

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter 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* contact.

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

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

Radio broadcasting.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 99-10915 Filed 4-29-99; 8:45 am]

BILLING CODE 6712-01-U

#### DEPARTMENT OF TRANSPORTATION

##### Research and Special Programs Administration

#### 49 CFR Part 192

[Docket No. RSPA-98-4868, Notice 1]

RIN 2137-AB15

#### Gas Gathering Line Definition

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice of Extension of Internet Public Discussion Forum and Public Comment Period.

**SUMMARY:** This notice announces an extension of the Research and Special Programs Administration's Internet discussion forum and the public comment period for regulations concerning gas gathering lines.

**DATES:** The Internet public discussion forum will be open until May 17, 1999. Submit comments to the docket on or before July 7, 1999.

**ADDRESSES:** The Internet address for the electronic discussion forum is <http://ops.dot.gov/forum>. Address written comments to the Dockets Management System, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590-0001. Comments should identify the Docket No. RSPA-98-4868. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. Comments may be submitted

by e-mail to [rules@rspa.dot.gov](mailto:rules@rspa.dot.gov). The Dockets Management System is located on the Plaza Level of the Department of Transportation's Nassif Building at 400 Seventh Street, SW, Washington, DC. Public dockets may be reviewed in person between the hours of 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. In addition, the public may also review comments by accessing the Docket Management System's home page at <http://dms.dot.gov>. An electronic copy of any document may be downloaded from the Government Printing Office Electronic Bulletin Board Service at (202) 512-1661.

**FOR FURTHER INFORMATION CONTACT:** L.E. Herrick, (202) 366-5523, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590-0001.

**SUPPLEMENTARY INFORMATION:** On March 11, 1999, we published a notice in the **Federal Register** announcing an Internet public discussion forum on gas gathering for the purposes of pipeline safety regulation (64 FR 12147, March 11, 1999). This Internet discussion forum was scheduled from April 13, 1999 through May 3, 1999. In addition to the Internet discussion forum, RSPA provided the opportunity for interested persons to submit comment to a rulemaking docket. This rulemaking docket was scheduled to close on April 28, 1999.

In 1991, we proposed a definition of gas gathering. A change to the pipeline safety laws in 1992 requires us to revisit that proposal and to consider whether and to what extent we should regulate gathering lines in rural areas. This opportunity for public input will allow us to decide whether and how to modify the regulations. The comments may also inform the process when we consider developing a separate proposal on regulating gas gathering lines in rural areas.

Issued in Washington, DC, on April 27, 1999.

**Richard B. Felder,**

*Associate Administrator for Pipeline Safety, Research and Special Programs Administration.*

[FR Doc. 99-10848 Filed 4-29-99; 8:45 am]

BILLING CODE 4910-60-P

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 990422103-9103-01; I.D. 031099B]

RIN 0648-AL75

#### Fisheries of the Northeastern United States; Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Recreational Measures for the 1999 Fisheries

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

**ACTION:** Proposed rule; proposed interim measures to implement conservation equivalency in the summer flounder fishery; request for comments.

**SUMMARY:** NMFS proposes recreational measures for the 1999 summer flounder, scup, and black sea bass fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the upcoming fishing year and to provide an opportunity for public comment. The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources. In addition, NMFS proposes interim measures to allow states to implement conservation equivalent measures for the summer flounder recreational fishery.

**DATES:** Public comments must be received on or before June 1, 1999.

**ADDRESSES:** Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and of the Environmental Assessment, Regulatory Impact Review, including the Initial Regulatory Flexibility Analysis, are available from: Dan Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904-6790.

Comments on the proposed specifications should be sent to: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Mark on the outside of the envelope, "Comments - 1999 Summer Flounder, Scup, and Black Sea Bass Recreational Measures."

**FOR FURTHER INFORMATION CONTACT:** Paul H. Jones, Fishery Policy Analyst, (978) 281-9326.

**SUPPLEMENTARY INFORMATION:**

## Background

The Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) outlines the process for specifying annual recreational measures. The FMP has established Monitoring Committees (Committees) for each of the three fisheries comprised of representatives from the Atlantic States Marine Fisheries Commission (Commission), the Mid-Atlantic Fishery Management Council (Council), the New England and South Atlantic Management Councils, and NMFS. The Committees are required to review annually scientific and other relevant information and to recommend measures necessary to achieve the recreational harvest limits for the summer flounder, scup, and black sea bass fisheries. These recommended measures are limited to minimum fish sizes, possession limits, and closed seasons. The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Board (Board) then consider the Monitoring Committees' recommendations and any public comment in making their recommendations. The Council reviews the Demersal Committee recommendations, makes its own decision, in turn, and forwards its recommendation to NMFS.

