

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XXXX

New England Fishery Management Council; Northeast Multispecies Fishery; Notice of Intent to Prepare an Environmental Impact Statement (EIS); Request for Comments

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

ACTION: Notice; intent to prepare an environmental impact statement; request for comments.

SUMMARY: The New England Fishery Management Council (Council) announces its intention to prepare, in cooperation with NMFS, an EIS in accordance with the National Environmental Policy Act (NEPA).

An EIS may be necessary to provide analytical support for the fishing year 2013-2015 catch allowances and management measures for the Northeast (NE) Multispecies Fishery Management Plan (FMP). Analysis may also be necessary to evaluate alternatives for mitigating FMP interactions with threatened and endangered distinct population segments of Atlantic sturgeon.

This notice is to alert the interested public of the potential development of a Draft EIS, and to outline opportunity for public participation in that process.

DATES: Written comments must be received on or before 5 p.m., EST, on [insert 30 days after publication in the FEDERAL REGISTER].

ADDRESSES: Written comments may be sent by any of the following methods:

DISCUSSION DRAFT—April 18, 2012 GROUND FISH COMMITTEE MEETING

- E-mail: [\[TO BE DETERMINED\]@noaa.gov](mailto:[TO BE DETERMINED]@noaa.gov)
- Mail or hand delivery: Mr. Paul Howard, New England Fishery Management Council, 50 Water St., Mill 2, Newburyport, MA 01950. Mark the outside of the envelope “[TO BE DETERMINED]”; or
- Fax: (978) 465-3116.

[The scoping document *or* Additional information] may also be obtained from the Council office at the previously provided address, by request to the Council by telephone (978) 465-0492, or via the internet at <http://www.nefmc.org>. Comments may also be provided at upcoming Council meetings [include schedule, as needed]. *Or* Comments may also be provided at the following scoping meetings: [XXXXXX]

FOR FURTHER INFORMATION CONTACT: Mr. Paul Howard, New England Fishery Management Council, 50 Water St., Mill 2, Newburyport, MA 01950, (telephone 978-465-0492).

SUPPLEMENTARY INFORMATION: The Council, working through its public participatory committee and meeting processes, anticipates development of actions that may be analyzed through an EIS, or analyzed through an Environmental Assessment (EA), dependent on addressing applicable criteria in Council of Environmental Quality regulations and guidance for implementing NEPA. The action may include the following measures:

1. Establishment of catch limits and management measures for certain stocks and species for the 2013, 2014, and possibly the 2015 fishing years, and;

2. Development of measures to minimize take and/or adverse impacts on threatened and endangered distinct population segments (DPS) of Atlantic sturgeon that interact with the NE multispecies fisheries.

These potential measures are described in further detail, as follows:

Catch limits and management measures

The development of fishing year 2013, 2014, and possibly 2015 catch allowances and management measures has already been initiated by the Council. It is expected that the action will likely be taken through an FMP framework adjustment process; however, it is possible that an amendment to the FMP may be utilized, dependent on the final scope and scale of the action relative to the authority provided by the FMP for framework adjustment. The action is expected to be further developed throughout 2012. The Council recommendations are designed to be submitted to NMFS for review, approval, rulemaking and implementation in time for NMFS to implement the action by the start of the 2013 fishing year (May 1, 2013). The Council will provide advanced notice of development and decisionmaking meetings where the 2013-15 catch allowance and management measures will be discussed.

The Council may take action including, but not limited to, establishment of annual catch allowances for the commercial and recreational NE multispecies fisheries along with commercial and recreational fishery regulatory changes designed to ensure catch does not exceed the established allowances being concurrently implemented by the action. These catch and fishing measures are anticipated for the following groundfish species either throughout all northeastern U.S. waters, in U.S. waters subject to the U.S./Canada Resources Sharing Understanding, or as specified in broad stock areas, as indicated by parenthesis: Atlantic cod (George's Bank (GB)

and Gulf of Maine (GOM) stocks); haddock (GB and GOM stocks); yellowtail flounder (Cape Cod/GOM, GB, and Southern New England/Mid-Atlantic Bight (SNE/MA) stocks); American plaice; witch flounder; Acadian redfish; white hake; windowpane flounder (GOM/GB and SNE/MA stocks); ocean pout; Atlantic wolffish; and Atlantic halibut.

The Council anticipates using this action to address requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and its national standards. Specifically, the Council intends to establish Annual Catch Limits (ACLs) based on Acceptable Biological Catch (ABC) advice from its Scientific and Statistical Committee (SSC) for commercial and recreational fisheries that catch these species. ACLs are designed to ensure that stocks do not become overfished, are not subject to overfishing, and, where required, rebuild to target biomass levels. In addition, the Council anticipates taking action to end overfishing for stocks currently subject to overfishing: GOM and GB cod; GOM haddock; Cape Cod/GOM yellowtail flounder; GOM/GB windowpane flounder; and witch flounder. Ending overfishing may require reduction in catch allowances from currently established levels, changes in management measures, or both. The changes in management measures will be focused on those necessary to ensure catch limits are not exceeded.

