

Dated: May 19, 2006.

**P. Michael Payne,**

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 041806D]

#### 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 scoping process; extension of comment period.

**SUMMARY:** In a document published in the **Federal Register** on April 24, 2006, NMFS announced its intention to re-open the scoping process and accept further comments on the recommendations contained in Amendment 6 to Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fishery Management Plan for Atlantic Striped Bass (Amendment 6). NMFS originally conducted scoping on the matter in 2003, but decided to re-open the scoping process and accept further comments due to the passage of significant time and the availability of new information. The intent of this document is to announce the extension of the public comment period from May 26, 2006, to June 26, 2006.

**DATES:** Comments on this action must be received (see **ADDRESSES**) no later than 5 p.m. Eastern Standard Time on or before June 26, 2006.

**ADDRESSES:** Written comments and requests for copies of the draft document should be sent to: Tom Meyer, State-Federal Fisheries Division, Office of Sustainable Fisheries, NMFS, 1315 East West Highway, Room 13248, Silver Spring, MD 20910. Mark the outside of the envelope "Striped Bass Scoping." An electronic copy of the draft document and supporting documents (ANPR and a Notice of Intent to Prepare an EIS (NOI)) may also be obtained on the State-Federal Fisheries Division's Web site under *Regulatory Activities* at [http://www.nmfs.noaa.gov/sfa/state\\_federal/state\\_federal.htm](http://www.nmfs.noaa.gov/sfa/state_federal/state_federal.htm). Comments may also be sent via fax to (301) 713-0596, or via e-mail to: [Striped-Bass.Comments@noaa.gov](mailto:Striped-Bass.Comments@noaa.gov). Include in the subject line of the fax or e-mail the

following document identifier: *Striped Bass Scoping*.

**FOR FURTHER INFORMATION CONTACT:** Tom Meyer, telephone (301) 713-2334, x173.

**SUPPLEMENTARY INFORMATION:** As announced in the **Federal Register** on July 21, 2003 (68 FR 43074), NMFS requested comments on potential revisions to the Federal Atlantic striped bass regulations for the U.S. EEZ in response to recommendations from the Commission to the Secretary. The comment period was subsequently reopened on August 26, 2003 (68 FR 51232), for an additional 30-days. A "Notice of Intent to Prepare an Environmental Impact Statement (EIS) and Notice of Scoping Process" (NOI) was published in the **Federal Register** on October 20, 2003 (68 FR 59906) and public meetings were held in nine Atlantic coast states between November 5 - December 10, 2003, and the public comment period closed on December 22, 2003.

Significant time has passed since the nine initial scoping hearings. Accordingly, NMFS thought it prudent to seek additional scoping on its preliminary draft analyses of Federal management options to open the EEZ to the harvest of Atlantic Striped Bass. NMFS, therefore, re-opened the scoping process in a **Federal Register** Notice on April 24, 2006 (71 FR 20984) and established a 30 day public comment period. NMFS believes that extending the comment period an additional 30 days would provide the public a more appropriate opportunity to provide meaningful commentary on the agency's list of potential alternatives and other management measures. See **ADDRESSES** for information on how to obtain a copy of the draft document and where to send comments.

#### Background

Atlantic striped bass management is based on ASMFC'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, ASMFC 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 population has expanded to record levels of abundance. To maintain this recovered population, ASMFC approved Amendment 6 in February 2003 (copies of Amendment 6

are available via ASMFC's website under *Interstate Fisheries Management- striped bass* at <http://www.asmfc.org>). ASMFC 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 2001 Atlantic striped bass stock assessment, developed by the Atlantic Coast States, ASMFC, NMFS, and the U.S. Fish and Wildlife Service (see section 1.2.2 of Amendment 6 for summary). Amendment 6 also included 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

In addition to the recommendations to the Secretary in Amendment 6, the Secretary also received a letter on April 24, 2003, from ASMFC 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, ASMFC cited a number of reasons, including: ASMFC declared the striped bass stock restored in 1995; commercial harvest is controlled by individual state quotas; with the EEZ closed striped bass caught there are required to be discarded, and are often dead when thrown back - Opening the EEZ will convert some of the discarded bycatch of striped bass to landings; and Amendment 6 incorporates measures that would address future concerns about the stock status. See **ADDRESSES** for information on how to obtain a copy of the NOI, which has a complete list of ASMFC's cited reasons.

ASMFC also stated that its Atlantic Striped Bass Technical Committee would monitor annually the Atlantic striped bass population, and, if at some point in the future ASMFC determines that the Atlantic striped bass population

is overfished or that overfishing is occurring, it may recommend further management measures for the EEZ.

#### Delay in the Development of an EIS

In September 2004, ASMFC's Striped Bass Technical Committee prepared its 2004 Stock Assessment Report for use by the Striped Bass Management Board (Board), which included data through 2003. That assessment contradicted previous assessments, which had indicated that the striped bass population was not overfished and continued to grow in abundance. Instead, the results of the modeling portion of the 2004 assessment indicated that the stock was overfished and that spawning stock biomass had been reduced to below target levels. However, the members of the Technical Committee did not feel the assessment provided an accurate representation of stock status, especially given that results of tagging study analyses did not show a similar increase in fishing mortality. The Technical Committee was concerned with any conclusions that might be derived from these estimated and recommended the 2004 assessment results not be used for management decisions until both the modeling software and the input data sets were reevaluated during the 2005 assessment process. The results from the 2004 stock assessment have not been used by ASMFC for management decisions.

With the great uncertainty in estimates of spawning stock biomass, and fishing mortality rates during 2003, as presented in the 2004 stock assessment, NMFS decided to delay the completion of the EIS to be able to incorporate the 2005 stock assessment in the EIS.

During 2005, the Technical Committee and Stock Assessment Subcommittee reviewed model inputs and the model itself to determine if the results from the 2004 assessment truly reflected status of the population or were an artifact of data or model errors. They concluded that a number of the indices used in the 2004 effort were not consistent with what was observed in the population as a whole, or were contradictory to the majority of other reliable time series. Those indices were removed from subsequent model runs. The Technical Committee believes

the current assessment reflects the true status of the population (within reasonable ranges of certainty). Both the 2004 and 2005 Striped Bass Stock Assessments are available on ASMFC's website under *Interstate Fisheries Management-striped bass* at <http://www.asmf.org>.

#### Addendum I to Amendment 6

During the development of Amendment 6, there were concerns over the impacts of bycatch mortality on the overall population. To address these concerns, ASMFC is currently developing Addendum 1 to Amendment 6 to increase the accuracy of data on striped bass bycatch in all sectors of the striped bass fishery. Addendum I will outline mandatory data collection and bycatch mortality studies for the commercial, recreational, and for-hire fisheries for striped bass.

#### Further Public Participation

Due to the significant time that has passed since the nine initial scoping hearings were held in November-December 2003, NMFS is seeking additional scoping on its preliminary draft analyses of Federal management options to open the EEZ to the harvest of Atlantic Striped Bass. See **ADDRESSES** for information on how to obtain a copy of the draft document and where to send comments.

At this time, a preferred option has not been identified. Options being considered in this draft document include: (1) 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 (ASMFC recommendation); (2) open the entire EEZ, implement a 28-inch (71.1-cm) minimum size limit, allow states to adopt more restrictive regulations for fishermen and vessels licensed in their state, implement a recreational bag limit of 2 fish per day, require circle hooks for all commercial and recreational hook and line fishing using bait, and commercial trip limits and bycatch trip limit options; (3) open the entire EEZ, implement a 28-inch (71.1-cm) minimum size limit, allow states to adopt more restrictive regulations for fishermen and vessels licensed in their state, allow hook and line gear only, implement a recreational bag limit of 2 fish per day, require circle hooks for all commercial and recreational hook and line fishing using bait, and implement a commercial trip limit of 30 fish per trip or day whichever is greater; and (4) status quo - maintain moratorium in the EEZ.

**Authority:** 16 U.S.C. 5151 *et seq.*

Dated: May 23, 2006.

**James P. Burgess,**

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

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

[I.D. 051206A]

#### Marine Mammals; File No. 945-1776

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

**ACTION:** Notice; issuance of permit.

**SUMMARY:** Notice is hereby given that Glacier Bay National Park and Preserve (Christine M. Gabriele, Principal Investigator) P.O. Box 140, Gustavus, AK 99826, (File No. 945-1776) has been issued a permit to conduct scientific research.

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521; and Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; phone (907)586-7221; fax (907)586-7249.

#### FOR FURTHER INFORMATION CONTACT:

Carrie Hubard or Amy Hapeman, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** On February 17, 2005, notice was published in the **Federal Register** (70 FR 8076) that a request for a scientific research permit to take marine mammals had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

Permit No. 945-1776 authorizes Glacier Bay National Park and Preserve to conduct population studies on numerous cetacean species with a particular emphasis on humpback (*Megaptera novaeangliae*), minke (*Balaenoptera acutorostrata*), and killer whales (*Orcinus orca*). Takes will occur by close approach via vessel survey for photo-identification, behavioral observation, passive acoustic recording, collection of sloughed skin and feces, prey sampling, and incidental harassment. The permit is valid for five years.