Final specifications for the 1999 summer flounder, scup, and black sea bass fisheries were published on December 31, 1998 (63 FR 72203), and included a coastwide recreational harvest limit of 7.41 million lb (3.361 million kg) for summer flounder; 1.24 million lb (0.562 million kg) for scup; and 3.14 million lb (1.42 million kg) for black sea bass. Recreational measures for 1999 were not included in the final specifications because not enough recreational catch data for 1998 were available for the Committees to use in evaluating the effectiveness of the 1998 measures. Shortly after preliminary data became available, each Committee met to review the data and to recommend measures for the 1998 recreational fisheries. Based on those recommendations, the Council submitted the following recreational measures for consideration.

## Summer Flounder

At the November 1998 Monitoring Committee meeting, the Committee recommended that the Council consider a 15-inch (38-cm) minimum fish size, an 8-fish possession limit, and a closure from August 8, 1999, to September 30, 2000. Preliminary recreational landings data for 1998 indicated that a 55-

percent reduction in recreational landings would be required in 1999 to avoid exceeding that fishing year's harvest limit of 7.41 million lb (3.36 million kg).

During the time between the Committee meeting in November and the Council/Board meeting in December, additional recreational data for the 1998 fishing year became available. Analysis of these data showed that a 40-percent reduction in fishing effort in 1999 (compared to 1998), instead of the 55-percent reduction discussed at the November 1998 Committee meeting, would be required to keep the recreational landings in 1999 from exceeding the 1999 harvest limit. The Council and Board reviewed this analysis and the Committee's recommendation and recommended a 15-inch (38-cm) minimum fish size, an 8-fish possession limit, and a closed season from September 12, 1999, through May 28, 2000.

In addition, the Council requested that NMFS publish an interim rule that would allow the states to implement alternative measures that are equivalent to the recreational measures NMFS proposes for the summer flounder fishery. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) states that if a Council finds that interim measures are needed to reduce overfishing for any fishery within its jurisdiction, it may recommend to the Secretary of Commerce the promulgation of interim measures to address the overfishing. The interim action would remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the **Federal Register** for one additional period of not more than 180 days, provided the public has had an opportunity to comment on the interim measure. In the case of a Council recommendation for interim measures, the Council must be actively preparing a fishery management plan, plan amendment, or proposed regulations to address the overfishing on a permanent basis. Interim measures addressing overfishing may be implemented even if they are not sufficient in and of themselves to stop overfishing.

Under this proposed interim rule, states would have the option of implementing alternative measures that would result in the 40-percent reduction that is required to achieve the harvest limit in any year. The states could select a combination of minimum fish sizes, possession limits, and closed seasons. States that wished to implement equivalent measures would have to submit those proposed

alternative measures to the Commission's Summer Flounder Technical Committee for approval. The states would be responsible for providing all analyses required to prove that the alternative measures would achieve the required reduction. If the Commission finds that the proposed alternative measures would achieve the required reduction, the state could then implement those alternative measures. Once a state equivalency proposal is approved by the Commission, the Commission would recommend to NMFS that a notification be published to waive the default measure and notify the public of the state's equivalent measures.

It is possible that a state could decide to implement its equivalent measures while the EEZ measures are still in the proposed rule stage of rulemaking. The interim regulations clarify that, if the EEZ measures were modified in an interim final rule, a state would be required to provide additional analysis to the Technical Committee to establish that its current measures achieve the 40-percent reduction.

This proposed interim rule responds to concerns voiced about the inappropriateness of certain coastwide measures for some states. For example, the summer flounder stock migrates north during the summer months, resulting in differences in seasonal availability. This differential in availability impacts on equitable choice of a season. Conservation equivalency will give these states the option of implementing a different closed season, as well as a different possession limit or minimum fish size, if they can prove that the combination of measures will achieve the required reduction. The default measures would be those coastwide measures that are proposed by NMFS as part of the recreational specification process. While the coastwide measures may result in some states reducing the recreational fishery more or less than the Monitoring Committee has recommended, the average coastwide reduction would achieve the harvest limit.

