

is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

#### § 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under California is amended by removing DTV Channel 38 and adding DTV Channel 5 at Merced.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

#### 50 CFR Part 224

[I.D. 072600A]

#### Endangered and Threatened Species; Re-opening of Comment Period and Notice of Public Hearing on Proposed Range Extension for Endangered Steelhead in Southern California

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

**ACTION:** Proposed rule; public hearing and re-opening of public comment period.

**SUMMARY:** NMFS is re-opening the public comment period for, and has scheduled a public hearing on, the proposal to extend the current range of endangered steelhead in southern California. NMFS has received several

requests for a public hearing that would allow further opportunity for the public to participate in an exchange of information among interested parties and to provide oral and written testimony on the proposal. NMFS has determined that these requests are reasonable and has scheduled a public hearing and re-opened the public comment period to facilitate the receipt of the public's views on the proposal.

**DATES:** A public hearing is scheduled in San Clemente, California on March 12, 2001, from 6 p.m. to 9 p.m. Written comments on the proposed range extension must be received by March 22, 2001.

**ADDRESSES:** The public hearing will be held at the City of San Clemente's Community Center Auditorium which is located at 100 N. Calle Seville in San Clemente, CA. Written comments on the proposed range extension and requests for reference materials should be sent to the Assistant Regional Administrator, Protected Resources Division, NMFS, Southwest Region, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

**FOR FURTHER INFORMATION CONTACT:** Craig Wingert, (562) 980-4021, or Chris Mobley, (301) 713-1401. Copies of the **Federal Register** documents cited herein and additional salmon-related materials are available via the Internet at [www.nwr.noaa.gov](http://www.nwr.noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

In August 1997, NMFS listed the Southern California steelhead Evolutionarily Significant Unit (ESU) as an endangered species and defined its southern limit as Malibu Creek in Los Angeles County, CA, based on the information available at that time. On December 19, 2000, (65 FR 79328), NMFS issued a proposed rule to extend the current range of the Southern California steelhead ESU southward to include the population of steelhead recently found in San Mateo Creek which is located in northern San Diego County. This proposal was based on recent information indicating that steelhead had been found in two coastal river watersheds south of Malibu Creek, and had successfully spawned in San Mateo Creek. Within this redefined Southern California steelhead ESU, NMFS proposed to list naturally spawned steelhead and their progeny which reside below naturally occurring and man-made barriers.

NMFS did not announce any public hearings in its December 19, 2000 (65 FR 79328) proposal, but did indicate that it would consider requests for

hearings received by February 2, 2001. In late January 2001, NMFS received several requests for a public hearing to be held on this proposal. Requests for a public hearing were received from California Trout, the California Native Plant Society, the Sierra Club, Trout Unlimited, the Surfrider Foundation, South Coast Audubon, and several private individuals. NMFS has determined that these requests are reasonable, and, therefore, has scheduled a public hearing and is re-opening the public comment period to accommodate the hearing as well as provide sufficient notice of the hearing date and location. During the extended public comment period, NMFS is continuing to solicit any specific information, comments, data, and/or recommendations on any aspect of the December 19, 2000, proposal from all interested parties. In particular, NMFS is requesting information or data as described in the **Federal Register** document announcing the proposed range extension (see 65 FR 79328). This information is considered important in helping NMFS make a final determination on its proposal.

NMFS will consider all information, comments, and recommendations received during the extended comment period and the public hearing before reaching a final decision on the proposal.

Dated: February 15, 2001.

**William T. Hogarth,**

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

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 010208032-1032-01; I.D. 121200L]

RIN 0648-AM47

#### Fisheries of the Northeastern United States; Proposed 2001 Specifications for the Atlantic Bluefish Fishery; Regulatory Amendment

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

**ACTION:** Proposed 2001 specifications for the Atlantic bluefish fishery; regulatory amendment; request for comments.

**SUMMARY:** NMFS proposes 2001 specifications for the Atlantic bluefish fishery, including a total allowable harvest level (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. NMFS also proposes to amend the regulations implementing the Fishery Management Plan for Atlantic Bluefish (FMP) to specify the procedures for setting the annual TAL.

**DATES:** Public comments must be received no later than 5:00 p.m., Eastern Standard Time, on March 23, 2001.

**ADDRESSES:** Send written comments on the proposed specifications should to Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. Mark on the outside of the envelope: "Comments--2001 Bluefish Specifications." Comments may also be sent via facsimile (fax) to (978) 281-9371. Comments will not be accepted if submitted via e-mail or the Internet.

Send comments on any ambiguity or unnecessary complexity arising from the language used in this proposed rule to the Regional Administrator.

Copies of supporting documents, including the Environmental Assessment, Regulatory Impact Review, Preliminary Regulatory Economic Evaluation (EA/RIR/PREE), and the Essential Fish Habitat Assessment are available from the Regional Administrator at the same address. The EA/RIR/IRFA or PREE are accessible via the Internet at <http://www.nero.gov/ro/doc/nr.htm>.

**FOR FURTHER INFORMATION CONTACT:** Myles Raizin, Fishery Policy Analyst, (978) 281-9104, e-mail at [M.A.Raizin@noaa.gov](mailto:M.A.Raizin@noaa.gov), fax at (978) 281-9135.

**SUPPLEMENTARY INFORMATION:** Regulations implementing the 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, TAL, which is comprised of a commercial quota and 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 Amendment 1 to 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, after reviewing these recommendations, publishes proposed specifications in the **Federal Register**. After considering public comment, the Administrator, Northeast Region, NMFS, will publish final specifications in the **Federal Register**.

In July, 2000, the Council adopted specifications for the 2000 Atlantic bluefish fishery. However, those specifications, which were submitted to NMFS in March, 2000, could not be published prior to August 25, 2000, that being the effective date of the rule implementing Amendment 1 to the FMP at 50 FR 45844, July 25, 2000. Given that publication of a final rule to implement the 2000 specifications could not take place prior to November, 2000, and would be in effect for less than 2 months, NMFS believed that the administrative burden of a rulemaking could not be justified for such a short period of time. Factored into this decision was the knowledge that the states, under the aegis of the Atlantic States Marine Fisheries Commission (Commission), had previously implemented specifications for the year 2000 that are identical to those adopted by the Council for the 2000 bluefish fishery.

#### **Proposed 2001 Specifications**

##### *Proposed TAL*

For the 2001 fishery, the stock rebuilding program in the FMP would restrict F to 0.41. However, the 1999 fishery produced an F of only 0.295, so, in accord with the FMP, TAL proposed for 2001 was selected to achieve F=0.295. The 1999 fishery is the most recent year for which landings data are complete and for which an F can be estimated. Therefore, the TAL for 2001 would be 37.84 million lb (17.17 million kg), which is calculated based on the

current estimate of biomass and  $F=0.295$ . The increase in TAL for 2001 versus 2000 results from an increase in the stock biomass, even though the 2001 TAL is based on a lower F than that specified in the FMP rebuilding program.

##### *Proposed Commercial Quota and Recreational Harvest Limit*

If TAL were allocated for the 2001 fishery based on the percentages specified in the FMP, the commercial allocation would be 6.43 million lb (2.92 million kg) with a recreational harvest limit of 31.41 million lb (14.25 million kg). However, recreational landings from 1995 through 1999 were much lower than the recreational allocation for 2001, ranging between 8.30 and 14.7 million lb (3.76 and 6.67 million kg); thus, giving the Council the opportunity to recommend a commercial quota of up to 10.5 million lb (4.76 million kg). Instead, the Council chose to recommend a commercial quota of 9.58 million lb (4.35 million kg) unchanged from the 1999 commercial quota and identical to the 2000 quota implemented by the states under aegis of the Commission. Under the FMP, this would require transferring 3.15 million lb (1.43 million kg) from the initial 2001 recreational allocation of 31.41 million lb (14.13 million kg), leaving 28.26 million lb (12.82 million kg) for the 2001 recommended harvest limit. The 2001 commercial quota is unchanged from the commercial quota specified by the Commission for 1999 and 2000.

##### *Proposed Recreational Possession Limit*

A 2-year projection of the bluefish stock biomass was conducted using an assumed F rate of 0.295. Results indicate that the bluefish stock will increase from an estimated biomass of 35,840 mt (78,919,680 lb) in 2000 to 51,990 mt (114,481,980 lb) in 2001, and 69,720 mt (153,523,440 lb) in the year 2002. The stock is projected to increase substantially in the next 2 years with commensurate increases in recreational harvest limit. However, recreational landings have decreased in the past 2 years from 14,302 mt (31,521,608 lb) in 1997 to 12,334 mt (27,184,136 lb) in 1998 and to 8,253 mt (18,189,612 lb) in 1999. Therefore, the Council recommended an increase in the possession limit from 10 to 15 fish in 2001. The Council believes that this increase will benefit some recreational anglers while landings will not exceed the recreational harvest limit.

*Proposed State Commercial Allocations*

Proposed state commercial allocations for the recommended 2001 commercial

quotas are shown in the following table, based on the percentages specified in the FMP and at § 648.100(d)(1).

State	Percent of quota	2001 Commercial Quota (lb)	2001 Commercial Quota (kg)
ME	0.6685	64,062	29,066
NH	0.4145	39,722	18,023
MA	6.7167	643,661	292,042
RI	6.8081	652,420	296,016
CT	1.2663	121,350	55,059
NY	10.3851	995,204	451,544
NJ	14.8162	1,419,836	644,209
DE	1.8782	179,988	81,664
MD	3.0018	287,662	130,518
VA	11.8795	1,138,412	516,521
NC	32.0608	3,072,386	1,394,005
SC	0.0352	3,373	1,530
GA	0.0095	910	413
FL	10.0597	964,021	437,396
Total	100.000	9,583,010	4,348,008

**Regulatory Amendment**

The final regulations implementing Amendment 1 to the FMP (50 FR 45844, July 25, 2000), inadvertently did not specify the procedures for setting an annual TAL. Regulatory text needs to be added to § 648.160(a) to reflect the FMP requirement in section 3.1.1.2 of Amendment 1 that requires the Council to use the estimated F for the fishing year preceding the Council submission of the recommended specifications for setting TAL if the estimated F is less than the target F identified in the rebuilding schedule. The portion of Amendment 1 containing this requirement was approved by NMFS on July 29, 1999.

**Classification**

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant impact on a substantial number of small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble. The factual basis for certification is as follows:

An active participant in the commercial sector was defined as being any vessel that reported having landed one or more pounds of bluefish to NMFS-permitted dealers during calendar year 1999. All vessels are considered to be small entities. Of the active vessels reported in 1999, 866 landed bluefish from Maine to North Carolina. The dealer data do not cover vessel activity in the South Atlantic. State trip ticket report data indicate that 609 vessels landed bluefish in North Carolina with some possible double

counting. Bluefish landings in South Carolina and Georgia were minuscule, representing less than 1/10 of 1 percent of total coastwide bluefish landings. Therefore, it was assumed that no vessels landed bluefish from those states. In addition, 136 vessels landed bluefish to dealers on Florida's east coast in 1999, as reported by the State of Florida. In 1994, the last time such a vessel survey was done, approximately 2,063 party/charter vessels were estimated to have caught bluefish.

The Council analyzed three alternatives for TAL, each with a 15-fish recreational possession limit for the recreational fishery. Analysis of the preferred alternative, which represents the status quo for the commercial quota compared to the 2000 specifications for bluefish, examined the impacts on industry that would result from a TAL of 37.84 million lb (17.17 million kg) that would allocate 9.58 million lb (4.35 million kg) for the commercial sector and 28.26 million lb (12.81 million kg) for the recreational sector. Results of the analysis indicate that, on a coastwide basis, the preferred alternative could yield increases in revenue to commercial bluefish fishermen of 36 percent compared to 1999 landings. Analysis of the effects of the preferred alternative on fishermen in individual states concluded that the increase in revenues would occur in all states except New York, where 22 of the 192 vessels home ported in that state could have their revenues reduced by 5 percent or more. The Council noted that the negative impact to the State of New York could easily be mitigated by a transfer of commercial quota from another state, as allowed under the FMP, and as accomplished under the Commission's Interstate Plan for Atlantic bluefish in 2000.

The Council further analyzed the impacts on revenues of the increase in the possession limit from 10 to 15 fish for all three alternatives. The 15-fish possession limit is expected to increase angler satisfaction, as it is higher than the 10-fish possession limit implemented each year since 1990. Based on average 1985-1989 landings and angler catch data, the 10-fish bag limit reduced landings

by 17.2 percent. Based on the same 1985-1989 average landings and catch data, the implementation of the 15-fish possession limit is expected to increase landings by 7.9 percent from current levels. Relative to the 1999 landings a 7.9 percent increase would not result in landings in excess of the recreational harvest limit. In determining what might constitute "significant economic impacts" on small entities, the analysis considered the potential impact on revenues from changes in commercial quotas from 1999 to 2001 and considered that revenue reduction greater than 5 percent of total revenue might be significant. The analysis considered the effects at the state, county and individual vessel level. Of the 866 Federally permitted vessels landing bluefish in 1999, 31 vessels could have their revenues reduced by 5 percent or more. Of these vessels, 22 were home ported in New York, with the home ports of the other vessels unable to be determined. Under the most restrictive alternative considered, Dare County, NC, and Suffolk County, NY, were considered the most impacted. However, because North Carolina will not be restricted from 1999 landings under the preferred alternative, only Suffolk County, NY, can be expected to be impacted because of a possible reduction in landings of 30 percent for the whole state. Because all the entities effected by this action are considered small entities, the issue of disproportionality with large entities does not pertain. While some vessel owners/operators in New York may have reduced revenues resulting in lower profitability, vessel owners/operators in other states coastwide could see increases in total revenues as a result of the 136 percent increase in the commercial allocation over the 1999 landings. The reduction in total revenues to vessel owners/operators in New York would likely be minimized through transfer to New York state of state quotas from other states that would not utilize their full quotas. Thus, there would not be any significant economic impacts on the identified small entities. Only 31 of the 866 federally permitted vessels that landed

bluefish in 1999 would likely be affected by the preferred action.

The criteria used to determine "a substantial number of small entities" is based on a threshold value of 20 percent of the total number of small entities being directly affected. Only 31 of the 866 federally permitted vessels that landed bluefish in 1999 would likely be affected by the preferred action. As stated earlier, there is the possibility for relief of these vessels through transfer of quota from one state to another. Even if this transfer does not occur, the percent of vessels that would be affected does not constitute a "substantial number."

In making this analysis, the Council used NMFS stock assessment reports, NMFS landings data, state fish ticket reports, NMFS marine recreational fishing statistical survey reports, various NMFS marine recreational fishing and charter/party boat surveys, Bureau of Census data, and various scientific studies and reports covering the biological, economic and social aspects of the bluefish fishery. Using these data, the Council analyzed the potential changes in revenue from 1999 to 2001 for vessels on an individual and state-by-state basis and determined the degree each vessel/state could be impacted by the preferred and other alternatives by comparing landings in 1999 with potential changes created by the proposed quotas for 2001. For the change in the recreational bag limit, the Council analyzed the increase in catch based on a ten-year average of catches before size limits were instituted in the fishery. The availability of a long time series of data enable the use of long-term averages in the analysis. As such, there is little variability or uncertainty in this analysis. In making this analysis the Council assumed that, because average revenue changes were made using 1999 data, revenue changes for 2001 are dependent upon landings in 1999. Further, the Council assumed the conduct of the

recreational and commercial sectors of the fishery would be similar to the 1999 fishery. Were these assumptions to change, i.e., if the price structure of the fishery were to change or if either the recreational or commercial sector of the bluefish fishery were to suddenly increase or decrease, the magnitude of the impacts (both positive and negative) identified in this analysis could change. However, given the history of commercial and recreational fisheries participation in the bluefish fishery, it is unlikely that there would be any significant changes during one fishing season that will nullify the predicted impact of the 2001 annual specifications.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule. Such comments should be sent to the Regional Administrator (see ADDRESSES).

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 12, 2001.

**William T. Hogarth,**  
*Acting Assistant Administrator for Fisheries,*  
*National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648, chapter VI, is proposed to be amended as follows:

**PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.160, paragraph (a) is revised to read as follows:

**§ 648.160 Catch quotas and other restrictions.**

\* \* \* \* \*

(a) *Annual review.* On or before August 15 of each year, the Bluefish Monitoring Committee will meet to determine the total allowable level of landings (TAL) and other restrictions necessary to achieve the target fishing mortality rate (F) specified in the Fishery Management Plan for Atlantic Bluefish for the upcoming fishing year or the estimated F for the fishing year preceding the Council submission of the recommended specifications, whichever F is lower. In determining the TAL and other restrictions necessary to achieve the specified F, the Bluefish Monitoring Committee will review the following data, subject to availability: Commercial and recreational catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling data; impact of gear other than otter trawls and gill nets on the mortality of bluefish; and any other relevant information.

\* \* \* \* \*

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