

Another principal consideration is the objective of providing opportunities to harvest the available General category quota, based on the objectives of the 2006 Consolidated HMS FMP and its amendments, including to achieve optimum yield on a continuing basis and to allow all permit categories a reasonable opportunity to harvest available BFT quota allocations (related to § 635.27(a)(8)(x)). For the General category, this includes providing opportunities equitably across all time-periods.

Given these considerations, NMFS is transferring 26 mt from the adjusted Reserve category quota to the General category January through March 2022 subquota time period. Therefore, NMFS adjusts the General category January through March subquota to 75 mt, and adjusts the Reserve category quota to 168 mt (194 mt – 26 mt = 168 mt). The General category fishery will remain open until March 31, 2022, or until the adjusted General category quota is reached, whichever comes first.

Monitoring and Reporting

NMFS will continue to monitor the BFT fisheries closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota and retention limit adjustments, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General and HMS Charter/Headboat category vessel owners are required to report the catch of all BFT retained or discarded dead within 24 hours of the landing(s) or end of each trip, by accessing hmspermits.noaa.gov, using the HMS Catch Reporting app, or calling (888) 872-8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments (*e.g.*, quota adjustment, daily retention limit adjustment, or closure) are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281-9260, or access hmspermits.noaa.gov, for updates on quota monitoring and inseason adjustments.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act and regulations at 50 CFR part 635, and it is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, the transfer from the Reserve category to the General category for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. This fishery is currently underway and delaying this action would be contrary to the public interest as BFT landings could otherwise exceed the adjusted January through March 2022 General category quota and result in an earlier closure of the fishery while fish are available on the fishing grounds. Transferring quota from the Reserve category to the General category does not affect the overall U.S. BFT quota, and available data shows the adjustment would have a minimal risk of exceeding the ICCAT-allocated quota. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. BFT quota, measures to reallocate quota, and the inseason adjustment criteria. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: January 28, 2022.

Ngagne Jafnar Gueye,

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 648

[Docket No. 220126-0034; RTID 0648-XX073]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; 2022 and Projected 2023 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues final specifications for the 2022 Atlantic bluefish fishery, and projected specifications for 2023, as recommended by the Mid-Atlantic Fishery Management Council. This action is necessary to establish allowable harvest levels to prevent overfishing while enabling optimum yield, using the best scientific information available. This rule also informs the public of the final fishery specifications for the 2022 fishing year.

DATES: Effective February 2, 2022.

ADDRESSES: The Mid-Atlantic Fishery Management Council prepared an environmental assessment (EA) for these specifications that describes the action and other considered alternatives. The EA provides an analysis of the biological, economic, and social impacts of the preferred measures and other considered alternatives. Copies of these specifications, including the EA, Regulatory Flexibility Act Analyses, and other supporting documents for the action are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N State Street, Dover, DE 19901. These documents are also accessible via the internet at <https://www.mafmc.org/supporting-documents>.

FOR FURTHER INFORMATION CONTACT: Cynthia Ferrio, Fishery Policy Analyst, (978) 281-9180.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission jointly manage the Atlantic Bluefish Fishery Management Plan (FMP). The FMP requires the specification of an acceptable biological catch (ABC), commercial and recreational annual catch limits (ACL), commercial and recreational annual catch targets (ACT), a commercial quota, a recreational harvest limit (RHL), and any other management measures, for up to 3 years at a time. This action implements bluefish specifications for the 2022 fishing year, and projects specifications for 2023, based on Council and Commission recommendations.

These specifications incorporate several revised measures from Amendment 7 to the FMP (86 FR 66977; November 24, 2021), including the rebuilding plan for the stock, and phased-in reallocation of commercial

quota among the states in the management unit. There was also an overage of the fishery ACL caused by recreational catch in 2020, which will be accounted for through a pound-for-pound payback from the 2022 recreational ACT according to the accountability measures (AM) defined in the FMP (50 CFR 648.163(d)(1)). There is no sector transfer in these specifications because the stock is overfished. This action contains no changes to the recreational management measures because the expected recreational landings under the existing

measures are likely to fully achieve the RHL.

