

2023 Bluefish Specifications

Supplemental Information Report (SIR)

Resubmission: October 26, 2022



**Prepared by the
Mid-Atlantic Fishery Management Council (Council)
in cooperation with
the National Marine Fisheries Service (NMFS)**

Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, DE 19901
(302) 674-2331 tel.
(302) 674-5399 fax

National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930
(978) 281-9315 tel.
(978) 281-9135 fax

Contents

Contents	2
Tables.....	2
Acronyms and Abbreviations	3
1. Introduction.....	4
2. Purpose of this Supplemental Information Report and the Proposed Action	5
3. Original Action	5
3.1. Original 2022-2023 Catch and Landings Limits	5
4. New Information/Circumstances	7
4.1. Recent Catch and Landings	7
5. Proposed New Action	10
6. NEPA Compliance and Supporting Analysis	10
7. Public Participation.....	12
8. Conclusion	13
9. Compliance with Applicable Laws	13
9.1. Magnuson-Stevens Fishery Conservation and Management Act (MSA)	13
9.2. National Environmental Policy Act (NEPA)	13
9.3. Marine Mammal Protection Act (MMPA).....	13
9.4. Endangered Species Act (ESA).....	14
9.5. Coastal Zone Management Act (CZMA).....	14
9.6. Administrative Procedure Act (APA)	15
9.7. Information Quality Act	15
9.8. Paperwork Reduction Act (PRA).....	17
9.9. Executive Order 12898 (Environmental Justice)	17
9.10. Regulatory Flexibility Act Analysis and Regulatory Impact Review	23
9.10.1. Basis and Purpose of the Rule	23
9.10.2. Description and Number of Regulated Entities	23
9.10.3. Expected Economic Impacts of Proposed Action on Regulated Entities	24
9.10.4. Analysis of Non-Preferred Alternatives.....	25
9.10.5. Regulatory Impact Review	Error! Bookmark not defined.
9.10.6. Conflict with Other Federal Rules	25
10. Preparers and Persons Consulted.....	25
11. References.....	25

Tables

Table 1: 2022-2023 bluefish specifications implemented in 2021.	6
Table 2: 2022-2023 bluefish acceptable biological catch, commercial quota, and recreational harvest limit alternatives analyzed through the Specifications EA.	7
Table 3: Community social vulnerability indicator categorical scores for communities	19

Acronyms and Abbreviations

ABC	Acceptable Biological Catch
ACL	Annual Catch Limit
ACT	Annual Catch Target
APA	Administrative Procedure Act
ASMFC	Atlantic States Marine Fisheries Commission (Commission)
Board	ASMFC Summer Flounder, Scup, and Black Sea Bass Board
CFR	Code of Federal Regulations
Commission	Atlantic States Marine Fisheries Commission (ASMFC)
Council	Mid-Atlantic Fishery Management Council (MAFMC)
CZMA	Coastal Zone Management Act
DSP	Distinct Population Segment
EA	Environmental Assessment
EFH	Essential Fish Habitat
EO	Executive Order
ESA	Endangered Species Act
FMP	Fishery Management Plan
FR	Federal Register
GARFO	Greater Atlantic Regional Fisheries Office
MAFMC	Mid-Atlantic Fishery Management Council
MC	Monitoring Committee
MMPA	Marine Mammal Protection Act
MRIP	Marine Recreational Information Program
MSA	Magnuson-Stevens Fishery Conservation and Management Act
MSY	Maximum Sustainable Yield
NEFSC	Northeast Fisheries Science Center
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service (also known as NOAA Fisheries)
NOAA	National Oceanic and Atmospheric Administration
OFL	Overfishing Limit
PBR	Potential Biological Removal
PRA	Paperwork Reduction Act
RHL	Recreational Harvest Limit
SIR	Supplemental Information Report
SSB	Spawning Stock Biomass
SSC	Scientific and Statistical Committee

1. Introduction

This document supports an action that would modify the 2023 recreational harvest limit (RHL) for bluefish. These measures are based on recommendations from the Monitoring Committee (MC), Mid-Atlantic Fishery Management Council (Council), and the Atlantic States Marine Fisheries Commission's (Commission's) Bluefish Management Board (Board). The proposed measures are described in detail in Section 5.0.

The Council and the Board meet jointly each year to consider the recommendations of the Scientific and Statistical Committee (SSC) and the MC, as well as input from Advisory Panel (AP) members, and other information, before making recommendations for ABCs, ACLs, commercial quotas, RHLs, and other commercial and recreational management measures for bluefish. These annual recommendations are also referred to as specifications. The Council submits these recommendations to the National Marine Fisheries Service (NMFS) Greater Atlantic Regional Administrator to consider for implementation. The Regional Administrator then reviews the recommendations and may revise them, if necessary, to achieve FMP objectives and to meet statutory requirements.

Bluefish catch and landings limits are established on an annual basis for two years at a time, based on stock size projections for upcoming years and advice from the SSC and MC. The MSA requires that the Council's SSC provide recommendations for ABC, prevention of overfishing, and maximum sustainable yield (MSY). The Council's catch limit recommendations cannot exceed the ABCs recommended by the SSC. For each year, the ABC is divided into sector specific ACLs based on the allocation percentages of 86% recreational and 14 % commercial as defined in the FMP. The MC is responsible for developing recommendations to the Council on management measures, including commercial and recreational ACTs, to achieve the recommended catch limits for each fishery sector. The ACTs may be set equal to or less than the ACLs to account for management uncertainty. Sector-specific landings limits are implemented in the form of a commercial quota and RHL after deducting projected dead discards from the sector-specific ACTs.

The bluefish catch and landings limits for 2022-2023 were described in the 2022-2023 Environmental Assessment (EA) and the final rule published February 2, 2022 (87 FR 5739). This document is referred to hereafter as “the Specifications EA.”

In June 2021, a bluefish management track assessment, which included revised bluefish Marine Recreational Information Program (MRIP) estimates and commercial landings through 2019 indicated the bluefish stock is still overfished and overfishing is not occurring. This update builds upon the 2019 operational assessment with data through 2018 that first indicated the stock was overfished and overfishing was not occurring. Recreational landings and dead discards in 2021 resulted in an ACL overage and accountability measures are triggered for 2023. Bluefish recreational accountability measures require a pound for pound overage payback when the stock is overfished.

Sections 1.0 through 8.0 are components of a Supplemental Information Report (SIR) which demonstrates compliance with the National Environmental Policy Act (NEPA). As described in section 2.0, an SIR is used to determine whether a proposed action will require further analysis beyond a prior NEPA analysis for a related action. Section 9.0 demonstrates compliance with other applicable laws, including the MSA.

2. Purpose of this Supplemental Information Report and the Proposed Action

The purpose of this SIR is to determine if the recommended 2023 RHL (section 5.0) requires a supplement to the Specifications EA which established catch and landings limits for bluefish (section 3.0) as required under the National Environmental Policy Act (NEPA).

This action proposes a 2023 RHL of 14.11 million pounds, a 36% decrease from the previously approved 2023 RHL and is necessary to account for the 5.59-million-pound recreational overage that occurred in 2021. The revised RHL also incorporates 2021 discard information. The proposed adjusted 2023 RHL represents a 1.6% increase from the 2022 RHL even after the overage deduction.

