

addition, a contributor's reporting obligation and its bill would become one in the same. We also seek comment on whether requiring only one entity to contribute for a connection would ease some of the administrative burdens associated with compliance. Last, we also seek comment on an alternative that might assist small entities: how to craft a de minimis exemption should the Commission choose to adopt a connection-based system.

#### 6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

51. None.

#### A. Comment Filing Procedures

52. Pursuant to § 1.415 and § 1.419 of the Commission's rules, interested parties may file comments April 12, 2002, and reply comments April 29, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

53. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

54. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Acting Secretary, William F. Caton, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

55. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Sheryl Todd, Accounting Policy Division, 445 12th

Street, SW., Washington, DC 20554. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case CC Docket No. 96-45, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CYB402, Washington, DC 20554.

56. Written comments by the public on the proposed and/or modified information collections are due on or before April 12, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before May 13, 2002. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [jbherman@fcc.gov](mailto:jbherman@fcc.gov) and to Jeanette Thornton, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW., Washington, DC 20503 or via the Internet to [JeanetteThornton@omb.eop.gov](mailto:JeanetteThornton@omb.eop.gov).

#### IV. Ordering Clauses

57. Pursuant to the authority contained in sections 4(i), 4(j), 201-205, 254, and 403 of the Communications Act of 1934, as amended, this Further Notice of Proposed Rulemaking is adopted.

58. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 02-6029 Filed 3-12-02; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 020215032-2032-01; I.D. 110701D]

RIN 0648-AP59

#### Fisheries of the Northeastern United States; Proposed 2002 Specifications for the Atlantic Bluefish Fishery

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

**ACTION:** Proposed 2002 specifications for the Atlantic bluefish fishery; request for comments.

**SUMMARY:** NMFS proposes 2002 specifications for the Atlantic bluefish fishery, including total allowable landings (TAL), state-by-state commercial quotas, and recreational harvest limits and possession limits for Atlantic bluefish off the East Coast of the United States. The intent of the specifications is to conserve and manage the bluefish resource and provide for sustainable fisheries.

**DATES:** Public comments must be received no later than 5 p.m., Eastern Standard Time, on March 28, 2002.

**ADDRESSES:** Copies of supporting documents, including the Environmental Assessment (EA), Preliminary Regulatory Economic Evaluation (PREE), Initial Regulatory Flexibility Analysis (IRFA), and Essential Fish Habitat Assessment (EFHA) are available from: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904-6790. The EA, PREE, IRFA, and EFHA are accessible via the Internet at <http://www.nero.gov/ro/doc/nr.htm>.

Comments on the proposed specifications should be sent to: Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Please mark the envelope, "Comments--2002 Bluefish Specifications." Comments also may be sent via facsimile (fax) to 978-281-

9135. Comments will not be accepted if submitted via e-mail or Internet.

**FOR FURTHER INFORMATION CONTACT:**

Myles A. Raizin, Fishery Policy Analyst, (978) 281-9273, e-mail at Myles.A.Raizin@noaa.gov, fax at (978) 281-9135.

**SUPPLEMENTARY INFORMATION:**

Regulations implementing the Atlantic Bluefish Fishery Management Plan (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council) appear at 50 CFR part 648, subparts A and J. Regulations requiring annual specifications are found at § 648.160. The FMP requires that the Council recommend, on an annual basis, a TAL, which is composed of a commercial quota and a recreational harvest limit. The FMP also requires that: (1) the TAL for any given year be set based on the fishing mortality rate (F) resulting from the stock rebuilding schedule contained in the FMP, or the estimated F in the most recent fishing year, whichever is lower; and (2) a total of 17 percent of the TAL be allocated to the commercial fishery, as a quota, with the remaining 83 percent allocated as a recreational harvest limit, with the stipulation that if 17 percent of the TAL is less than 10.50 million lb (4.8 million kg) and the recreational fishery is not projected to land its harvest limit for the upcoming year, the commercial fishery may be allocated up to 10.50 million lb (4.8 million kg) as its quota, provided that the combination of the projected recreational landings and the commercial quota does not exceed TAL.

The Council's recommendations must include supporting documentation, as appropriate, 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**. After considering public comment, NMFS will publish final specifications in the **Federal Register**.

**Proposed 2002 Specifications**

*Proposed TAL*

On August 9, 2001, the Council adopted specifications for the 2002 Atlantic bluefish fishery. NMFS has

reviewed documents submitted by the Council in support of its recommendation for the 2002 specifications and has found that the Council has complied with the FMP objectives and other applicable law. Therefore, NMFS is proposing to implement the Council's recommended specifications. For the 2002 fishery, the stock rebuilding program in the FMP would restrict F to 0.41. However, the 2000 fishery produced an F of only 0.326. So, in accordance with the FMP, the TAL proposed for 2002 was set to achieve F=0.326. The resulting Total Allowable Catch (TAC) recommended by the Council and proposed by NMFS is 29.1 million lb (13.2 million kg). The TAL is calculated by deducting discards, estimated at 2.2 million lb (0.99 million kg) for 2002, from the TAC. Therefore, the proposed TAL for 2002 is 26.866 million lb (12.19 million kg).

