclusion in Amendment 13 to the Northeast Multispecies Fishery Management Plan (FMP). This process will continue through mid-day on Wednesday, November 5. At that time the Council has scheduled an open period for public comment on items relevant to Council business, but not otherwise listed on the

agenda. The Council will then continue with the Amendment 13 decision-making process through Thursday, November 6. During the afternoon session on November 6 the Council will consider initial action on a framework adjustment that would allow limited access scallop vessels to fish in the Georges Bank areas now closed to protect groundfish. Framework Adjustment 16 to the Sea Scallop FMP/ Framework Adjustment 39 to the Northeast Multispecies FMP could include Total Allowable Catch and possession limits for finfish, seasonal access, gear modifications, mandatory observer coverage and other measures to minimize bycatch. The meeting will adjourn once any other business-related issues have been addressed.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 14, 2003.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 697****[I.D. 063003A]****RIN 0648-AR33****Atlantic Striped Bass Conservation Act; Atlantic Striped Bass Fishery**

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

**ACTION:** Notice of intent to prepare an Environmental Impact Statement (EIS) and notice of scoping process; request for comments.

**SUMMARY:** Based on recommendations from the Atlantic States Marine Fisheries Commission (Commission) and comments received from an advance notice of proposed rulemaking (ANPR), NMFS announces its intent to prepare an environmental impact statement (EIS) to analyze the impacts on the human environment of potential revisions to Federal Atlantic striped bass regulations for the U.S. Exclusive Economic Zone (EEZ). In addition, NMFS announces that the public will have additional opportunities to comment on potential management measures, including a no action alternative, addressing the Commission's recommendations and on issues that should be considered in development of the EIS during scheduled scoping meetings. The purpose of this notice is to alert the interested public: (1) of NMFS intent to prepare an EIS; (2) that NMFS will be accepting written comments on its intention to draft an EIS; and (3) that NMFS will conduct public scoping hearings for the impact statement during which the public is invited to attend and comment.

**DATES:** NMFS will discuss and take scoping comments at public meetings in November and December 2003. Written scoping comments will also be accepted and must be received at the appropriate address or facsimile (fax) number (see **ADDRESSES**) no later than 5 p.m. Eastern Standard Time on or before December 22, 2003.

**ADDRESSES:** Written scoping comments and requests for copies of the scoping document and other information should be sent to: Anne Lange, Chief, State-Federal Fisheries Division, Office of Sustainable Fisheries, NMFS, 1315 East West Highway, Room 13317, Silver Spring, MD 20910. Copies of scoping documents may also be obtained on the State-Federal Fisheries Division's website at [http://www.nmfs.noaa.gov/sfa/state\\_federal/state\\_federal.htm](http://www.nmfs.noaa.gov/sfa/state_federal/state_federal.htm) after 5 p.m. Eastern Standard Time on November 3, 2003. Comments may also be sent via fax to (301) 713-0596. Comments submitted via e-mail or Internet will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Anne Lange, telephone (301)713-2334.

**SUPPLEMENTARY INFORMATION:****Background**

NMFS published an ANPR concerning striped bass in the **Federal**

**Register** on July 21, 2003 (68 FR 43074). In the ANPR, NMFS announced that it was considering whether to propose rulemaking to revise Federal Atlantic striped bass regulations to be compatible with the Commission's Amendment 6 to the Interstate Fishery Management Plan for Atlantic Striped Bass (Amendment 6). Under the Atlantic Striped Bass Conservation Act, NMFS is obligated to regulate striped bass in the EEZ in a manner that is compatible with state management, which is set forth under the Commission's plan. In the ANPR, NMFS sought comments on the Commission's recommendations to the Secretary of Commerce (Secretary) to open the EEZ to the harvest of Atlantic striped bass. NMFS also solicited comments on possible alternative management measures and issues that NMFS should consider relative to these recommendations. The comment period closed on August 20, 2003. The public requested more time to submit comments; NMFS agreed, and reopened the comment period from August 26, 2003, until September 25, 2003 (68 FR 51232).