In making a determination on the need for additional analysis under NEPA, we have considered and have been guided by the Council on Environmental Quality (CEQ) NEPA regulations and applicable case law. The CEQ's regulations state that "[a]gencies shall prepare supplements to either draft or final environmental impact statements if: (i) the agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts." 40 Code of Federal Regulations (C.F.R.) § 1502.9(d)(1). Consistent with 40 C.F.R. 1502.9(d)(4) and 1501.3(b) we have determined that any changes to the proposed action or new circumstances or information relevant to environmental concerns are not significant and therefore do not require a supplement.

3. Original Action

3.1. Original 2022-2023 Catch and Landings Limits

In June 2021, a bluefish management track assessment, which included revised bluefish MRIP estimates and commercial landings through 2019 indicated the bluefish stock is still overfished and overfishing is not occurring (NEFSC 2021). This update builds upon the 2019 operational assessment with data through 2018 that first indicated the stock was overfished and overfishing was not occurring.

The Council and Board approved the Bluefish Allocation and Rebuilding Amendment at their June 2021 meeting. The rebuilding portion of the Amendment includes a 7-year constant fishing mortality plan that began in 2022. In July 2021, the SSC recommended 2022-2023 bluefish ABCs using the total catch value from the 7-year constant rebuilding fishing mortality as an overfishing limit (OFL) proxy and accounting for scientific uncertainty associated with the OFL proxy. The SSC recommended that a CV of 100% be applied to the OFL estimate as an appropriate ABC and noted that the chief uncertainty for Bluefish relates to patterns in the revised MRIP estimates. This resulted in an ABC of 25.26 million pounds (11,460 mt) for 2022 and 30.62 million pounds (13,890 mt) for 2023.

In August 2021, the Council and Board set 2022-2023 annual catch targets (ACTs), total allowable landings (TALs), commercial quotas, recreational harvest limits (RHLs), and other associated management measures after considering advice from the SSC, MC, and AP (Final Rule 2/2/2022, 87 FR 5739). The MC recommended 2022-2023 commercial and recreational ACTs equal to the ACLs, with no buffer for management uncertainty, and expected recreational discards equal to the

2020 GARFO estimated discards (Table 1). This was the most recent year available and the first year with the current recreational management measures. The 2022-2023 specifications adopted in 2021 are shown in Table 1 and the range of alternatives analyzed in the corresponding specifications EA are shown in Table 2.

Table 1:2022-2023 bluefish specifications implemented in 2021 through the 2022-2023 Specifications EA.

Management Measure	Year				Basis
	2022		2023		
	mil lb.	mt	mil lb.	mt	
Overfishing Limit (OFL)	40.56	18,399	45.17	20,490	Stock assessment projections
ABC	25.26	11,460	30.62	13,890	Derived by SSC; Follows the rebuilding plan through NEFSC projections
ACL	25.26	11,460	30.62	13,890	Defined in FMP as equal to ABC
Commercial ACL	3.54	1,604	4.29	1,945	ABC x 14%
Commercial ACT	3.54	1,604	4.29	1,945	ACL – Management Uncertainty
Recreational ACL	21.73	9,856	26.34	11,945	ABC x 86%
Recreational ACT	21.73	9,856	26.34	11,945	ACL – Management Uncertainty
Recreational AMs	3.65	1,656	0	0	2022 based on 2020 ABC overage
Commercial Discards	0	0	0	0	Value used in assessment
Recreational Discards	4.19	1,901	4.19	1,901	2020 GARFO-estimated (MRIP) discards
Commercial TAL	3.54	1,604	4.29	1,945	Commercial ACT - commercial discards
Recreational TAL	13.89	6,298	22.14	10,044	Recreational ACT - recreational discards and rec. AM for 2022
Transfer	0	0	0	0	No transfer while overfished or overfishing
Commercial Quota	3.54	1,604	4.29	1,945	Commercial TAL +/- transfer
RHL	13.89	6,298	22.14	10,044	Recreational TAL +/- transfer

Table 2: 2022-2023 bluefish acceptable biological catch, commercial quota, and recreational harvest limit alternatives analyzed through the Specifications EA.

Alternative	ABC		Comm. Quota		RHL	
	2022	2023	2022	2023	2022	2023
Alternative 1 - No Action	N/A	N/A	N/A	N/A	N/A	N/A
Alternative 2 - Preferred	25.26	30.62	3.54	4.29	13.89	22.14
Alternative 3 - Non-Preferred	40.70	43.36	5.70	6.07	27.16	33.10
Not a True Alternative – Status Quo	16.28	16.28	2.77	2.77	8.34	8.34

4. New Information/Circumstances

Determining whether a supplemental NEPA analysis is required involves a two-step process. First, one must identify new information or circumstances. Second, if there is new information, one must analyze whether it is significant to the analysis of the action and relevant to environmental concerns and bearing on the action or its impacts. The new information, compared to the information considered in the 2022-2023 Specifications EA, includes an additional year of fishery data in 2021 as well as updated recreational data from 2020.

Because the proposed adjustment to the 2023 RHL is intended to achieve harvest levels within the range analyzed in the previously implemented specifications, none of this information alters the impacts previously considered in the 2022-2023 Specifications EA. None of the new information indicates that there have been any substantial changes in the fishery or circumstances under which the original action was implemented. The new information in this section represents minor data updates that show that the bluefish fishery conditions are similar to those at the time of the 2022-2023 Specifications EA.

4.1. Recent Catch and Landings

The COVID-19 pandemic impacted data collection in both the recreational and commercial fisheries. While effort and markets were impacted by COVID-19 to various degrees, data collection for commercial landings from seafood dealers continued uninterrupted. However, 2020 commercial discard estimates will be affected by missing observer data. The MRIP program used imputation methods to fill gaps in 2020 recreational catch data with data collected in 2018 and 2019.

Recreational harvest, dead discards, and commercial landings from 2000-2021 are presented in Figure 1. Recreational landings were 12.46 million pounds in 2021, a 1.12 million pound decrease compared with 2020, and the lowest harvest for the time series. This coincides with lower effort, as the number of recreational trips¹ in 2021 (7,409,375) is the second lowest reported in the 2000-2021 period. Recreational catch and harvest and commercial landings by state are shown in Table 3. In 2019, the Council and Board approved recreational management measures to constrain

¹ Estimated number of recreational fishing trips where the primary or secondary target was bluefish, Maine – Florida's East Coast. Source: MRIP.

harvest to the RHL, which included going from a 15 fish bag limit across all modes to a 3-fish bag limit for private and shore modes and a 5-fish bag limit for the for-hire mode. The recreational management measures were not implemented by all states until mid-late 2020. The first full year of these more restrictive bag limits was 2021.

Commercial landings were 2.07 million pounds in 2021, a 0.09 million pound decrease compared with 2020. Similar to recreational harvest, 2021 commercial harvest represents the lowest commercial landings in the time series. Commercial bluefish harvest identified through the dealer database (cfders) was comprised of gillnet (59%), followed by unknown gear (26%), otter trawl/bottom fish (7%), handline (5%) and other (3%).

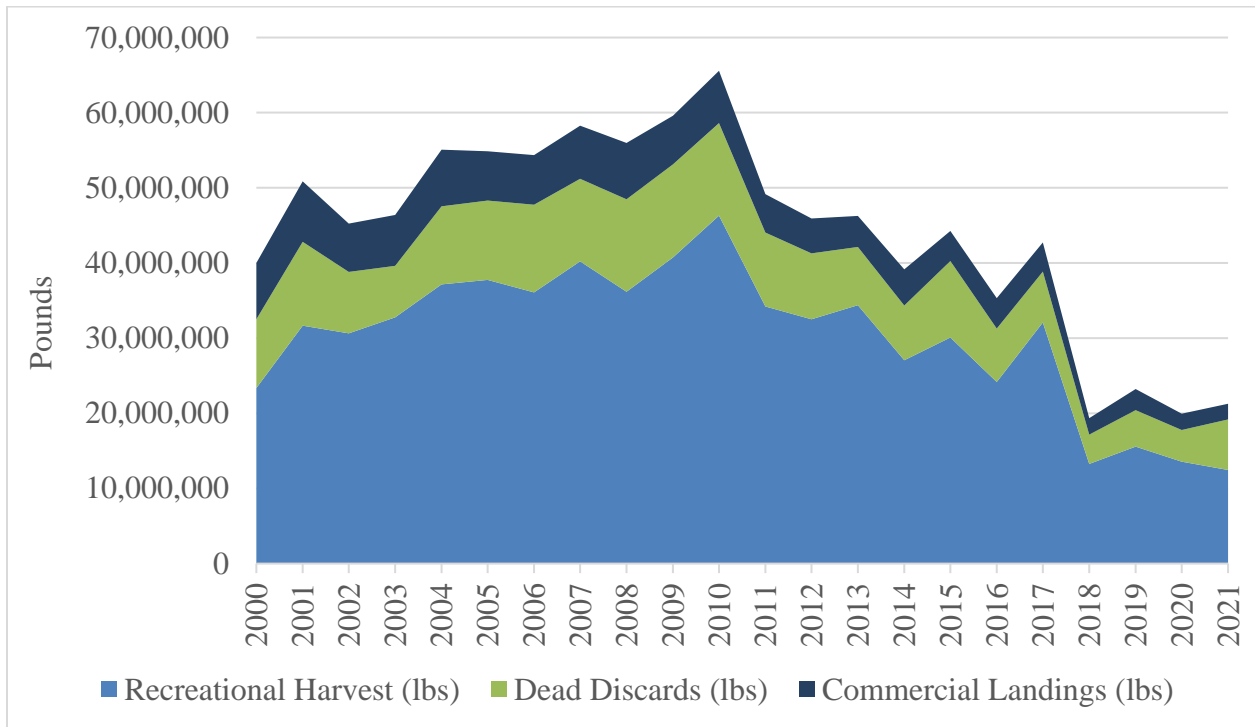


Figure 1. Bluefish total catch (recreational harvest, recreational dead discards, and commercial landings) from 2000-2021. Source: MRIP and dealer data). Commercial discards are thought to be negligible.

Table 3. MRIP estimates of 2021 bluefish recreational harvest, total catch, and average weight and commercial landings.

State	Recreational						Commercial
	Harvest			Catch	Released Alive	Dead Discards ²	Landings
	Pounds	Number	Ave. Wt. ¹ (lbs)	Number	Number	Number	Pounds
ME	3,633	673	5.4	6,104	5,431	815	0
NH	3,796	698	5.4	698	-	-	0
MA	833,962	116,547	7.2	855,041	738,494	110,774	223,723
RI	718,950	140,504	5.1	774,409	633,905	95,086	254,607
CT	206,429	263,966	0.8	1,180,092	916,126	137,419	33,648
NY	2,353,527	861,060	2.7	3,565,667	2,704,607	405,691	324,186
NJ	3,357,809	921,667	3.6	2,895,008	1,973,341	296,001	230,157
DE	8,460	14,019	0.6	179,562	165,543	24,831	2,171
MD	117,545	105,711	1.1	316,949	211,238	31,686	3,065
VA	153,199	216,317	0.7	719,804	503,487	75,523	44,626
NC	1,031,761	982,391	1.1	4,521,724	3,539,333	530,900	851,860
SC	107,268	172,528	0.6	722,532	550,004	82,501	0
GA	12,870	13,811	0.9	136,588	122,777	18,417	0
FL	3,553,572	2,373,891	1.5	13,875,822	11,501,931	1,725,290	102,623
Total	12,462,781	6,183,783	-	29,750,000	23,566,217	3,534,932	2,070,666

¹ Average weight is the pounds harvested divided by the number of fish harvested. ²Recreational dead discards are calculated as 15% of total recreational discards.

5. Proposed New Action

This action proposes a 2023 RHL of 14.11 million pounds, a 36% decrease from the previously approved 2023 RHL and is necessary to account for the 5.59-million-pound recreational overage that occurred in 2021. The revised RHL in this action also incorporates the 2021 discard estimate of 6.64 million pounds while the previously approved 2023 RHL used the 2020 discard estimate of 4.19 million pounds. The proposed adjusted 2023 RHL represents a 1.6% increase from the 2022 RHL. As such, the Council and Bluefish Board maintained status quo recreational management measures for 2023 and this action does not propose any changes to the recreational bag, minimum size, or season. Impacts of the proposed changes in this action are only expected to be realized through the adjustment to the 2023 RHL, while the updated 2021 discard estimate feeds into the calculation of the RHL adjustment. This action does not propose any other changes to the other previously projected commercial and recreational measures for fishing year 2023 from the Specifications EA.

The MC met on July 27, 2022, to review the previously implemented bluefish catch and landings limits, commercial and recreational measures for 2023 and recommend any changes if needed. The MC reviewed the 2021 recreational ACL overage and recommended an adjusted 2023 RHL calculated from the required pound for pound accountability measure payback and the 2021 GARFO discard estimate as a proxy for 2023 discards, resulting in an adjusted RHL of 14.11 million pounds. In August 2022, the Council and Board agreed with the MC recommendations. This proposed action is consistent with the best scientific information available and are intended to prevent overfishing.

As previously stated, this SIR is supported by the information and analysis presented in the 2022-2023 Specifications EA. The proposed adjustment to the 2023 RHL described in this document for bluefish results in an RHL within the range of RHLs previously analyzed in the Specifications EA (Table 2).

6. NEPA Compliance and Supporting Analysis

In this section, the proposed 2023 RHL is compared to those considered through the 2022-2023 Specifications EA in terms of their expected impacts. The methods, assumptions, and data sources used in this analysis are described in more detail below and are consistent with those applied in the Specifications EA.

CEQ requirements indicate that a supplemental NEPA analysis must be prepared if a new proposed action is substantially different from a previously completed but related action. However, not every change to a proposed action, including the presence of new information, necessitates the development of a new or supplemental NEPA analysis. National Oceanic and Atmospheric Administration Fisheries (NOAA) provided guidance to Councils on the use of “non-NEPA documents” to help determine whether a new or supplemental NEPA document is necessary or if a non-NEPA document (SIR) may be used to demonstrate that an original NEPA document sufficiently considered and analyzed the proposed actions and its effects. At this time, it appears that an SIR would be appropriate given the information discussed below.

