

National Marine Fisheries Service
Greater Atlantic Regional Fisheries Office
Sustainable Fisheries Division
www.greateratlantic.fisheries.noaa.gov



Status Report of Greater Atlantic Region Actions

Prepared for the April 21-23, 2015
Meeting of the
New England Fishery Management Council

April 17, 2015

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New England Council Actions

Small-Mesh Multispecies

2015-2017 Specifications for the Small-Mesh Multispecies Fishery

NMFS published a proposed rule in the Federal Register on April 8, 2015, proposing the 2015-2017 specifications for the small-mesh multispecies fishery and adjustments to the northern red hake accountability measures. The comment period closes on April 23, 2015. For further information contact Jason Berthiaume at (978) 281-9177 or e-mail at Jason.Berthiaume@noaa.gov.

Gulf of Maine Cod Interim Rule Correction—Exemption for Small-Mesh Multispecies Vessels

NMFS inadvertently left the Small Mesh Area 1 and 2 Exemption Areas out of the list of areas exempted from the Gulf of Maine Cod Seasonal Interim Closure Areas. Specifically, vessels fishing with raised footrope trawls can fish in the Small-Mesh Area 1 and 2 Exemption Areas when these exemption areas overlap with the Gulf of Maine Cod seasonal interim closure areas. We published a correction rule in the Federal Register on March 3, 2015 (80 FR 11331) and this exemption is effective until May 12, 2015, or until the Interim Rule is superseded by subsequent rulemaking. For further information contact William Whitmore at (978) 281-9182 or e-mail at William.Whitmore@noaa.gov.

Groundfish

Fishing Year 2015/2016 Sector Operation Plans

A total of 17 sectors submitted a proposed operations plan and contracts for fishing years 2015 and 2016. The operations plans include the sectors' operating rules and proposed regulatory exemptions. Initial sectors rosters were received February 18, 2015. NMFS published a proposed rule in the Federal Register (80 FR 12380, March 9, 2015), the comment period ended March 24, 2015, and a final rule is expected to publish in late April. For further information, contact Liz Sullivan at (978) 282-8493 or email at Liz.Sullivan@noaa.gov.

Framework Adjustment 53 to the Northeast Multispecies Fishery Management Plan (FW 53)

The New England Fishery Management Council submitted FW 53 to NMFS on February 23, 2015. NMFS published a proposed rule in the Federal Register (80 FR 12394, March 9, 2015) that proposed to set fishing years 2015–2017 catch limits for several groundfish stocks, modify management measures for Gulf of Maine cod, and adopt other measures to improve the management of the groundfish fishery. The comment period ended March 24, 2015, and a final rule is expected to publish in late April. For further information, contact Sarah Heil at (978) 281-9257 or email at Sarah.Heil@noaa.gov.

Scallops

Framework Adjustment 26 to the Atlantic Sea Scallop Fishery Management Plan (FW 26)

The New England Council submitted FW 26 to NMFS on February 17, 2015. NMFS published a proposed rule in the Federal Register on March 17, 2015 (80 FR 13806), that proposed to set fishing specifications for 2015 which include catch limits, days-at-sea allocations, individual fishing quotas, and sea scallop access area trip allocations. In addition, FW 26 proposes to implement other measures to improve the management of the scallop fishery. The comment period ended April 1 and a final rule is expected to publish soon. For further information, contact

Travis Ford at (978) 281-9233 or email at Travis.Ford@noaa.gov.

Monkfish

None at this time

Herring

None at this time

Skate

None at this time

Atlantic Deep-Sea Red Crab

None at this time

Mid-Atlantic Council Actions

Summer Flounder, Scup, and Black Sea Bass

Summer Flounder Commercial Quota Transfer – North Carolina to Virginia

NMFS published a temporary rule to be published in the Federal Register on April 16, 2015 (80 FR 20446), that transfers 11,108 lb of commercial summer flounder quota from North Carolina to Virginia. This transfer was prompted North Carolina vessels, authorized to land summer flounder in Virginia under safe harbor provisions on March 3, 2015. The landings were permitted to occur in Virginia due to mechanical failure. The revised summer flounder commercial quotas for calendar year 2015 are: Virginia, 2,394,228 lb; and North Carolina, 2,983,583 lb. For further information, contact Reid Lichwell at (978)-281-9112, or email at Reid.Lichwell@NOAA.gov.