Atlantic Striped Bass management is based on the Commission's Atlantic Striped Bass Interstate Fishery Management Plan (ISFMP), first adopted in 1981. From 1981 - 1994, four ISFMP Amendments were developed that provided a series of management measures that led to the rebuilding of the stocks. In 1995, the Commission declared the Atlantic striped bass population fully restored and implemented Amendment 5 to the ISFMP to perpetuate the stock so as to allow a commercial and recreational harvest consistent with the long-term maintenance of the striped bass stock. Since then, the Commission has found that the population has expanded to record levels of abundance.

To maintain this recovered population, the Commission approved Amendment 6 to the ISFMP in February 2003 (copies of Amendment 6 are available via the Commission's website at <http://www.asmf.org>). The Commission believes that the measures contained in Amendment 6 are necessary to prevent the overfishing of the Atlantic striped bass resource while allowing growth in both the commercial and recreational fishery. Development of Amendment 6 took almost 4 years and involved extensive input from technical and industry advisors, and provided numerous opportunities for the public to comment on the future management of the species.

Amendment 6 incorporates results of the most recent Atlantic striped bass

stock assessment, developed by the Atlantic Coast States, the Commission, NMFS, and the U.S. Fish and Wildlife Service (see section 1.2.2 of Amendment 6). In summary, the 2001 stock assessment concluded that the overall abundance of the stock is very high and fishing mortality remains below the target rate. The stock's abundance increased steadily between 1982 and 1997 and since then has remained stable. The fishing mortality rate increased steadily until 1999, but decreased slightly in 2000. Amendment 6 also includes recommendations to the Secretary on the development of complementary measures in the EEZ. Management of Atlantic striped bass in the EEZ was one of the issues that was considered throughout development of Amendment 6.

#### Recommendation to the Secretary

On April 24, 2003, the Secretary received a letter from the Commission with the following three recommendations for implementation of regulations in the EEZ: (1) Remove the moratorium on the harvest of Atlantic striped bass in the EEZ; (2) implement a 28-inch (71.1 cm) minimum size limit for recreational and commercial Atlantic striped bass fisheries in the EEZ; and (3) allow states the ability to adopt more restrictive rules for fishermen and vessels licensed in their jurisdictions.

In support of its request, the Commission provided a number of reasons to justify opening the EEZ to striped bass fishing. These reasons include:

(1) In 1995, due in part to a closure of the EEZ in 1990 to striped bass harvest, the population of this species was declared fully restored by the Commission. The purpose of closing the EEZ was to protect strong year classes entering the population and to promote rebuilding of the overfished population.

(2) The commercial harvest is controlled by hard quotas; when they are reached the fishery is closed; and overages are taken out of next year's quotas. The Commercial quota will be landed regardless of whether or not the EEZ is opened.

(3) Currently, recreational and commercial catches are occurring in the EEZ and these fish are required to be discarded. Opening the EEZ will convert discarded bycatch of striped bass to landings.

(4) Because of management measures implemented since 1990, the striped bass population has recovered to a point where further examination of whether this fishery should occur in the EEZ is appropriate. There are expectations among a number of fishing industry

stakeholders that their past sacrifices would result in future opportunities to harvest striped bass, and therefore, there are potential credibility issues associated with keeping the EEZ closed, especially in light of the current status of the Atlantic striped bass stock.

(5) The recommendation to open the EEZ is part of Amendment 6 which incorporates new management standards to ensure stock conservation including targets and thresholds for both mortality and spawning stock biomass. Fishing mortality is currently below the target level, and spawning stock biomass is 1.5 times the target level.

(6) Amendment 6 includes monitoring requirements and triggers that will allow the Commission to respond quickly to increased mortality.

(7) The bulk of the public comment (greater than 75 percent) received in opposition during the Amendment 6 process cited expansion of the commercial fishery as rationale not to open the EEZ. The Commission believes the rationale is incorrect because the commercial fishery is controlled by a hard quota.

The Commission stated that its Atlantic Striped Bass Technical Committee would monitor annually the Atlantic striped bass population, and, if at some point in the future the Commission determines that the Atlantic striped bass population is overfished or that overfishing is occurring, it may recommend further management measures for the EEZ.