The proposed adjusted 2023 RHL of 14.11 million pounds for bluefish falls between the 2022 and 2023 RHLs under the preferred alternative (alternative 2) analyzed in the Specifications EA.

Alternative 2 included an RHL of 13.89 million pounds for 2022 and an RHL of 22.14 million pounds for 2023. The proposed adjustment to the 2023 specifications would maintain the same ABC and overall effort is expected to be similar to effort originally analyzed in alternative 2. The bluefish recreational fishery is largely catch and release, for example in 2021, 79% of the recreational catch was released alive, and 21% of catch was harvested (in numbers of fish; Table 3). In addition, there are no proposed changes to the recreational management measures, which may have more impact on recreational harvest than a change in the RHL alone. Therefore, as described in more detail below, the expected impacts of the proposed 2023 RHL are similar to the impacts described for alternative 2 in the Specifications EA.

The proposed action is expected to result in bluefish recreational harvest that falls within harvest assumed under alternative 2 with no changes to the overall ABC as described above. Under this alternative in the EA, levels of recreational fishing effort and landings were expected to be slightly higher than the current conditions at that time. Under all alternatives and the proposed RHL in this document, it was not expected that fishing effort would substantially shift or expand in geographic area or seasonality.

The expected impacts on **target species (bluefish)** under alternative 2 were slight negative to slight positive. This range was expected due to short term increases in effort (i.e., number of trips and anglers, amount of gear, soak time, etc.) compared to the operating conditions and long-term progress towards rebuilding, as defined in the rebuilding projections. For the recreational sector, the current bag limits are already constraining and may deter some anglers (particularly for-hire anglers due to the perception higher bag limits bring to paying customers) from substantially increasing effort on the bluefish stock. Overall, the bluefish stock was expected to remain overfished through 2023, which supports the slight negative impact designation, but is working towards rebuilding under this preferred alternative (leading to the slight positive impact designation) despite the higher quotas. Given the currently proposed adjustment to the specifications would maintain the same ABC and overall harvest as originally analyzed in alternative 2 and would continue to follow the approved rebuilding plan, overall impacts to bluefish as analyzed in the EA would continue to be similar under the proposed RHL.

Alternative 2 was expected to have impacts on **non-target species** ranging from slight negative to slight positive, as this alternative was expected to maintain the existing stock status of each non-target species. As described in section 6.12 in the 2022-2023 Specifications EA, alternative 2 was not expected to result in a change in the stock status of any non-target species; therefore, it was expected to have impacts on non-target species that range from slight negative for non-target species which currently have a negative stock status to slight positive for non-target species with a currently positive stock status. Given the currently proposed adjustment to the specifications would maintain similar overall harvest as originally analyzed in alternative 2, overall impacts to non-target species as analyzed in the EA would continue to be similar under the proposed RHL in this action.

Impacts to the **physical environment and EFH** under the proposed adjustment to the RHL are expected to be similar to those described under alternative 2 in the Specifications EA. The recreational bluefish fishery is almost exclusively a hook and line fishery. Recreational hook and line gears generally have minimal impacts on physical habitat and EFH in this region (Stevenson et al. 2004). Weighted hook and line gear can contact the bottom, but the magnitude and footprint of any impacts resulting from this contact is likely minimal. Thus, the recreational fisheries are

expected to continue to have very minor or no impacts on habitat. The expected impacts to habitat under the alternative 2 ranged from slight negative to negligible because any contact with the bottom has the potential to negatively affect EFH, but the regions where bluefish are targeted have been heavily fished for decades. The currently proposed adjustment to the RHL would maintain similar overall harvest as originally analyzed in alternative 2, therefore, overall impacts to physical environment and EFH as analyzed in the EA would continue to be similar under the proposed RHL in this action.

Impacts on **protected species** under the proposed action are expected to be similar to those described under alternative 2 in the Specifications EA, as the proposed 2023 RHL is a minor change from 2022 and overall effort is not expected to change substantially. Overall, alternative 2 was expected to have slight negative to slight positive impacts on protected species, with slight negative to slight positive impacts expected for MMPA (non-ESA listed) species, and slight negative to negligible impacts expected for ESA-listed species. As effort under alternative 2 was expected to remain similar to the current operating conditions, alternative 2 was not expected to introduce new or elevated interaction risks to protected resources (i.e., no increase in the amount, time, and location of gear in the water). Given this information, alternative 2 was expected to result in slight negative impacts to non-ESA listed marine mammal stocks/species in poor condition (i.e., bottlenose dolphin stocks), negligible to slight positive impacts to non-ESA listed species of marine mammals whose PBR levels have not been exceeded, and slight negative to negligible impacts to ESA-listed species

Alternative 2 from the previous EA was expected to have **socioeconomic** impacts ranging from slight negative to slight positive and vary over the short and long term. Ultimately, alternative 2 was the most in line with the ongoing rebuilding plan and offers a balance between rebuilding plan progression while maintaining opportunities for increased angler satisfaction for the human communities. The currently proposed adjustment to the RHL would maintain similar overall harvest as originally analyzed in alternative 2 and is expected to have impacts similar to those described under alternative 2.

Overall, the proposed 2023 measures are not expected to alter the biological, EFH, or socioeconomic impacts previously described in the EA. The proposed action falls within the previously analyzed range, and the new information does not change the outcome of the impacts previously assessed within that range. No additional analyses are required beyond what is described above in this section.

7. Public Participation

The public had the opportunity to provide comments during the development of the 2022-2023 Specifications EA. The public also had the opportunity to review and comment on the 2023 bluefish measures review during the MC and AP meetings in July and August 2022 and during the Council/Board meeting held in August 2022.

This document will be subject to public comment through proposed rulemaking, as required under the Administrative Procedure Act and may be improved based on comments received.

8. Conclusion

After considering the proposed action, new information, and new circumstances, NMFS has determined that the proposed action and its effects fall within the scope of the 2022-2023 Specifications EA. Thus, it is not necessary to supplement the original Specifications EA because 1) the impacts of this action do not differ substantially from what was originally considered and analyzed in the EA; and (2) no new information or circumstances exist that are significantly different from when the EA Finding of No Significant Impact was signed on January 20, 2022. The Specifications EA thus remains valid to support the proposed action.

9. Compliance with Applicable Laws

9.1. Magnuson-Stevens Fishery Conservation and Management Act (MSA)

Section 301 of the MSA requires that FMPs contain conservation and management measures that are consistent with the ten National Standards. The actions taken in this specification document are confined to processes defined within the FMP; therefore, as actions within the FMP have been deemed consistent with the National Standards, these specification actions are similarly consistent. The most recent FMP amendments and framework adjustments address how the management actions implemented comply with the National Standards. First and foremost, the Council continues to meet the obligations of National Standard 1 by adopting and implementing conservation and management measures that will continue to prevent overfishing, while achieving, on a continuing basis, the optimum yield for bluefish and the U.S. fishing industry, including ACLs and measures to ensure accountability for those limits. The Council uses the best scientific information available (National Standard 2) and manages bluefish throughout their range (National Standard 3). These management measures do not discriminate among residents of different states, (National Standard 4), they do not have economic allocation as their sole purpose (National Standard 5), they account for variations in these fisheries (National Standard 6), they avoid unnecessary duplication (National Standard 7), they take into account the fishing communities (National Standard 8), and they promote safety at sea (National Standard 10). The actions taken are consistent with National Standard 9, which addresses bycatch in fisheries. The Council has implemented many regulations that have indirectly acted to reduce fishing gear impacts on EFH. By continuing to meet the National Standards requirements of the MSA through future FMP amendments, framework actions, and the annual specification setting process, the Council will ensure that cumulative impacts of these actions will remain positive overall for the ports and communities that depend on these fisheries, for the Nation as a whole, and for the resources.