Special Management Zones for Five Delaware Artificial Reefs

NMFS published a proposed rule in the Federal Register on June 19, 2014, (79 FR 35141) that proposes Special Management Zones (SMZs) on Five Delaware Artificial Reefs. The comment period closed August 19, 2014. This proposed rule was developed under the black sea bass provisions of the Summer Flounder, Scup and Black Sea Bass Fishery Management Plans and responds to the recommendations of the Mid-Atlantic Fishery Management Council. The proposed five Delaware artificial reef SMZ sites are off the coast of Delaware at various distances from approximately 4 to 58 nautical miles (7.4 to 107.0 km), rectangular in shape, and, including their 500 yard (0.46 km) buffer zones, encompass areas from 7.42 to 8.81 square km. Within the established areas of the SMZs, all vessels would only be allowed to conduct fishing with hook and line and spear (including the taking of fish by hand). On August 12, 2014, the Mid-Atlantic Fishery Management Council reconsidered its recommendations and requested that only four artificial reef SMZs be implemented, and that they be smaller areas (without buffer zones). NMFS is considering the new recommendations of the Council in the development of a final rule. For further information, contact Paul Perra at (978) 281-9153 or email at Paul.Perra@noaa.gov.

Atlantic Bluefish

None at this time

Spiny Dogfish

None at this time

Atlantic Mackerel, Squid, and Butterfish

2015-2017 Specifications for the Atlantic Mackerel, Squid, and Butterfish Fisheries

NMFS published a final rule in the Federal Register on March 20, 2015, (80 FR 14870) implementing 2015-2017 Specifications for the Atlantic mackerel, squid, and butterfish fisheries which become effective April 20, 2015. This action implements catch levels and associated management measures for the 2015-2017 fishing years for species managed under the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan including:

- Renew status quo quotas on longfin and Illex squids for an additional three years;
- Lower the cap on river herring and shad catch in the mackerel fishery from 236 mt to 89 mt;
- Increase the cap on river herring and shad catch in the mackerel fishery to 155 mt once the mackerel fishery catches more than 10,000 mt;
- Lower the Atlantic mackerel quota by 38 percent to 20,872 mt;
- Increase the butterfish quota by 700 percent from 3,200 mt to 22,530 mt in 2015, 21,042 mt in 2016, and 20,652 mt in 2017; and
- Simplify the controls on butterfish daily trip limits.

For further information, contact Carly Bari at (978) 281-9224 or email at Carly.Bari@noaa.gov.

Tilefish

Tilefish Individual Fishing Quota Cost Recovery:

Section 304(d) of the Magnuson-Stevens Act requires us to collect fees to recover the actual costs directly related to the management, data collection, and enforcement of limited access privilege programs, such as the Tilefish Individual Fishing Quota (IFQ) Program, not to exceed 3% of the ex-vessel value of fish harvested under the program. The 2014 fee percentage was 0.2665% based on total recoverable costs of \$14,662 and total value of IFQ landings of \$5,501,343. The 2014 tilefish IFQ cost recovery bills were issued on April 6, 2015. Bills must be paid online through our Fish Online website, and all payments are due by May 21, 2015. The annual report of the tilefish IFQ cost recovery program has been sent to the Council and is available on our website at: www.greateratlantic.fisheries.noaa.gov/sustainable/species/tilefish.

NMFS anticipates a higher cost recovery fee next year. The Magnuson-Stevens Act requires all Limited Access Privilege Programs, such as the Tilefish IFQ Program, to undergo a periodic review every 5 years. The Mid-Atlantic Fishery Management Council (MAFMC) and NMFS have initiated a review to be conducted over the course of the next year. The work to complete this review and generate a report will result in additional staff time for both the Greater Atlantic Regional Office and the Northeast Fisheries Science Center, which will be recoverable. Because this is the first such 5-year review conducted in this region, NMFS does not have a good estimate

of how much additional staff time this review will require. NMFS will try to provide the MAFMC and tilefish IFQ shareholders an estimate of total recoverable costs as soon as possible, and before the 2015 cost recovery bills are sent out. For further information contact Douglas Potts at 978-281-9341 or e-mail at Douglas.Potts@noaa.gov.

Surfclam and Ocean Quahog

Information Collection Program:

At the request of the MAFMC, NMFS proposed an information collection program to collect additional data about the specific individuals who hold or control surfclam and ocean quahog individual transferable quota (ITQ) allocation. This information would be used by the MAFMC to inform the development of an appropriate excessive shares cap for this fishery as part of a future FMP amendment. A proposed rule published in the Federal Register on August 7, 2014 (79 FR 46233), the comment period closed on September 8, 2014. At the request of the MAFMC, NMFS reopen the comment period through October 17, 2014. All comments received are being reviewed and considered as a final rule is being developed. For further information contact Douglas Potts at (978) 281-9341 or e-mail at Douglas.Potts@noaa.gov.