The proposed rule for this action published in the **Federal Register** on December 2, 2021 (86 FR 68456), and comments were accepted through December 17, 2021. NMF'S received two comments from the public, and no changes were made to the final rule as a result of those comments (see Comments and Responses for additional detail). Additional background information regarding the development of these specifications was provided in

the proposed rule and is not repeated here.

Final Specifications

This action implements the Council and Commission's recommended 2022 and projected 2023 bluefish catch specifications, as outlined in the proposed rule. These specifications increase the 2022 fishery ABC by about 55 percent, and raise the 2022 commercial quota and RHL by 28 percent and 67 percent, respectively (Table 1).

TABLE 1—COMPARISON OF 2021, 2022, AND 2023 BLUEFISH SPECIFICATIONS *

	2021		2022		2023	
	Million lb	Metric tons	Million lb	Metric tons	Million lb	Metric tons
Overfishing Limit	32.98	17,228	40.56	18,399	45.17	20,490
ABC = Fishery ACL	16.28	7,385	25.26	11,460	30.62	13,890
Commercial ACL = Commercial ACT	2.77	1,255	3.54	1,604	4.29	1,945
Recreational ACL = Recreational ACT	13.51	6,130	21.73	9,856	26.34	11,945
Recreational Accountability Measures	0	0	3.65	1,656	0	0
Commercial Total Allowable Landings (TAL)	2.77	1,255	3.54	1,604	4.29	1,945
Recreational TAL	8.34	3,785	13.89	6,298	22.14	10,044
Sector Transfer	0	0	0	0	0	0
Commercial Quota	2.77	1,255	3.54	1,604	4.29	1,945
RHL	8.34	3,785	13.89	6,298	22.14	10,044

* Specifications are derived from the ABC in metric tons (mt). When values are converted to millions of pounds the numbers may slightly shift due to rounding. The conversion factor used is 1 mt = 2,204.6226 lb.

The final commercial quota is allocated among the states from Maine to Florida based on percent shares specified in the FMP; however, Amendment 7 reallocated those percent shares, to be phased in over 7 years.

Table 2 provides the commercial state allocations for 2022 and 2023 based on the final coastwide commercial quotas for each year, and the applicable reallocated changes to the percent shares specified in Amendment 7. No

states exceeded their allocated quota in 2020, or are projected to do so in 2021; therefore, no accountability measures for the commercial fishery are required for the 2022 fishing year.

TABLE 2—2022 AND 2023 BLUEFISH STATE COMMERCIAL QUOTA ALLOCATIONS

State	2022			2023		
	Percent share	Quota (lb)	Quota (kg)	Percent share	Quota (lb)	Quota (kg)
Maine	0.59	20,819	9,443	0.51	21,807	9,892
New Hampshire	0.39	13,655	6,194	0.36	15,331	6,954
Massachusetts	7.20	254,748	115,552	7.69	329,578	149,494
Rhode Island	7.21	254,956	115,646	7.61	326,165	147,946
Connecticut	1.24	43,885	19,906	1.22	52,094	23,629
New York	11.72	414,693	188,102	13.06	560,031	254,026
New Jersey	14.68	519,158	235,486	14.54	623,295	282,722
Delaware	1.68	59,442	26,962	1.48	63,572	28,836
Maryland	2.85	100,698	45,676	2.69	115,409	52,349
Virginia	11.02	389,802	176,811	10.16	435,625	197,596
North Carolina	32.06	1,133,855	514,308	32.05	1,374,077	623,271
South Carolina	0.04	1,590	721	0.05	2,344	1,063
Georgia	0.02	805	365	0.04	1,544	700
Florida	9.31	329,137	149,294	8.55	366,585	166,280
Total	100.00	3,537,096	1,604,400	100.01	4,287,109	1,944,600

As previously mentioned, this action makes no changes to the recreational management measures, as the expected

recreational landings of 13.58 million pounds (6,160 metric tons) under the existing measures are likely to achieve

the proposed RHL. The specifications for 2023 are projected based on the available data and the second year of the

rebuilding plan model. However, there is a research track stock assessment scheduled for bluefish in 2022. The Council will review the projected 2023 specifications in light of any new information, including this assessment, to determine if changes need to be made prior to their implementation. NMFS will publish a notification prior to the 2023 fishing year to confirm these limits as projected or propose any necessary changes.