9.2. National Environmental Policy Act (NEPA)

The Council has determined that the proposed action and its effects fall within the scope of the 2022-2023 Specifications EA, and that these analyses remain valid for this action. Thus, there is no need to supplement these analyses and their Findings of No Significant Impact.

9.3. Marine Mammal Protection Act (MMPA)

None of the specifications proposed in this document are expected to alter overall effort or fishing methods beyond what has been previously analyzed. Therefore, this action is not expected to affect marine mammals or critical habitat in any manner not considered in previous consultations on the fisheries. Further information on the potential impacts of the fishery and the proposed management action on marine mammals can be found in the 2022-2023 Specifications EA. These analyses

found that the overall catch limits and associated management measures were not expected to affect marine mammals or critical habitat in any manner not considered in previous consultations on the fisheries.

9.4. Endangered Species Act (ESA)

Section 7 of the ESA requires federal agencies conducting, authorizing, or funding activities that affect threatened or endangered species to ensure that those effects do not jeopardize the continued existence of listed species.

Pursuant to section 7 of the ESA, NMFS issued a Biological Opinion (Opinion) on May 27, 2021, that considered the effects of the NMFS' authorization of ten FMPs, NMFS' North Atlantic Right Whale Conservation Framework, and the New England Fishery Management Council's Omnibus Essential Fish Habitat Amendment 2, on ESA-listed species and designated critical habitat. The ten FMPs considered in the Opinion include the: (1) American lobster; (2) Atlantic bluefish; (3) Atlantic deep-sea red crab; (4) mackerel/squid/butterfish; (5) monkfish; (6) Northeast multispecies; (7) Northeast skate complex; (8) spiny dogfish; (9) summer flounder/scup/black sea bass; and (10) Jonah crab FMPs. The American lobster and Jonah crab FMPs are permitted and operated through implementing regulations compatible with the interstate fishery management plans issued under the authority of the Atlantic Coastal Fisheries Cooperative Management Act, the other eight FMPs are issued under the authority of the MSA.

The 2021 Opinion determined that the proposed action may adversely affect, but is not likely to jeopardize, the continued existence of North Atlantic right, fin, sei, or sperm whales; the Northwest Atlantic Ocean distinct population segment (DPS) of loggerhead, leatherback, Kemp's ridley, or North Atlantic DPS of green sea turtles; any of the five DPSs of Atlantic sturgeon; Gulf of Maine DPS Atlantic salmon; or giant manta rays. The Opinion also concluded that the proposed action is not likely to adversely affect designated critical habitat for North Atlantic right whales, the Northwest Atlantic Ocean DPS of loggerhead sea turtles, U.S. DPS of smalltooth sawfish, Johnson's seagrass, or elkhorn and staghorn corals. An Incidental Take Statement was issued in the Opinion. The Incidental Take Statement includes reasonable and prudent measures and their implementing terms and conditions, which NMFS determined are necessary or appropriate to minimize impacts of the incidental take in the fisheries assessed in this Opinion.

9.5. Coastal Zone Management Act (CZMA)

Section 307(c)(1) of the CZMA of 1972, as amended, requires that all federal activities that directly affect the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. The CZMA provides measures for ensuring stability of productive fishery habitat while striving to balance development pressures with social, economic, cultural, and other impacts on the coastal zone. Responsible management of coastal zones and fish stocks must involve mutually supportive goals. NMFS must determine whether this action is consistent to the maximum extent practicable with the CZM programs for each state (Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and North Carolina). The Council has developed these management measures and will submit them to NMFS; NMFS must determine whether this action is consistent to the maximum extent practicable with the CZM programs for each state.

9.6. Administrative Procedure Act (APA)

Section 553 of the Administrative Procedures Act establishes procedural requirements applicable to informal rulemaking by federal agencies. The purpose of these requirements is to ensure public access to the federal rulemaking process and to give the public adequate notice and opportunity for comment. At this time, the Council is not requesting any abridgement of the rulemaking process for this action.

9.7. Information Quality Act

Utility of Information Product

The information presented in this document is helpful to the intended users by presenting a clear description of the purpose and need of the proposed action, the measures proposed, and the impacts of those measures. A discussion of the reasons for selecting the proposed action is included so that readers may have a full understanding of the proposed action and its implications. The intended users of the information contained in this document include individuals involved in bluefish fishery, (including commercial and recreational fishermen and fishery managers) and other individuals interested in the management of the fishery. The information contained in this document should be helpful to individuals affected by the proposed measures. This information will enable these individuals to adjust their management practices and make appropriate business decisions. Until a proposed rule is prepared and published, this document, as well as the briefing materials, recordings, and meeting summaries from the August 2022 Council/Board meeting, are the principal means by which the information contained herein is available to the public. The information provided in this document is based on the most recent available information from the relevant data sources. The information contained in this document, as well as in the EA off which it builds, include detailed and recent information on bluefish resource.

The action described in this document was developed to be consistent with the FMP, MSA, and other applicable laws through a multi-stage process that was open to review by affected members of the public. The public had the opportunity to provide comments during the development of the 2022-2023 Specifications EA. The public also had the opportunity to review and comment on the 2023 bluefish measures review during the MC and AP meetings in July and August 2022 and during the Council/Board meeting held in August 2022.

This document will be subject to public comment through proposed rulemaking, as required under the APA and may be improved based on comments received. The *Federal Register* notice that announces the proposed rule and the final rule and implementing regulations will be made available in printed publication, on the website for the Greater Atlantic Regional Fisheries Office (www.greateratlantic.fisheries.noaa.gov) and through [Regulations.gov](https://www.regulations.gov). The *Federal Register* documents will provide metric conversions for all measurements.

Integrity of Information Product

This information product meets the standards for integrity under the following types of documents: Other/Discussion (e.g., Confidentiality of Statistics of the MSA; NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics; 50 CFR 229.11, Confidentiality of information collected under the MMPA).

Prior to dissemination, information associated with this action, independent of the specific intended distribution mechanism, is safeguarded from improper access, modification, or

destruction, to a degree commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information. All electronic information disseminated by NMFS adheres to the standards set out in Appendix III, “Security of Automated Information Resources,” of Office of Management and Budget Circular A-130; the Computer Security Act; and the Government Information Security Act. All confidential information (e.g., dealer purchase reports) is safeguarded pursuant to the Privacy Act; Titles 13, 15, and 22 of the U.S. Code (confidentiality of census, business, and financial information); the Confidentiality of Statistics provisions of the MSA; and NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics.