Other Actions

Lobster

Final Rule to Implement Management Measures for the American Lobster Fishery

NMFS published a final rule in the Federal Register on January 15, 2015 (80 FR 2028) consistent with the Atlantic States Marine Fisheries Commission's action in Addenda XVII and XVIII to Amendment 3 to the Interstate Fishery Management Plan for American Lobster. The rule implements several management measures to: Address a recruitment failure in the Southern New England American lobster stock, reduce exploitation of the stock by 10 percent, reduce latent effort, and scale the size of the Southern New England American lobster fishery to the stock. The following conservation measures, by Lobster Conservation Management Area, are approved for the start of fishing year 2015 (May 1, 2015):

- Area 2: Mandatory v-notching of egg-bearing female lobsters;
- Area 3: Minimum carapace size increase to 3 17/32 inches;
- Area 4: Mandatory v-notching of egg-bearing female lobsters, and an annual seasonal closure from February 1 through March 31; and
- Area 5: Mandatory v-notching of egg-bearing female lobsters, and annual trap allocations for Areas 2 and 3 will also approved for the start of fishing year 2016.

Area 2 trap allocations will be reduced by 25 percent starting in fishing year 2016, and by 5 percent each following year over a 5-year period. Similarly, Area 3 trap allocations will be reduced by 5 percent each year starting in fishing year 2016 for a 5-year period. Revised allocations based on the first year of trap reductions and participation in the trap transfer program subsequent transfers during 2015 will take effect on May 1, 2016. For further information contact Allison Murphy at (978) 281-9122 or e-mail at Allison.Murphy@noaa.gov.

Standardized Bycatch Reporting Methodology

Standardized Bycatch Reporting Methodology (SBRM) Omnibus Amendment

The SBRM Amendment will establish a methodology to assess the amount and type of bycatch occurring in the fishery for each of the Fishery Management Plans developed by the New England and Mid-Atlantic Fishery Management Councils. A Notice of Availability for the SBRM Omnibus Amendment was published in the Federal Register on December 15, 2014 (79 FR 74056), and a proposed rule was published on January 21, 2015 (80 FR 2898). The comment periods for the NOA closed February 13, 2015, and for the proposed rule on February 20, 2015. The SBRM Amendment was approved on March 13, 2015. A final rule to implement this action is pending. For further information contact Douglas Potts at (978) 281-9341 or Douglas.Potts@noaa.gov.

Paperwork Reduction Act Request for Comments

Sea Turtles in Virginia Pound Nets Data Collection

NMFS published a notice in the Federal Register on March 4, 2015 (80 FR 11633), requesting comments on a renewal for collection of information requirements under the Paperwork Reduction Act. This collection of information involves the requirement for Virginia pound net fishermen to report interactions with endangered and threatened sea turtles, found both live and dead, in their pound net operations to NMFS and if necessary, the appropriate rehabilitation and stranding network. The comment period closes May 4, 2015. For further information contact Carrie Upite at (978) 282-8475 or email at Carrie.Upite@noaa.gov.

Experimental Fishery Actions

Research Document Applications Under Review

The National Fisheries Institute (NFI) submitted a complete Exempted Fishing Permit (EFP) application on May 13, 2014, but delayed work on the project until spring of 2015. The exemptions that would allow one commercial fishing vessel to fish outside of the limited access Atlantic sea scallop days-at-sea (DAS) regulations found at 50 CFR 648.53(b); mesh size restrictions at §648.51(a)(2); obstruction in dredge gear restrictions at §648.51(b)(4)(iii); and the crew size regulations at §648.51(c). In addition, the EFP would temporarily exempt the participating vessel from possession limits and minimum size requirements specified in 50 CFR part 648, subsections B and D through O, for sampling purposes only. The purpose of the project is to assess the incidental mortality of scallops passing through the 4-rings of a 12-foot Turtle Deflector Dredge on sandy and hard substrates off the coast of New Jersey. The project is being funded through a grant with the Atlantic Sea Scallop Research Set-Aside Program. For further information, contact Shannah Jaburek at (978) 282-8456 or e-mail at Shannah.Jaburek@noaa.gov.

The Virginia Institute of Marine Science submitted a complete application for a Letter of Acknowledgement on March 24, 2015, to complete the second year of a two year Atlantic Sea Scallop Research Set-Aside Program project titled "Discard Mortality of Sea Scallops following capture and handling in the sea scallops dredge fishery." This study will estimate the scallop discard mortality rate characteristic of the commercial dredge fishery. The approach will be to assess the short-term survival (about 7 days) of observed scallops by holding the animals in a novel chilled seawater deck tank system engineered for discard mortality work. For further

information, contact Shannah Jaburek at (978) 282-8456 or e-mail at Shannah.Jaburek@noaa.gov.

On April 1, 2015, SeaPlan submitted an application for an extension of a Letter of Acknowledgement, to conduct an American lobster abundance study at the construction site of the Block Island Wind Farm (BIWF), located within Lobster Management Area 2. This lobster abundance study will take place over a period of 4 years: 2 years before construction, 1 year during construction, and 1 year after construction. SeaPlan will contract two commercial fishing vessels to determine the lobster abundance in the BIWF location. During May through October, 4 study sites will be sampled, twice per month. The study will utilize 3 trawl lines per site, with 12 traps per trawl line. Each trawl line will have 2 regularly configured traps and 10 vent-less traps. All lobsters caught during the sampling activity will be promptly returned to the water after sampling data are collected. Bycatch species will be immediately returned to the water upon hauling activity. For further information, contact Reid Lichwell at (978) 281-9112 or e-mail at Reid.Lichwell@noaa.gov.

Research Document Application Review Completed

An EFP was issued on April 8, 2015, to the University of Massachusetts Dartmouth, School for Marine Science and Technology (SMASST) for the Monkfish Research Set-Aside (RSA) Program for fishing year 2015. This project will allow vessels to conduct compensation fishing to support funding for researching mortality rates of winter skates that are captured in sink gillnets in the targeted monkfish fishery. The EFP exempts vessels from monkfish DAS possession limits in the Northern and Southern Monkfish Fishery Management Areas. Fishing activity will otherwise be conducted under normal monkfish commercial fishing practices. Vessels that are collectively operating under this EFP for the 2015 fishing year could use up to 252 monkfish RSA DAS or catch 806,400 lb of whole monkfish, whichever occurs first. For additional information, contact Reid Lichwell at (978) 281-9112 or e-mail at Reid.Lichwell@noaa.gov.

Protected Resources Actions

Proposed Rule to Identify and List Humpback Whale Distinct Population Segments Under the Endangered Species Act

NMFS published a proposed rule in the Federal Register on April 21, 2015, with a 90 day comment period to revise the Endangered Species Act (ESA) listing for the humpback whale. There will be two public meetings in our Region for the humpback whale revised listings:

- June 3rd – Plymouth, MA, and
- June 10th – Virginia Beach, VA (Public listening session of the Mid-Atlantic Council meeting).

Based on a thorough scientific status review, NMFS identified 14 distinct population segments of humpback whale worldwide and determined that 10 of them were not threatened by any of the factors listed under section 4(a)(1) of the ESA to the point where they warrant listing as endangered or threatened. Thus, in the proposed rule, we are proposing to revise the ESA listing for the humpback whale by removing the current species-wide endangered listing and in its place listing two distinct population segments as threatened and two as endangered. NMFS followed a rigorous, science-based process to develop these findings and recommendations. This is a public process, and we are seeking more information to assist with the final decision. The Marine

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Mammal Protection Act (MMPA) continues to protect all humpback whales in the United States. NMFS will continue our efforts under the MMPA to restore humpback whale populations to their Optimum Sustainable Population level and monitor their abundance through annual Stock Assessment Reports. If conditions change, we will reevaluate their status as necessary. For further information, contact Marta Nammack at (301) 427-8469 or e-mail at Marta.Nammack@noaa.gov.

Porbeagle Sharks - Preparing a New 90-day Finding

In January 2010, the Humane Society of the United States and Wild Earth Guardians petitioned NMFS to list porbeagle sharks under the ESA. NMFS published a “90-day finding” in July 2010 (75 FR 39656) determining that listing of porbeagle sharks under the ESA was not warranted. In August 2011, the petitioners filed suit against NMFS challenging our negative 90-day finding. In December 2014, the Court entered final judgment in favor of the plaintiffs, vacating the 2010 90-day finding. Now, NMFS is preparing a new 90-day finding (80 FR 16356, March 27, 2015). The new 90-day finding is expected to publish in early spring 2015. For further information, contact Kimberly Damon-Randall at (978) 281-9328 or e-mail at Kimberly.Damon-Randall@noaa.gov.

Shortnose Sturgeon 90-day Finding

NMFS has completed review of a petition to identify the Saint John River population of shortnose sturgeon (*Acipenser brevirostrum*) as a distinct population segment (DPS) and delist this DPS from the ESA. We concluded that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Therefore, a positive 90-day finding was published in the Federal Register on April 6, 2015 (80 FR 18347), and we are currently soliciting scientific and commercial information pertaining to this petition from any interested party. For further information, please contact, Lisa Manning, Office of Protected Resources at (301) 427-8466 or e-mail at Lisa.Manning@noaa.gov.