Although permanent measures by the Council are being developed to address overfishing, it will take several months to complete and to implement these measures if they are approved. This proposed interim rule is consistent with the Magnuson-Stevens Act because it would form part of an overall management strategy to end overfishing and rebuild the summer flounder resource while recognizing variations and contingencies in the stock that demand flexibility among the states to achieve the fishing reduction target.

## Scup

At the November 1998 Monitoring Committee meeting, the Committee recommended that the Council consider an 8-inch (20.32-cm) minimum fish size, and a 35-fish possession limit. This recommendation would achieve the 1999 harvest limit of 1.24 million lb (0.562 million kg).

The Council and Board reviewed the Committee's recommendation and recommended a 7-inch (17.78-cm) minimum fish size with no possession limit and no closed season for 1999. Because the 1998 harvest limit is not projected to be achieved, and, in fact, projected landings are also below the 1999 harvest limit, the Council and Board believe that the existing 7-inch (17.78-cm) minimum fish size would prevent the recreational catch from exceeding the harvest limit for 1999.

## Black Sea Bass

At the November 1998 Monitoring Committee meeting, the Committee recommended that the Council maintain the minimum fish size at 10-inches (25.4-cm). This recommendation would achieve the 1999 harvest limit of 3.14 million lb (1.43 million kg).

The Council and Board reviewed the Committee's recommendation and recommended the 10-inch (25.4-cm) minimum fish size. Because the recreational fishery is not projected to achieve its harvest limit for 1998, neither the Committee nor the Council and Board felt it was necessary to maintain the 2-week closed season implemented in 1998. The Council and Board believe that maintaining the 10-inch (25.4-cm) minimum fish size would prevent the recreational catch exceeding the 1999 harvest limit.

NMFS requests public comments on all of the proposed specification measures. In addition, NMFS requests public comments on the proposed interim rule to allow states to implement measures in the summer flounder fishery that constitute equivalency.

## Classification

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

The Council prepared an initial regulatory flexibility analysis (IRFA) for this proposed rule, pursuant to 5 U.S.C. 603(a) of the RFA. A copy of this analysis is available from the Council (see ADDRESSES). The IRFA describes the impact this proposed rule, if adopted, would have on small entities. The proposed rule would implement

1999 recreational measures for the summer flounder, scup, and black sea bass fisheries. The proposed interim rule would provide states with the authority to implement conservation measures in state waters that constitute equivalency. The 1999 harvest limit for summer flounder is 7.41 million lb (3.36 million kg)—the same level specified for 1997 and 1998. However, landings in 1997 were 11.86 million lb (5.38 million kg) and projected recreational landings in 1998 are 12.51 million lb (5.68 million kg). Based on the 1998 projection and the upward trend of recreational landings, the more stringent measures proposed in this rule are required to achieve a 40-percent reduction in the recreational fishery and to prevent the harvest limit from being exceeded again. It is probable that proposed management measures would restrict the recreational summer flounder fishery for 1999 and that these measures may cause some decrease in recreational satisfaction (i.e., the proposed closed season).

Staff at the Northeast Fisheries Science Center estimated that 3.25 percent of party/charter trips could be affected by the implementation of the summer flounder preferred measures. In other words, 74,490 angler trips taken aboard party/charter boats in 1997 landed at least one summer flounder that was less than 15 inches (38 cm), or landed more than 8 summer flounder, or landed at least 1 summer flounder during the proposed season.

Assuming angler effort in 1999 would be similar to 1997, party/charter boat revenues associated with these trips can be estimated by multiplying the number of potentially affected trips in 1999 by the average fee (\$57.92) paid by anglers. This results in party and charter boat earnings of \$4,314,461. Analysis of the vessel trip report (VTR) data indicated that 309 party/charter vessels participated in the summer flounder fishery in 1997. Assuming that the same number of vessels will participate in 1999, the potential impact could be up to \$13,963 per vessel ( $\$4,314,461/309 = \$13,963$ ). As such, if the regulations proposed under the preferred alternative result in a decrease in the number of recreational fishing trips, on average, each party/charter vessel could lose up to \$13,963 or 3.25 percent of their revenue in 1999 compared to 1997. However, losses of this magnitude are not likely to occur given that anglers will continue to have the ability to engage in catch and release fishing for summer flounder, and because of the numerous alternative target species available to anglers. Unfortunately, the lack of data makes it impossible to

empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed regulations. The fact that the proposed regulations affect the number and size of the fish that can be kept or landed and do not prohibit anglers from engaging in catch and release fishing, means that overall losses are likely to be lower.