Comments and Responses

The public comment period for the proposed rule ended on December 17, 2021, and NMFS received two comments from the public. One commenter stated that beach replenishment efforts are destroying coastal habitats and disrupting the coastal food chain, and this is negatively affecting the bluefish stock and biomass numbers; especially inshore where most of the recreational fishery occurs. This action affects the annual catch limits and quotas in the bluefish fishery. Environmental impacts and habitat conditions are analyzed in the EA for this action. The second commenter supported the action, and is in favor of overall increased quotas for the bluefish fishery. They commented that Florida should receive a higher percentage of the commercial quota, but support these specifications overall. State commercial quota allocations were the subject of a recent amendment to the Bluefish FMP, and changes to these allocations are beyond the scope of this specifications action. No changes to the proposed specifications were made as a result of these comments.

Changes From the Proposed Rule

There are no substantive changes from the proposed rule.

Classification

Pursuant to section 304(b)(3) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator, Greater Atlantic Region, has determined that these final specifications are necessary for the conservation and management of the

Atlantic bluefish fishery, and that they are consistent with the Atlantic Bluefish FMP, the Magnuson-Stevens Act, and other applicable law.

The Assistant Administrator for Fisheries, NOAA, also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date for this rule to ensure that the final specifications are in place as close as practicable to the start of the 2022 bluefish fishing year, which began on January 1, 2022. A delay in effectiveness well beyond the start of this fishing year would be contrary to the public interest as it could create confusion in the bluefish industry, and compromise the effectiveness of the new measures to reallocate commercial quota among the states. Because the commercial quota is increasing, a delay too long into the new fishing year could also cause potential economic harm to the commercial bluefish fishery through lost opportunity to fish under the higher limits.

Furthermore, this rule is being issued at the earliest possible date. These specifications include several changes that were implemented by Amendment 7 to the Bluefish FMP, and were delayed until after the final rule for the amendment published on November 24, 2021 (86 FR 66977). The proposed rule for these specifications published on December 2, 2021, with a 15-day comment period ending December 17, 2021. Because of these administrative delays, this final rule will not be effective for the January 1 start of the fishing year; however, a 30-day delay in effectiveness would postpone implementation of final 2022 specifications well into the fishing year, which is contrary to the public interest. State agencies also use commercially-allocated quotas to set annual state management measures. The longer these specifications are delayed, the longer it will take for some states to implement their respective regulations.

Finally, regulated parties do not require any additional time to come into compliance with this rule, and thus, a 30-day delay would not benefit the regulated community in this regard. Unlike actions that require an

adjustment period, bluefish fishery participants will not have to purchase new equipment or otherwise expend time or money to comply with these management measures. Rather, complying with this final rule simply means adhering to the new catch limits set for the fishing year. Fishery stakeholders have also been involved in the development of this action and are anticipating this rule. Therefore, NMFS finds good cause not to delay this final rule's effectiveness, consistent with 5 U.S.C. 553(d)(3).

For these reasons, NMFS finds that a 30-day delay in effectiveness would be contrary to the public interest, and therefore, waives the requirement consistent with 5 U.S.C. 553(d)(1) and (3). As a result, there is good cause to implement this action on February 2, 2022.

This final rule is exempt from review under Executive Order 12866 because the action contains no implementing regulations.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none was prepared.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

This action contains no information collection requirements under the Paperwork Reduction Act of 1995.

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

Dated: January 26, 2022.

Samuel D. Rauch, III,
*Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.*

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