Objectivity of Information Product

For purposes of the Pre-Dissemination Review, this document is considered to be a “Natural Resource Plan.” Accordingly, the document adheres to the published standards of the MSA; the Operational Guidelines, FMP Process; the EFH Guidelines; the National Standard Guidelines; and NOAA Administrative Order 216-6, Environmental Review Procedures for Implementing the National Environmental Policy Act. This information product, and the assessments off which it builds, use information of known quality from sources acceptable to the relevant scientific and technical communities. Several sources of data were used in the development of the 2022-2023 Specifications EA and this SIR document. These data sources included, but were not limited to, historical and current commercial landings data from commercial dealers, historical and current recreational landings data from MRIP, Vessel Trip Report data, and fisheries independent data collected through the NMFS bottom trawl surveys. The analyses contained in this document, and in the EA off which this document builds, were prepared using data from accepted sources. The analyses have been reviewed by members of the bluefish Monitoring Committee and/or by the Council’s SSC where appropriate.

Conservation and management measures considered for this action were selected based upon the best scientific information available. The analyses important to this decision used the most recent data available, including, but not limited to, the best available information on the number of permits, both active and inactive, in the fisheries, the catch (including landings and discards) by those vessels, the landings per unit of effort, and the revenue produced by the sale of those landings to dealers. Specialists (including professional members of technical teams, committees, and Council staff) who worked with these data are familiar with the most current analytical techniques and with the available data and information relevant to the fishery.

The policy choice is clearly articulated in section 2.0 of this document, and the proposed measures are described in section 5.0. The supporting science and analyses, upon which the policy choice was based, are summarized and described in sections 4.0, 5.0, and 6.0 of this document and in the 2022-2023 Specifications EA. All supporting materials, information, data, and analyses within this document have been, to the maximum extent practicable, properly referenced per commonly accepted standards for scientific literature to ensure transparency. The review process used in preparation of this document involves the Council, the Northeast Fisheries Science Center, the Greater Atlantic Regional Fisheries Office, and NOAA Fisheries Service Headquarters. The Northeast Fisheries Science Center’s technical review is conducted by senior level scientists with specialties in population dynamics, stock assessment methods, population biology, and the social sciences. The Council review process involves public meetings at which affected stakeholders have opportunity to provide comments on the document. Review by staff at the NMFS Greater

Atlantic Regional Office is conducted by those with expertise in fisheries management and policy, habitat conservation, protected species, and compliance with the applicable law. Final approval of the action proposed in this document and clearance of any rules prepared to implement resulting regulations is conducted by staff at NOAA Fisheries Service Headquarters, the Department of Commerce, and the U.S. Office of Management and Budget. In preparing this action, NMFS must comply with the requirements of the MSA, NEPA, the Administrative Procedure Act, the Paperwork Reduction Act, the CZMA, the ESA, the MMPA, the Information Quality Act, and Executive Orders 12630 (Property Rights), 12866 (Regulatory Planning), 13132 (Federalism), and 13158 (Marine Protected Areas). The Council has determined that the proposed action is consistent with the National Standards of the MSA and all other applicable laws.

9.8. Paperwork Reduction Act (PRA)

The Paperwork Reduction Act (PRA) concerns the collection of information. The intent of the PRA is to minimize the federal paperwork burden for individuals, small businesses, state and local governments, and other persons, as well as to maximize the usefulness of information collected by the federal government. The Council is not proposing measures under this regulatory action that require review under PRA. There are no changes to existing reporting requirements previously approved under this FMP. This action does not contain a collection-of-information requirement for purposes of the PRA.

9.9. Executive Order 12898 (Environmental Justice)

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) provides guidelines to ensure that potential impacts on these populations are identified and mitigated, and that these populations can participate effectively in the NEPA process. NOAA guidance NAO 216-6A, Companion Manual, Section 10(A) requires the consideration of EO 12898 in NEPA documents. Agencies should also encourage public participation, especially by affected communities, during scoping, as part of a broader strategy to address environmental justice issues. Minority and low-income individuals or populations must not be excluded from participation in, denied the benefits of, or subjected to discrimination because of their race, color, or national origin.

Although the impacts of this action may affect communities with environmental justice concerns, the proposed action should not have disproportionately high effects on low income or minority populations. The proposed actions would apply to all participants in the affected area, regardless of minority status or income level. There is insufficient demographic data on participants in the recreational bluefish fishery (e.g., for-hire captains and crew, for-hire customers, private recreational anglers, employees of support industries) to quantify the income and minority status of potentially affected fishery participants. Without more data, it is difficult to fully determine how this action may impact various population segments. The public comment process is an opportunity to identify issues that may be related to environmental justice. The public has never requested translations of documents pertinent to the bluefish fishery.

The NOAA Fisheries Community Social Vulnerability Indices² can help identify communities where environmental justice may be of concern. Vulnerability indices include labor force structure, housing characteristics, poverty, population composition, and personal disruption. Gentrification

² Available at <https://www.fisheries.noaa.gov/national/socioeconomics/social-indicators-coastal-communities>

pressure is also measured through indices for housing disruption, urban sprawl, and retiree migration. All indices include categorical rankings from 1 through 4, with 1 representing the lowest vulnerability and 4 representing the highest vulnerability. This same data set includes rankings of recreational fishery engagement and recreational fishery reliance. **Table 3** lists the vulnerability categorical rankings for communities with medium high or high recreational fishery engagement or reliance in states where at least 5% of recreational harvest of bluefish occurred in recent years. Recreational fishing engagement and reliance at the community level is not broken down by species. Therefore, it is possible that the recreational fishery engagement and reliance rankings for some of these communities may be driven by fisheries other than bluefish.

Federal agencies are required to collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and (or) wildlife for subsistence. GARFO tracks these issues, but there are no federally recognized tribal agreements for subsistence fishing in federal waters in the regions impacted by this action.

Table 3: Community social vulnerability indicator categorical scores for communities in states with at least 5% of recreational harvest of bluefish in recent years and high or medium high recreational fishing engagement or reliance (which may be driven by other species). 1 refers to a low vulnerability ranking, 2 indicates medium, 3 indicates medium high, and 4 indicates high. Only those communities with a ranking of medium high or high in at least one category are shown. Indicator scores are based on 2019, the most recent year available. Details on the methodology and definitions of each category can be found at

<https://www.st.nmfs.noaa.gov/data-and-tools/social-indicators/>

State	Community Name	Poverty	Labor Force	Housing Characteristics	Population Composition	Personal Disruption	Housing Disruption	Retiree Migration	Urban Sprawl
MA	Barnstable Town	1	1	1	1	1		1	1
MA	Bourne	1	3	2	1	1	3	4	1
MA	Dennis	1	4	1	1	1	3	4	1
MA	Falmouth	1	4	2	1	1	4	4	2
MA	Harwich Port	1	4	1	1	1	3	4	1
MA	Mattapoisett	1	1	1	1	1	2	2	3
MA	Newburyport	1	1	1	1	1	2	1	3
MA	Oak Bluffs	1	1	1	1	1	4	1	2
MA	Plymouth	1	1	1	1	1	3	2	2
MA	Salem	2	1	2	2	1	1	1	3
MA	Yarmouth/South Yarmouth/West Yarmouth/Yarmouth Port	1	2	2	1	1	3	3	1
RI	Jamestown	1	2	1	1	1	4	2	2
RI	Narragansett/Point Judith	1	2	1	1	1	3	2	1
RI	Newport	2	1	1	1	1	4	1	2
CT	New Haven	4	1	2	4	4	2	1	3
CT	New London	4	1	3	3	4	1	1	1
NY	Babylon	1	1	1	1	1	3	1	4
NY	Bronx/City Island	4	1	2	4	4	2	1	4
NY	Brooklyn/Sheepshead Bay	4	1	1	4	3	4	1	4
NY	Center Moriches	1	1	1	1	1	4	1	2
NY	Freeport	1	1	1	4	1	2	1	4
NY	Hampton Bays/Shinnecock	1	1	1	3	1	4	1	2
NY	Lindenhurst	1	1	1	1	1	3	1	4
NY	Long Beach	1	1	1	1	1	3	1	4
NY	Montauk	1	3	1	1	1	4	4	3
NY	Mount Sinai	1	1		1	1	1	2	3
NY	Northport	1	1	1	1	1	1	2	4
NY	Orient	1	4	1	1	1	4	4	2

State	Community Name	Poverty	Labor Force	Housing Characteristics	Population Composition	Personal Disruption	Housing Disruption	Retiree Migration	Urban Sprawl
NY	Point Lookout	1	3	1	1	1	1	4	4
NY	Port Jefferson	1	1	1	1	1	2	1	3
NY	Queens	2	1	1	4	2	4	1	4
NY	Saint James	1	1	1	1	1	3	1	3
NY	Seaford	1	1	1	1	1	2	2	4
NY	Verplanck	1	1	1	1	1	1	1	3
NY	Wantagh	1	1	1	1	1	3	2	4
NJ	Avalon	1	4	1	1	1	4	4	2
NJ	Avon-by-the-Sea	1	3	1	1	1	1	3	3
NJ	Barnegat Light	1	4		1	1	4	4	2
NJ	Belmar/South Belmar	1	1	1	1	1	4	1	3
NJ	Berkeley/Bayville	1	4	2	1	1	1	4	
NJ	Brigantine	1	2	1	1	1	4	3	1
NJ	Cape May	1	3	2	1	1	4	3	1
NJ	Ocean City	1	3	1	1	1	4	4	1
NJ	Point Pleasant Beach	1	1	1	1	1	4	1	3
NJ	Sea Isle City	1	4	1	1	1	4	4	1
NJ	Seaside Park	1	3	1	1	1	4	3	3
NJ	Upper/Beeley's Point/Seaville/Strathmere	1	1	2	1	1	1	1	
NJ	Wildwood	3	3	2	1	3	4	2	1
DE	Lewes	1	4	1	1	1	3	4	1
DE	Millsboro	3	2	2	1	2	3	2	1
DE	Rehoboth Beach-Dewey Beach-Indian River	1	3	1	1	1	4	4	1
VA	Gloucester Courthouse	1	4	2	1	1	1	4	1
VA	Newport News	2	1	2	3	2	1	1	1
VA	Norfolk	3	1	2	2	3	2	1	1
NC	Atlantic Beach	1	3	3	1	1	3	3	1
NC	Avon	1	4		1	4		3	1
NC	Bath	1	4	2	1	1	4	4	1
NC	Beaufort	3	3	3	1	2	1	3	1
NC	Belhaven	3	3	4	2	4	1	3	1
NC	Carolina Beach	1	1	2	1	1	4	1	1
NC	Emerald Isle	1	3	2	1	1	2	3	1
NC	Hatteras/Avon/Buxton/Frisco/Rodanthe/Salvo/Waves	3	1	3	1	2	1	2	1

State	Community Name	Poverty	Labor Force	Housing Characteristics	Population Composition	Personal Disruption	Housing Disruption	Retiree Migration	Urban Sprawl
NC	Jacksonville	2	1	3	2	2	1	1	1
NC	Kill Devil Hills	1	1	3	1	2	3	1	1
NC	Kure Beach	1	3	1	1	1	3	3	1
NC	Manteo	3	2	2	1	2	3	2	1
NC	Morehead City	3	2	3	1	2	2	2	1
NC	Nags Head	1	1	2	1	1	3	2	1
NC	North Topsail Beach	3	3	2	1	1	4	3	1
NC	Oak Island	1	3	3	1	1	3	4	1
NC	Ocean Isle Beach	1	4	1	1	1	1	4	1
NC	Wanchese	1	1	3	1	1	1	1	1
FL	Boynton Beach	2	1	2	3	2	2	1	2
FL	Cape Canaveral	1	3	3	1	1	4	3	1
FL	Coral Gables	1	1	1	3	1	3	1	3
FL	Dania Beach	3	1	3	3	2		1	2
FL	Daytona Beach	4	2	3	2	3	1	2	1
FL	Deerfield Beach	2	1	3	4	2	1	1	2
FL	Duck Key	1	4	2	1	1	4	4	1
FL	Edgewater	2	3	3	1	1	1	3	1
FL	Fernandina Beach	1	4	2	1	1	2	4	1
FL	Flagler Beach	2	4	2	1	1	3	4	1
FL	Homestead	4	1	2	4	4	3	1	2
FL	Islamorada (Village of Islands)	1	2	1	1	1	4	2	1
FL	Jacksonville	2	1	3	2	2	1	1	1
FL	Jacksonville Beach	1	1	1	1	1	4	1	1
FL	Jensen Beach	1	3	3	1	1	2	3	1
FL	Juno Beach	1	4	1	1	1	2	4	1
FL	Jupiter	1	1	1	1	1	3	1	2
FL	Key Biscayne	1	1	1	3	1	1	1	4
FL	Key Largo	3	2	2	1	1	4	2	1
FL	Key West	2	1	1	2	1	4	1	1
FL	Lauderdale-by-the-Sea	1	4	1	1	1	1	4	3
FL	Layton	1	2	1	2	1	4	3	1
FL	Marathon	2	1	3	2	1	3	1	1
FL	Melbourne Beach	1	3	1	1	1	2	3	1
FL	Miami	4	1	3	4	3	4	1	4
FL	New Smyrna Beach	1	4	2	1	1	3	4	1
FL	North Key Largo	1	4	1	1	1	1	4	4

State	Community Name	Poverty	Labor Force	Housing Characteristics	Population Composition	Personal Disruption	Housing Disruption	Retiree Migration	Urban Sprawl
FL	North Miami Beach	4	1	3	4	3	2	1	2
FL	Oak Hill	1	4	4	1	1	3	4	1
FL	Ormond Beach	1	3	2	1	1	1	3	1
FL	Palm Coast	1	3	2	1	1	1	4	1
FL	Pompano Beach	3	2	3	4	3	1	1	2
FL	Ponce Inlet	1	4	1	1	1	4	4	1
FL	Port Orange	2	2	3	1	1	1	2	1
FL	Riviera Beach	3	1	3	4	3	3	1	1
FL	Sebastian	1	4	3	1	1	1	4	1
FL	St. Augustine	2	3	2	1	1	3	2	1
FL	Stuart	2	3	3	2	1	2	3	1
FL	Titusville	2	3	3	1	2	1	2	1
FL	Vero Beach	1	3	3	1	1	1	3	1
FL	Wabasso	1	3		1	1		2	1

9.10. Regulatory Flexibility Act Analysis

This section provides analysis to address the requirements of the Regulatory Flexibility Act. These two mandates are addressed together as many of their requirements are duplicative.