The Steinback and O'Neil (In-press) study suggest that at least some of the potentially affected anglers would not reduce their effort when faced with the landings restrictions proposed under the preferred alternative. Therefore, party/charter revenue losses per boat could range anywhere from no revenue loss up to 3.25 percent, on average, of total expected boat revenue in 1999 (given the assumptions regarding compliance rates and release mortality). Due to some uncertainty regarding the assumptions made to estimate the anticipated impacts of the proposed measures, an IRFA was prepared to analyze potential impacts and to seek public comment on the proposed measures and their impact on small entities.

## Alternatives Considered But Rejected by the Council

1. The implementation of the first rejected summer flounder alternative would reduce the possession limit from 8 to 6 fish in addition to closing the fishing season from August 1 to August 31. These measures could potentially reduce effort aboard party/charter boats by up to 8.04 percent assuming angler effort in 1999 would be similar to 1997. In other words, 184,277 (8.04 percent) angler trips taken aboard party/charter boats in 1997 landed at least one summer flounder that was less than 15 inches (38 cm), or landed more than 6 summer flounder, or landed at least one summer flounder during the proposed closed season.

Assuming angler effort in 1999 would be similar to 1997, multiplying the number of potentially affected trips in 1999 (184,277) by the average fee paid by anglers (\$57.92) results in associated party/charter boat earnings of \$10,673,324. Analysis of VTR data indicated that 309 party/charter vessels participated in the summer flounder fishery in 1997. Assuming that the same number of vessels will participate in 1999, the potential impact could be up to \$34,542 per vessel ( $\$10,673,324/309$ ). As such, if the regulations proposed under the preferred alternative result in a decrease in the number of recreational fishing trips, on average, each party/charter vessel could lose up to \$34,542 or 8.04 percent of their revenue in 1999 compared to 1997. However, losses of this magnitude are not likely to occur

given that anglers will continue to have the ability to engage in catch and release fishing for summer flounder, and because of the numerous alternative target species available to anglers. Unfortunately, very little information is available to empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed regulations. The fact that the proposed regulations affect the number and size of the fish that can be kept or landed and do not prohibit anglers from engaging in catch and release fishing, the overall losses are likely to be somewhat lower. Therefore, party/charter revenue losses per boat could range anywhere from no revenue losses up to 8.04 percent, on average, of total expected boat revenue in 1999 (given the above assumptions regarding compliance rates and release mortality).

2. The implementation of the second rejected summer flounder alternative will reduce the possession limit from 8 to 4 fish in addition to closing the fishing season from January through June. These measures could potentially reduce effort aboard party/charter boats by up to 5.69 percent assuming angler effort in 1999 would be similar to 1997. In other words, 130,415 (5.69 percent) angler trips taken aboard party/charter boats in 1997 landed at least one summer flounder that was less than 15 inches (38 cm), or landed more than 4 summer flounder, or landed at least one summer flounder during the proposed closed season.

Assuming angler effort in 1999 would be similar to 1997, multiplying the number of potentially affected trips in 1999 (130,415) by the average fee paid by anglers (\$57.92) results in associated party/charter boat earnings of \$7,553,637. Analysis of VTR data indicated that 309 party/charter vessels participated in the summer flounder fishery in 1997. Assuming that the same number of vessels will participate in 1999, the potential impact could be up to \$24,445 per vessel (7,553,637/309). As such, if the regulations proposed under the preferred alternative result in a decrease in the number of recreational fishing trips, on average, each party/charter vessel could lose up to \$24,445 or 5.69 percent of their revenue in 1999 compared to 1997. However, losses of this magnitude are not likely to occur given that anglers will continue to have the ability to engage in catch and release fishing for summer flounder, and because of the numerous alternative target species available to anglers. Unfortunately, very little information is available to empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed

regulations. The fact that the proposed regulations affect the number and size of the fish that can be kept or landed and do not prohibit anglers from engaging in catch and release fishing, the overall losses are likely to be somewhat lower. Therefore, party/charter revenue losses per boat could range anywhere from no revenue losses up to 5.69 percent, on average, of total expected boat revenue in 1999 (given the above assumptions regarding compliance rates and release mortality).