The Council intends to provide analysis of the positive and negative environmental impacts resulting from various alternatives under consideration for the previously mentioned species and objectives. The interested public is encouraged to participate in the development process and provide input on alternatives designed to achieve the previously described objectives. The Council will begin the catch and management measures specification process by soliciting comments during an initial scoping period, as proscribed in this notice. However, if, the ongoing

analysis indicates a Finding of No Significant Impact (FONSI) statement can be supported, the Council may provide notice in the Federal Register indicating that it is not necessary to prepare an EIS and develop an EA to provide the necessary NEPA analysis. It is expected that a new stock assessment for GOM cod will be completed and available for 2013-15 catch and management measures development process. Many of the scientifically controversial components of the most recent assessment, conducted in December 2012, are planned to be addressed by this new assessment. The status of scientific controversy involving the available stock assessment information for GOM cod is expected to be a consideration in whether a FONSI can be supported. One issue is the question of whether the structure of the cod stocks is correctly defined. While work on this issue is planned to occur during 2012, because of the complicated questions that must be resolved the work may not be complete in time to incorporate the results into this assessment. As a result, 2013 cod catch limits will likely be based on the current understanding of stock structure. The Council will keep the public apprised of the ongoing NEPA analysis development as the catch and management measures process moves forward.

Atlantic sturgeon related measures

NMFS published a final rule (77 FR 5880; February 6, 2012) to list Atlantic sturgeon under the Endangered Species Act (ESA) as threatened in the Gulf of Maine DPS and as endangered in the New York Bight and Chesapeake Bay DPSs. Atlantic sturgeon within these DPSs are known to interact with the NE multispecies fisheries.

Following the publication of the final listing rule, NMFS has initiated formal consultation under Section 7 of the ESA for the NE multispecies FMP and is developing a comprehensive

Biological Opinion to ascertain the level of impact the fishery may have on these three Atlantic sturgeon DPSs. As part of the Section 7 consultation, NMFS will determine if the NE multispecies fishery jeopardizes the continued existence of any or all of the DPSs, or if the level of interaction may adversely impact but does not jeopardize survival of the species in any or all of the DPSs. These determinations will result in the requirement to develop and implement measures required by the ESA: Either Reasonable and Prudent Alternatives (RPAs) to avert survival jeopardy or Reasonable and Prudent Measures (RPMs) to mitigate adverse impact on the DPSs.

The Council anticipates that some level of action will be necessary to develop and implement either RPAs or RPMs following completion of NMFS' Section 7 consultation process. In anticipation of this action, the Council is soliciting public comment on the types of measures that may mitigate the take and interaction of Atlantic sturgeon by the NE multispecies fishery as well as the positive and negative environmental effects analysis necessary to evaluate these alternatives. The Council may elect to develop Atlantic sturgeon-related measures in conjunction with 2013-2015 catch and management measures in an EIS. However, if a FONSI can be substantiated, the measures needed to implement Atlantic sturgeon mitigation measures may be analyzed in an EA. The Council will keep the public apprised of the level of NEPA analysis being conducted in conjunction with Atlantic sturgeon-related measures, as development of the overall action occurs.

The timing for development and completion of Atlantic sturgeon-related mitigation measures is currently uncertain. Completion of the Section 7 consultation is necessary to determine the magnitude of impact the NE multispecies fishery has on the continued survival of

Atlantic sturgeon from these three DPSs. The consultation is planned to be completed by June XX, 2012; the associated Biological Opinion will result in development of an Incidental Take Statement that will recommend RPAs or RPMs. These may include a process to develop and put in place mitigation measures by a time certain. The Council anticipates continued dialog with NMFS and the interested public regarding what requirements must be satisfied while consultation is ongoing and after consultation has been completed. As a result of those discussions, it is possible the Council may choose to address sturgeon measures in a broad-based action that develops measures simultaneously for several FMPs. If this decision is made the NOI will be revised to reflect this change in approach.

Public comment

In addition to soliciting comment on this notice, the public will have the opportunity to comment on the measures and alternatives being considered by the Council through public meetings and public comment periods required by NEPA, the Magnuson-Stevens Act, and the Administrative Procedure Act.

The Council's process for developing ACLs, Atlantic sturgeon-related mitigation measures and NEPA-required analyses, in this case presumably 1 or more EISs, if necessary, will involve development work and meetings of the Groundfish Plan Development Team, the SSC, the Recreational and Commercial fishery Advisory Panels, and the full Council. Information regarding the schedule for meetings, including agendas and meeting-related documents, involving these groups can be found on the Council's web site: <http://www.nefmc.org/> or obtained by calling the Council office at (978) 465-0492.

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

Dated:
