

- b. Redesignate paragraph (c)(1)(vi) as paragraph (c)(1)(vii);
- c. Add new paragraph (c)(1)(vi); and
- d. Revise paragraphs (c)(4)(i) introductory text and (c)(4)(ii), (iii), (v), and (viii).

The revisions and addition read as follows:

§ 173.185 Lithium cells and batteries.

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- (c) * * *
- (1) * * *

(iii) Except when lithium cells or batteries are packed with or contained in equipment in quantities not exceeding 5 kg net weight, the outer package that contains lithium cells or batteries must be appropriately marked: “PRIMARY LITHIUM BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT”, “LITHIUM METAL BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT”, “LITHIUM ION BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT”, or “LITHIUM BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT”, or labeled with a “CARGO AIRCRAFT ONLY” label as specified in § 172.448 of this subchapter.

(iv) For transportation by highway or rail only, the lithium content of the cell and battery may be increased to 5 g for a lithium metal cell or 25 g for a lithium metal battery and 60 Wh for a lithium ion cell or 300 Wh for a lithium ion battery, provided the outer package is marked: “LITHIUM BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD AIRCRAFT AND VESSEL.” A package marked in accordance with this paragraph does not need to display the marking required in paragraph (c)(1)(iii) of this section.

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(vi) When a package marked or labeled in accordance with paragraph (c)(1)(iii) or (iv) of this section is placed in an overpack, the selected marking or label must either be clearly visible through the overpack, or the marking or label must also be affixed on the outside of the overpack.

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- (4) * * *

(i) For transportation by aircraft, lithium cells and batteries may not exceed the limits in the following Table 1 to paragraph (c)(4)(i). The limits on the maximum number of batteries and maximum net quantity of batteries in the following table may not be combined in the same package. The limits in the following table do not

apply to lithium cells and batteries packed with, or contained in, equipment.

* * * * *

(ii) Not more than one package prepared in accordance with paragraph (c)(4)(i) of this section may be placed into an overpack.

(iii) A shipper is not permitted to offer for transport more than one package prepared in accordance with the provisions of paragraph (c)(4)(i) of this section in any single consignment.

* * * * *

(v) Packages and overpacks of lithium batteries prepared in accordance with paragraph (c)(4)(i) of this section must be offered to the operator separately from cargo which is not subject to the requirements of this subchapter and must not be loaded into a unit load device before being offered to the operator.

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(viii) Lithium cells and batteries must not be packed in the same outer packaging with other hazardous materials. Packages prepared in accordance with paragraph (c)(4)(i) of this section must not be placed into an overpack with packages containing hazardous materials and articles of Class 1 (explosives) other than Division 1.4S, Division 2.1 (flammable gases), Class 3 (flammable liquids), Division 4.1 (flammable solids), or Division 5.1 (oxidizers).

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Issued in Washington, DC, on December 14, 2022, under authority delegated in 49 CFR part 1.97.

Tristan H. Brown,
Deputy Administrator, Pipeline and Hazardous Materials Safety Administration.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 221215-0272; RTID 0648-XC422]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; 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 2023 Atlantic bluefish fishery, as recommended by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission. This action is necessary to establish allowable harvest levels for the stock to prevent overfishing and promote rebuilding, while enabling optimum yield, using the best scientific information available.

DATES: Effective on January 1, 2023.

ADDRESSES: The Mid-Atlantic Fishery Management Council prepared a Supplemental Information Report (SIR) for these specifications that describes the action, and any changes from the original environmental assessment (EA) and analyses for 2023 specifications action. Copies of the SIR, original EA, and other supporting documents for this action, are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North 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 annual regulatory limits including: 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 other management measures, for up to 3 years at a time. This action implements adjusted bluefish specifications for the 2023 fishing year, based on the most recent data and Council and Commission recommendations.

Catch limits for the 2023 bluefish fishery were previously projected in a multi-year specifications action (87 FR 5739, February 2, 2022), based on a 2021 assessment update and Amendment 7 to the Bluefish FMP (86 FR 66977, November 24, 2021). Those 2023 specifications would increase the commercial quota 21 percent and the RHL 59 percent from 2022 limits. No changes were necessary to the majority of those projected specifications; however, there was a recreational catch overage of 5.59 million lb (2,536 mt) in

2021 that is required to be paid back pound-for-pound through accountability measures (AM) in 2023, and updated data indicated that the initial projection of recreational discards was too low. To account for this new information, the 2023 RHL has been adjusted from the projected 22.14 million lb (10,044 mt) to 14.11 million lb (6,400 mt), which is an increase of 1.6 percent from 2022, rather than 59 percent. No changes were recommended to recreational management measures because the adjusted RHL is only slightly higher

than the 2022 RHL, and there was no compelling reason to change existing measures.

The proposed rule for this action published in the **Federal Register** on November 15, 2022 (87 FR 68434), and comments were accepted through November 30, 2022. NMFS received five comments from the public, and no changes were made to the final rule because 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 2023 bluefish catch specifications, as outlined in the proposed rule (Table 1). These final specifications increase the coastwide commercial quota by 21 percent, as previously projected, and the RHL by 1.6 percent, rather than 59 percent as originally projected.

TABLE 1—FINAL ADJUSTED 2023 BLUEFISH SPECIFICATIONS *

	Million lb	Metric tons
Overfishing Limit	45.17	20,490
ABC	30.62	13,890
Commercial ACL = Commercial ACT	4.29	1,945
Recreational ACL = Recreational ACT	26.34	11,945
Recreational AM	5.59	2,536
Recreational Discards	6.64	3,012
Commercial Quota	4.29	1,945
RHL	14.11	6,400

* 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 coastwide commercial quota is allocated among the coastal states from Maine to Florida based on percent shares specified in the FMP, and the phased-in changes to these share allocations specified in Amendment 7 to

the FMP (86 FR 66977, November 24, 2021). The 2023 state bluefish quota allocations (Table 2) are unchanged from what was previously projected, as there are no adjustments to the commercial sector. In addition, no states

exceeded their allocated quota in 2021 or 2022; therefore, no AMs for the commercial fishery are required for the 2023 fishing year.

TABLE 2—2023 BLUEFISH STATE COMMERCIAL QUOTA ALLOCATIONS

State	Percent share	Quota (lb)	Quota (kg)
Maine	0.51	21,807	9,892
New Hampshire	0.36	15,331	6,954
Massachusetts	7.69	329,578	149,494
Rhode Island	7.61	326,165	147,946
Connecticut	1.22	52,094	23,629
New York	13.06	560,031	254,026
New Jersey	14.54	623,295	282,722
Delaware	1.48	63,572	28,836
Maryland	2.69	115,409	52,349
Virginia	10.16	435,625	197,596
North Carolina	32.05	1,374,077	623,271
South Carolina	0.05	2,344	1,063
Georgia	0.04	1,544	700
Florida	8.55	366,585	166,280
Total	100.01	4,287,109	1,944,600

As previously mentioned, this action makes no changes to recreational management measures, including the recreational daily bag limit of three fish per person for private anglers and five fish per person for for-hire (charter/party) vessels.

Comments and Responses

The public comment period for the proposed rule ended on November 15, 2022, and NMFS received five comments from the public. No changes were made to final rule as a result of these comments.

Comment 1: Three comments expressed similar opposition to the current recreational bag limits for

bluefish; specifically that private anglers are held to a limit of three fish per person, while party/charter boats are allowed five fish per person.

Response: This action does not change or affect the bluefish recreational management measures, including bag limits. That said, the issue of recreational bag limits was discussed at length following the overfished

determination of the stock in 2019, and in the development of specifications for fishing years 2020 and 2021. There is a possibility that these limits will be revisited for the 2024 fishing year following the next assessment, but no changes are considered in this specifications action for 2023.

Comment 2: Another commenter noted that any additional restriction of the recreational bluefish fishery is unnecessary and would cause economic burden.

Response: NMFS understands the concern expressed for the recreational sector; however, this action does not add any restrictions to the bluefish fishery. Even though the RHL is increasing less than previously projected, it is still increasing 1.6 percent from 2022.

Comment 3: The final commenter simply voiced support for the action and encouraged implementation as soon as possible.

Response: NMFS agrees and is implementing this rule in a timely manner.

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, 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 bluefish fishing year on January 1, 2023. This action establishes the final specifications (*i.e.*, catch limits) for the 2023 bluefish fishery. 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 increased quota allocations both to fishery sectors, and commercially among the states. State agencies also use commercially-allocated quotas to set annual state management measures, so the longer these specifications are delayed, the longer it will take for some states to implement their respective regulations. Additionally, because catch limits are increasing, a further delay into the new fishing year could also cause potential economic harm to the fishery through lost opportunity to fish under the higher limits.

Furthermore, regulated parties do not require any additional time to come into compliance with this rule, and thus, a 30-day delay before the final rule becomes effective does not provide any benefit. 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 2023 fishing year. Fishery stakeholders have also been involved in the development of this action and are anticipating this rule. 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)(3).

This final rule is not subject to 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: December 15, 2022.

Andrew James Strelcheck,

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

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