#### Summary of ANPR Comments

In addition to the Commission's reasons for its recommendation to the Secretary, the following summarizes comments in support of opening the EEZ: (1) Opening the EEZ to the harvest of striped bass will not increase pressure on the resource, but will dissipate effort over a larger area and reduce the congestion by small trawlers and recreational boats in state waters; and (2) enforcement of the EEZ closure is difficult, but state controls at the point of landing work, regardless of where the fish are harvested. Comments in opposition to opening the EEZ are summarized as follows: (1) Opening the EEZ could create conflicts between state and Federal jurisdictions, such as in those states with game fish status; (2) bycatch concerns may be more difficult to address if fishing for striped bass is allowed in the EEZ; (3) fishing for striped bass in the EEZ may result in a directed fishery for the larger, older, more successful breeders assumed to concentrate offshore; (4) fishing for striped bass in the EEZ may result in an

increase in mortality because overall harvest may increase; (5) allowing fishing for striped bass in the EEZ may result in landings in excess of target mortality rates set forth in Amendment 6; and (6) opening the EEZ to fishing for striped bass may have impacts on both human and fish health (such concerns relate to PCB consumption and bacterial infections in striped bass). NMFS believes the best way to address the issues and concerns raised during the ANPR comment period is to hold a series of hearings along the Atlantic coast to help determine the scope of the eventual EIS that it intends to develop. This eventual EIS would offer analysis of the aforementioned issues. In addition, during the scoping process, NMFS would like the public to comment further on the Commission's recommendations, including comments both on other potential management measures, including a no action alternative, as well as comments on other issues that the public thinks should to be analyzed in the development of this EIS.

#### **Potential Management Measures Being Considered**

All persons affected by or otherwise interested in Atlantic striped bass management in the EEZ are invited to participate in determining the scope and significance of issues to be analyzed in development of an EIS by submitting written comments (see ADDRESSES) or by participating in one or more of the scheduled scoping hearings. Potential management measures being considered include: (1) no action - maintain moratorium in EEZ; and (2) open the entire EEZ, implement a 28-inch (71.1 cm) minimum size limit, and allow states to adopt more restrictive regulations for fishermen and vessels licensed in their state (Commission recommendation). In addition, NMFS will consider additional management

measures received during the scoping process that will both benefit the sustainability of this fishery and be compatible with the Commission plan. NMFS will consider, through the EIS, all impacts, including direct, indirect and cumulative, of the potential management measures to be considered. The scoping process will also identify and eliminate from detailed study issues that are not significant. Once an EIS is developed, NMFS will hold public hearings to receive comments, on the draft EIS.

#### **Schedule of Public Scoping Hearings**

1. Wednesday, November 5, 2003 - Portsmouth, NH, 7-8:30 p.m.

Urban Forestry Center, 45 Elwin Road, Portsmouth, NH 03801

2. Wednesday, November 12, 2003 - Manteo, NC, 7-9 p.m.

North Carolina Aquarium on Roanoke Island, 374 Airport Road, Manteo, NC 27954

3. Tuesday, November 18, 2003 - Toms River, NJ, 6-9 p.m.

Quality Inn, 815 Route 37, Toms River, NJ 08755

4. Wednesday, November 19, 2003 - Dover, DE, 6:30-7:30 p.m.

Delaware Department of Natural Resources and Environmental Control, Richardson & Robbins Bldg., 89 Kings Highway, Dover, DE

5. Monday, December 1, 2003 - Stony Brook, NY, 7:30-9:30 p.m.

State University of New York at Stony Brook (SUNY), Student Activities Center, Nicolls Road, Stony Brook, NY 11794

6. Tuesday, December 2, 2003 - Old Lyme, CT, 7-9 p.m.

Connecticut Department of Environmental Protection, Marine Headquarters, Boating Education Building, 333 Ferry Road, Old Lyme, CT 06371

7. Monday, December 8, 2003 - Portland, ME, 7-9 p.m.

Holiday Inn By The Bay, 88 Spring Street, Portland, ME 04101

8. Tuesday, December 9, 2003 - Bourne, MA, 7-10 p.m.

Canal Club, 100 Trowbridge Road, Bourne, MA 02532

9. Wednesday, December 10, 2003 - Narragansett, RI, 7-9 p.m.

University of Rhode Island, Bay Campus, Corless Auditorium, South Ferry Road, Narragansett, RI

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each public hearing, a NMFS representative will explain the ground rules (e.g., alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the hearing so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do not, they will be asked to leave the hearing.

#### **Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tom Meyer, (301) 713-2334, at least 7 days prior to the hearing in question.

**Authority:** 16 U.S.C. 1851 note.

Dated: October 15, 2003.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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