*Proposed Commercial Quota and Recreational Harvest Limit*

If the TAL for the 2002 fishery were allocated based on the percentages specified in the FMP, the commercial quota would be 4.567 million lb (2.07 million kg) with a recreational harvest limit of 22.299 million lb (10.12 million kg). However, actual recreational landings from the last several years were much lower than this allocation, ranging between 8.30 and 14.3 million lb (3.76 and 6.49 million kg). There is no reason to expect that recreational landings in 2002 will exceed this range from prior years. Thus, the recreational fishery is not projected to land a 22.299 million-lb (10.12 million kg) harvest limit in 2002. As such, the FMP and the implementing regulations authorize the specification of a commercial quota of up to 10.5 million lb (4.76 million kg) for 2002. NMFS proposes to transfer 5.933 million lb from the initial 2002 recreational allocation of 22.299 million lb (10.12 million kg), resulting in 16.365 million lb (7.42 million kg) for the proposed 2002 recreational harvest limit and a proposed 2002 commercial quota of 10.5 million lb (4.76 million kg). The proposed 2002 commercial quota would be an increase from the 2001 quota (9.58 million lb (4.35 million kg)) implemented by NMFS and the states under the Atlantic States Marine

Fisheries Commission's (Commission) Interstate Fishery Management Plan for Atlantic Bluefish. A recreational possession limit of 15 fish/person and a 2-percent TAL research set-aside are also proposed. The FMP allows the Council to set a bag limit of between 5 and 20 fish that would allow the recreational fishery to harvest an amount of fish that does not exceed the proposed harvest limit. From the implementation of the FMP in 1989, until 2001, the bag limit remained at 10 fish. In 2001, the Council determined that a 15-fish bag limit would increase recreational harvest by only 5 percent when compared to the 10-fish bag limit. Since the recreational harvest is estimated to remain low relative to the recreational harvest limit, the Council has concluded that continuing the 15-fish bag limit is appropriate to protect the bluefish stock. Some or all of the research set-aside amount will be allocated if research proposals to utilize it are approved. A Request for Proposals was published to solicit proposals for 2002, based on research priorities identified by the Council (66 FR 38636, July 25, 2001, and 66 FR 45668, August 29, 2001). The deadline for submission was September 14, 2001, and proposals are currently under review. If all of the bluefish research set-aside is allocated, the commercial quota would be 10.290 million lb (4.67 million kg) and the recreational harvest limit would be 16.038 million lb (7.28 million kg). The quota set-asides, the commercial quota, and the recreational harvest limit will be adjusted in the final rule establishing the annual specifications for the bluefish fishery, if necessary, to reflect set-aside allocations to projects forwarded to the NOAA Grants Office for award. If the awards are not made for any reason, NMFS will publish a notification in the **Federal Register** to restore the unused set-aside amount to the annual commercial and recreational allocations.

*Proposed State Commercial Allocations*

Proposed state commercial allocations for the recommended 2002 commercial quotas are shown in the table below, based on the percentages specified in the FMP and subtracting the proposed 2-percent research set-aside.

| State | % of quota | 2002 Commercial Quota (lb) | 2002 Commercial Quota (kg) | 2002 Commercial Quota (lb)             | 2002 Commercial Quota (kg)             |
|-------|------------|----------------------------|----------------------------|--|--|
| ME    | 0.6685     | 70,193                     | 31,839                     | With 2 % Research Set -Aside<br>68,789 | With 2 % Research Set -Aside<br>31,202 |

| State | % of quota | 2002 Commercial Quota (lb) | 2002 Commercial Quota (kg) | 2002 Commercial Quota (lb) | 2002 Commercial Quota (kg) |
|-------|------------|----------------------------|----------------------------|----------------------------|----------------------------|
| NH    | 0.4145     | 43,523                     | 19,741                     | 42,652                     | 19,347                     |
| MA    | 6.7167     | 705,254                    | 319,898                    | 691,148                    | 313,500                    |
| RI    | 6.8081     | 714,851                    | 324,251                    | 700,553                    | 700,553                    |
| CT    | 1.2663     | 132,962                    | 60,310                     | 130,302                    | 59,104                     |
| NY    | 10.3851    | 1,090,436                  | 494,613                    | 1,068,627                  | 484,721                    |
| NJ    | 14.8162    | 1,555,701                  | 705,654                    | 1,524,587                  | 691,541                    |
| DE    | 1.8782     | 197,211                    | 89,453                     | 193,267                    | 87,664                     |
| MD    | 3.0018     | 315,189                    | 142,967                    | 308,885                    | 140,108                    |
| VA    | 11.8795    | 1,247,348                  | 565,787                    | 1,222,401                  | 554,472                    |
| NC    | 32.0608    | 3,366,384                  | 1,526,966                  | 3,299,056                  | 1,496,427                  |
| SC    | 0.0352     | 3,696                      | 1,676                      | 3,622                      | 1,643                      |
| GA    | 0.0095     | 998                        | 452                        | 978                        | 443                        |
| FL    | 10.0597    | 1,056,269                  | 479,115                    | 1,035,143                  | 469,533                    |
| Total | 100.0000   | 10,500,000                 | 4,762,720                  | 10,290,000                 | 4,667,465                  |

### Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an initial regulatory flexibility analysis that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. A summary of the analysis follows.

The analysis considered three alternatives. Analysis of the Preferred Alternative examined the impacts on industry that would result from a TAL of 26.87 million lb (12.19 million kg), with 10.50 million lb (4.76 million kg) allocated to the commercial sector of the fishery, which represents the maximum allowed under the FMP, and 16.37 million lb (7.42 million kg) allocated to the recreational sector with a 15-fish possession limit. Analysis of Alternative 2 considered a TAL of 26.87 million lb (12.19 million kg) with a commercial allocation of 4.57 million lb (2.07 million kg); 22.30 million lb (10.11 million kg) recreational; and a 15-fish recreational possession limit. Analysis of Alternative 3 considered a TAL of 26.87 million lb (12.19 million kg); 9.58 million lb (4.35 million kg) commercial, which represents the commercial status quo; 17.28 million lb (7.84 million kg) recreational; and a 15-fish possession limit.

There is very little information available to empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed fishing regulations. However, given the level of the recreational harvest limit for 2002 and recreational landings in recent years it is not anticipated that this management measure will affect the

demand for party/charter boat trips. Given that the recreational harvest limit is over 61% higher than the 2000 landings, the possession limit is expected to increase angler satisfaction and is not expected to result in landings in excess of the recreational harvest limit.

The analysis assumed that in the absence of cost data, gross revenue was a sufficient proxy for profitability. Furthermore, the analysis identified all participants as small entities; therefore, there are no negative effects on those small businesses from disproportionate competitiveness with large entities. Results of their analysis indicate that based on 2000 landings, on a coastwide basis, the Preferred Alternative would yield a 1.10-percent increase in revenue to the commercial sector, Alternative 2 would yield a 60.79 percent decrease, and Alternative 3 would yield an 8.45 percent decrease.

The Council, in analyzing the impacts of the three alternatives on fishermen in individual states, concluded that the increase in revenues under the Preferred Alternative and Alternative 3 would occur in all states except New York and North Carolina. Under Alternative 2, all states would show decreases in revenue. The Council's analysis was based on the FMP requirement that an overage of the quota for an individual state in 2001 be subtracted from the quota for that state in the following year. At the time the Council prepared their analysis, both New York and North Carolina had exceeded their quota, and the Council based their analysis on the premise that quotas would be reduced in these states for the 2002 fishery. The Council assumed that preexisting overages in 2001 could force reductions in available quota to the states of New York and North Carolina in 2002 at the rates of 71.86 percent and 10.76 percent, respectively.

The Council further indicated that under the Preferred Alternative and Alternative 3, the significantly negative economic impacts to the states of New York and North Carolina could easily be mitigated by a transfer of commercial quota from another state, as allowed under the FMP, making the impacts negligible. This was accomplished under the FMP for the 2001 fishery, thus, making their initial analysis regarding the impacts of 2001 overages on the 2002 fishery moot.

In sum, in the absence of perfect information regarding transfers for the 2001 fishery, the Council offered 2 scenarios-- one with transfers, in which they concluded there would be negligible economic impacts, and one without transfers, in which they concluded that significantly negative economic impacts would occur due to the requirement to reduce 2002 quotas to account for 2001 overages. However, the Council did not take into account that fishermen in the states of North Carolina and New York have recorded landings in 2001 that far exceed the proposed 2002 quotas for those States. This presents a quandary since it is uncertain as to whether transfers will take place in 2002 and if they do, to what extent those transfers will affect total 2002 landings. A comparison of actual 2001 state landings and the proposed 2002 state quotas and a discussion of their impacts is found below.

New information gathered by NMFS has made it possible to more accurately predict economic impacts of the proposed 2002 specifications to New York and North Carolina by comparing actual 2001 landings to proposed 2002 state allocations of the bluefish TAL. The Council did not have complete 2001 landings data at the time it prepared its PREE.