The 1999 scup recreational harvest limit of 1.24 million lb (0.562 million kg) is a 25-percent reduction from the 1998 level of 1.552 million lb (0.70 million kg). However, recreational scup landings for 1998 were projected to be 0.869 million lb (0.39 million kg), well below the 1998 harvest limit. Given the declining trends in both catch and trips, it is unlikely that the 1999 harvest limit would result in a decline in the demand of party/charter boat trips, the only entities shown in Council analysis to be affected by these measures, despite the reduction from the 1998 harvest limit. Like summer flounder, it is likely that anglers would target other species when faced with potential reductions in the amount of scup they can catch. As such, it is unlikely that the 1999 scup harvest limit would have a substantial impact on the number of party/charter fishing trips. The 1999 black sea bass recreational harvest limit of 3.15 million lb (1.43 million kg) is unchanged from the 1998 harvest limit. In 1997, 3.15 million lb (1.43 million kg) of black sea bass were landed and in 1998, 1.146 million lb (0.51 million kg) were projected to be landed. Because the recreational fishery is not anticipated to land the entire harvest limit for 1998, the 1999 harvest limit is not anticipated to alter the demand for party/charter trips, the only entities shown in Council analysis to be affected by these measures. Therefore, it is unlikely that the 1999 black sea bass harvest limit would have a substantial impact on the number of party/charter fishing trips.

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

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 27, 1999.

**Penelope D. Dalton,**

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

For the reasons set out in the preamble, 50 CFR part 648 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. Section 648.102 is revised to read as follows:

##### § 648.102 Time restrictions.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(3) and any person subject to the possession limit may fish for summer flounder only from May 29 through September 11. This time period may be adjusted pursuant to the procedures in § 648.100.

3. Section 648.107 is added to subpart G to read as follows:

##### § 648.107 Conservation equivalent measures.

(a) States may implement on an annual basis conservation equivalent measures that reduce the recreational catch to the same extent as the annual Federal summer flounder measures specified under § 648.100(c) to achieve the recreational harvest limit in any year. These measures would be a different combination of minimum fish sizes, possession limits, and closed seasons that are the conservation equivalent of those Federal summer flounder measures specified on an annual basis.

(b) A determination of equivalency would be made annually for any state proposing alternative recreational measures by the Summer Flounder Technical Committee of the Commission. Conservation equivalent measures may be implemented without Summer Flounder Technical Committee review, but only if states use the state-specific tables provided by the Commission and maintain a 15-inch (38-cm) TL minimum fish size.

(1) Once a state receives a determination of equivalency from the Summer Flounder Technical Committee, the Commission will recommend to the Regional Administrator that a notification be published in the **Federal Register** to waive the annual Federal summer flounder measures specified under § 648.100(c) and notify vessel permit holders of the equivalent measures approved by the Summer Flounder Technical Committee for landing summer flounder in that state.

(2) States electing not to implement conservation equivalent measures or states that did not receive a determination of equivalency from the Summer Flounder Technical Committee would be required to implement the annual Federal summer flounder

measures specified under § 648.100(c) in accordance with the provisions of the Interstate Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries.

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BILLING CODE 3510-22-F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[I.D. 041599B]

#### Fisheries of the Northeastern United States; Atlantic Bluefish Fishery

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

**ACTION:** Notice of availability of Amendment 1 to the Fishery Management Plan for Atlantic Bluefish (FMP); request for comments.

**SUMMARY:** NMFS announces that the Mid-Atlantic Fishery Management Council (Council) has submitted Amendment 1 to the Atlantic Bluefish FMP for Secretarial review and is requesting comments from the public. Amendment 1 would establish new management measures to control fishing mortality on Atlantic bluefish (bluefish) while addressing the new requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act (SFA). The intent of Amendment 1 is to eliminate overfishing and rebuild the Atlantic bluefish stock.

**DATES:** Comments must be received on or before June 29, 1999.

**ADDRESSES:** Send comments to Jon C. Rittgers, Acting Regional Administrator, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, Massachusetts 01930-3799. Mark the outside of the envelope: "Comments on Amendment 1 to the Atlantic Bluefish Plan."

Copies of Amendment 1, including the final environmental impact statement and regulatory impact review, are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19904-6790.

**FOR FURTHER INFORMATION CONTACT:** Myles Raizin, Fishery Policy Analyst, 978-281-9104.

#### SUPPLEMENTARY INFORMATION:

Amendment 1 would: revise the overfishing definition for Atlantic bluefish; implement a 9-year stock rebuilding schedule based on a staggered reduction of fishing mortality rate (F); specify a commercial quota with state allocations and a coastwide recreational harvest limit for the first year of the rebuilding schedule; implement permit and reporting requirements for commercial fishermen, dealers, and party/charter boat operators; establish a Bluefish Monitoring Committee; establish an annual adjustment process to meet fishing mortality rate objectives of the FMP; establish a framework adjustment process to change measures such as minimum fish size, gear restrictions, recreational seasons or bag limits, closed areas or commercial seasons; specify a *de minimus* commercial quota for certain states; and identify and describe essential fish habitat (EFH) of bluefish.

This amendment is intended to bring the Atlantic Bluefish FMP into conformance with the Magnuson-Stevens Act as amended by the SFA. The provisions in section 108(a) of the SFA require that Fishery Management Councils either add to or revise the required provisions of any fishery management plan prepared by a Council or the Secretary of Commerce to include the following provisions on: (1) bycatch reports (standardize reporting methods to assess the type and amount of bycatch in a fishery); (2) bycatch measures (develop management measures to minimize bycatch and mortality of bycatch); (3) commercial, recreational, and charter fishing sectors (specify data for each sector); (4) EFH (describe and identify EFH, minimize to the extent practicable adverse impacts from fishing, and identify other actions to encourage the conservation of such habitat); (5) fishing communities (assess in a fishery impact statement the likely effects of measures on fishing communities); (6) and overfishing (specify objective and measurable criteria for identifying whether a fishery is overfished, and include measures to prevent overfishing). Public comment is invited on the adequacy of Amendment 1 in meeting the requirements of section 108(a) of the SFA.

#### Overfishing Definition

Amendment 1 would revise the overfishing definition so that it is composed of two reference points to bring it into accordance with the new national standards of the Magnuson-Stevens Act, as amended by the SFA. The proposed overfishing definition for

bluefish is: Overfishing occurs whenever  $F$  is greater than the  $F$  threshold =  $F_{msy} = 0.4$ ; bluefish is overfished when biomass is less than  $1/2B_{msy} = 118.5$  mil lb (53,750 mt). The long-term  $F$  target is 90 percent of  $F_{msy}$  and the  $B_{target}$  is  $B_{msy}$ . No change to the regulatory text is necessary to change the overfishing definition.

#### Rebuilding Strategy

An additional requirement of the SFA is that stocks identified as overfished (i.e., stock biomass is less than minimum biomass threshold) must be rebuilt to the level that will produce  $B_{MSY}$  in as short a period as possible. The Council and Commission propose to rebuild the bluefish stock to the  $B_{MSY}$  level over a 9-year rebuilding period. The 9-year rebuilding schedule would eliminate overfishing and rebuild the stock through a graduated reduction in the  $F$ . The current  $F$  associated with  $MSY$  is  $F_{MSY} = 0.4$ . In 1997, the  $F$  was estimated at  $F = 0.51$ , so that overfishing was occurring.

For the first 2 years of the rebuilding plan (1999–2000),  $F$  would remain at the current level,  $F = 0.51$  and then would be reduced to  $F = 0.41$  in years 3–5 (2001–2003), and finally to  $F = 0.31$  in years 6–9 (2004–2007). During the rebuilding period, the target  $F$  for the next fishing year would be set at the level specified in the rate reduction schedule or the level estimated for the most recent year, whichever is less. Based on the overfishing definition, target  $F$  would continue to be at 90%  $F_{MSY}$  ( $F = 0.36$ ), once rebuilding is achieved. Amendment 1 proposes that commercial landings quotas and a recreational harvest limit are the chief measures to achieve these goals.

#### Essential Fish Habitat Designation

The Council identified and described EFH for various stages of the life cycle of bluefish, fishing impacts on EFH, non-fishing threats on EFH, and research recommendations relevant to a better understanding of EFH. The Council intends that the EFH designations for bluefish under this Amendment be reviewed and, if needed, updated at least every 5 years. Amendment 1 would authorize the revision of EFH components of the FMP through the FMP's framework process.

#### Management Measure Considered for Disapproval

##### De minimus Status

*De minimus* has been defined as a situation in which, under existing conditions of the stock and scope of the fishery, conservation and enforcement actions taken by an individual state