The Regulatory Flexibility Act (RFA), first enacted in 1980, and codified at 5 U.S.C. 600-611, was designed to place the burden on the government to review all new regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization can have a bearing on its ability to comply with Federal regulations. Major goals of the RFA are: 1) to increase agency awareness and understanding of the impact of their regulations on small business; 2) to require that agencies communicate and explain their findings to the public; and 3) to encourage agencies to use flexibility and to provide regulatory relief to small entities.

The RFA emphasizes consideration of alternatives that may minimize significant adverse impacts on small entities, while still achieving the stated objective of the action. When an agency publishes a proposed rule, it must either, (1) certify that the proposed action will not have a significant adverse impact on a substantial number of small entities and provide a supporting factual basis, or, (2) if such a certification cannot be supported by a factual basis, prepare and make available for public review an Initial Regulatory Flexibility Analysis that describes the impact of the proposed rule on small entities.

The sections below provide the supporting analysis to assess whether the preferred alternative will have a “significant impact on a substantial number of small entities.”

9.10.1. Basis and Purpose of the Rule

This action is taken under the authority of the MSA and regulations at 50 CFR part 648. Section 2.0 of this document summarizes the purpose and need and objectives of this action. The proposed action includes a 2023 RHL of 14.11 million pounds, based on the recommendations from the MC Council and Board which include the 2021 recreational discard estimate (updated from 2020), with no changes to other bluefish limits and measures from what was previously projected for 2023. As described in sections 4 and 5, the proposed RHL is consistent with the best scientific information available and is intended to prevent overfishing. In addition, the proposed action follows previously implemented methods and implements required accountability measures in the FMP.

9.10.2. Description and Number of Regulated Entities

The regulated entities (i.e., the small and large businesses) considered in the analysis of this action include fishing operations with federal party/charter permits for bluefish. Private recreational anglers are not considered “entities” under the Regulatory Flexibility Act, thus economic impacts on private anglers are not considered here.

For Regulatory Flexibility Act purposes only, NMFS established a small business size standard for businesses, including their affiliates, whose primary industry is commercial or recreational fishing (50 CFR §200.2). A business primarily engaged in fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its

affiliates) and has combined annual receipts not in excess of \$11 million, for all its affiliated operations worldwide.

Vessel ownership data³ were used to identify all individuals who own fishing vessels. Vessels were then grouped according to common owners. The resulting groupings were treated as entities, or affiliates, for purposes of identifying small and large businesses which may be regulated by this action.

Affiliates potentially regulated by this action include any affiliates with federal for-hire permits for bluefish in any year between 2019-2021. According to the vessel ownership data 384 for-hire affiliate firms generated revenues from fishing recreationally for various species during the 2019-2021 period; all of those business affiliates are categorized as small businesses. It is not possible to derive what proportion of the overall revenues for these for-hire firms came from specific fishing activities (e.g., bluefish, summer flounder, scup, black sea bass, groundfish, golden tilefish, weakfish, striped bass, tautog, pelagics). Nevertheless, given the popularity of bluefish as a recreational species in the Mid-Atlantic and New England regions, it is likely that revenues generated from bluefish may be significant for some if not all of these firms.

9.10.3. Expected Economic Impacts of Proposed Action on Regulated Entities

The expected impacts of the proposed action were analyzed by employing quantitative approaches to the extent possible. Effects on profitability associated with the proposed management measures should be evaluated by looking at the impact of the proposed measures on individual business entities' costs and revenues. Changes in gross revenues were used as a proxy for profitability. Where quantitative data were not available, qualitative analyses were conducted.

The three-year average (2019-2021) combined gross receipts (all for-hire fishing activity combined) for the small entities was \$48,634,827, ranging from less than \$10,000 for 125 entities (lowest value \$97) to over \$1,000,000 for 9 entities (highest value \$3,832,525).

Under the proposed action, recreational angler satisfaction and party/charter revenues are expected to be the same or higher when compared to 2019-2021 due to the increase in RHL. However, it is difficult to predict with certainty how the bluefish RHL will affect demand for party/charter boat trips compared to recent years. For-hire revenues are impacted by a variety of factors, including regulations and demand for for-hire trips for bluefish, and other potential target species; weather; the economy; and other factors. Demand may be driven in part by the 3 and 5-fish bag limits that have been in place since 2020 for shore/private and for-hire anglers, respectively. These management measures may continue to result in anglers transferring effort away from a species with more restrictive measures towards those with more liberal measures, resulting in little change in overall fishing effort or demand for party/charter trips where multiple species can be caught together. However, many anglers in the recreational sector are participating in the catch and release fishery for bluefish and will be less impacted.

³ Affiliate data for 2019-2021 were provided by the NMFS NEFSC Social Science Branch.

9.10.4. Analysis of Non-Preferred Alternatives

When considering the economic impacts of the alternatives under the Regulatory Flexibility Act, consideration should also be given to those non-preferred alternatives which would result in higher net benefits or lower costs to small entities while still achieving the stated objective of the action. The Council and Board did not consider any alternatives other than those described above for the proposed 2023 RHL.

9.10.5. Conflict with Other Federal Rules

This action is consistent with previous actions by the Council and NMFS, and there is no known conflict with other agencies. There are no known impacts on any entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. There are no known conflicts with other legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. The proposed action is largely based on measures previously implemented for other Council managed species and are not precedent-setting or novel.

10. Preparers and Persons Consulted

For questions or to obtain a copy of the document, please contact:

Karson Cisneros, Fishery Management Specialist, Mid-Atlantic Fishery Management Council, kcoutre@mafmc.org or 302-526-5259.

Preparer:

Karson Cisneros, Fishery Management Specialist, Mid-Atlantic Fishery Management Council, Dover, Delaware.

Persons consulted:

Ashleigh McCord, NEPA Policy Analyst, NMFS Greater Atlantic Regional Fisheries Office, Gloucester Massachusetts.

Cynthia Ferrio, Fishery Policy Analyst, NMFS Greater Atlantic Regional Fisheries Office, Gloucester Massachusetts.

11. References

MAFMC. 2021. 2022-2023 Bluefish Specifications, Environmental Assessment, Regulatory Impact Review, and Regulatory Flexibility Act Analysis. 125 p.

NEFSC. 2021. Management Track Assessments of the Black Sea Bass, Scup, and Bluefish Stocks Updated Through 2019. Prepublication copies prepared for use by Fishery Management Council staff and SSC. Available by species at <https://www.mafmc.org/ssc-meetings/2021/july21-23>.

Stevenson, D., L. Chiarella, D. Stephan, R. Reid, K. Wilhelm, J. McCarthy, M. Pentony. 2004. Characterization of the fishing practices and marine benthic ecosystems of the Northeast U.S. Shelf, and an evaluation of the potential effects of fishing on Essential Fish Habitat. NOAA Technical Memorandum NMFS-NE-181; 179 p.