The Preferred Alternative of 10.50 million lb of bluefish TAL would

allocate 1,090,436 lb (494,613 kg) of bluefish to New York and 3,366,384 lb (1,526,966 kg) to North Carolina. Actual 2001 landings amounted to 1,186,843 lb (538,495 kg) for New York and 3,584,627 lb (1,626,418 kg) for North Carolina. All other states landed less in 2001 than their proposed 2002 allocation of the total bluefish TAL, and, therefore, would not be impacted.

Under the assumption that 2002 allocations for New York and North Carolina represent harvest constraints to those fisheries, there would be an 8-percent reduction in bluefish revenues in New York and a 6-percent reduction in North Carolina associated with the Preferred Alternative when compared to 2001 landings, 16 and 14-percent reductions associated with Alternative 3, and 60- and 59-percent reductions associated with Alternative 2. Under Alternative 2, even with transfers of quota, New Jersey, New York, North Carolina, and Massachusetts would show a significant decrease in revenues for a substantial number of vessels according to the PREE. Implicit in this analysis is the assumption that when a state's quota is reached and the fishery is closed, the state will not be able to take advantage of a transfer provision under the FMP that allows states that have a surplus quota to transfer a portion or all of that quota to a state that has or will reach its quota. The transfer provision was implemented by Amendment 1 to the FMP as a tool to mitigate the adverse economic effects of prematurely closing a fishery when surplus quota exists.

The Council, in its analysis, was correct in assuming that it is highly unlikely that reductions in revenues would occur since allocations to the states can be adjusted inseason through transfers. Based on historical evidence, under the 2000 and 2001 bluefish fisheries, and, prior to 2000, under the Interstate Management Plan for Atlantic Bluefish, states have been cooperative in transferring commercial bluefish quota when needed by states running a deficit. In fact, to harvest more than their

allotted quota, New York and North Carolina received 200,000 and 1,134,000 lb (90,744 and 514,599 kg) of quota in 2001, respectively, from states that had surpluses. Given that commercial coastwide landings have averaged 7.685 million lb (3.487 million kg) for the years 1998 through 2001, and the 2002 proposed TAL is 10.500 million lb (4.768 million kg), the Council had a strong basis to assume that transfers will again take place in 2002, thus reducing impacts to vessels in New York and North Carolina or other states that may require additional quota to avoid a closure.

For all three alternatives, the Council notes that there is very little information available to estimate how sensitive the affected party/charter boat anglers might be to the proposed fishing regulations. However, since the 2002 harvest limits are 61, 120, and 70 percent greater than 2000 recreational harvest, it can be assumed that there would be no negative impacts on party/charterboats from the 2002 specifications.

#### **Estimate of the Number of Small Entities**

An active participant in the commercial sector was defined as being any vessel that reported having landed one or more lb of bluefish in the Dealer data during calendar year 2000. These data cover activity by unique vessels. Of the active vessels reported in 2000, 829 vessels landed bluefish from Maine to North Carolina. The Dealer data do not cover vessel activity in the South Atlantic. The Dealer data indicate that 126 federally permitted vessels landed bluefish in North Carolina in 2000. However, the North Carolina landings data for bluefish may be incomplete in this data system. Trip Ticket Report data indicate that 1,088 vessels landed bluefish in North Carolina in 2000 (Lees Sabo, North Carolina Division of Marine Fisheries, pers. comm., 2001). Some of these vessels may be included in the 126 vessels identified as landing bluefish in the Dealer data. As such, double counting is possible. In addition,

136 vessels landed bluefish in Florida's east coast in 1999. Bluefish landings in South Carolina and Georgia are negligible compared to the total bluefish landing along the Atlantic coast in 2000. As such, it was assumed there was no vessel activity for those two states. In addition, it was estimated that in recent years approximately 2,063 party/charter vessels may have been active and/or caught bluefish.

#### **Alternatives which Minimize any Significant Economic Impact of the Proposed Rule on Small Entities**

The Council and NMFS included a provision in the FMP that would minimize economic impacts to vessels in states that faced closure by allowing a transfer of quota within the coastwide allocation. However, under certain circumstances where state surplus quotas are not available, there are no alternatives to mitigate significant economic impact. It is more likely that this scenario would occur under Alternative 2 where the coastwide and state quotas are less than half the proposed quotas. The Preferred Alternative provides a commercial coastwide quota that would not put constraints on total landings based on previous years' total landings, thus allowing for transfers to take place. Also, the Preferred Alternative provides a recreational harvest limit that exceeds previous years' recreational harvest.

Thus, the Preferred Alternative offers the best opportunity for minimizing any negative impact on small entities.

This action is not controversial. This proposed rule does not contain any collection-of-information, reporting, or recordkeeping requirements. It will not duplicate, overlap, or conflict with any other Federal rules.

Dated: March 7, 2002.

#### **Rebecca Lent**

*Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.*

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