

§ 131.40 Puerto Rico.

(a) *Use designations for marine waters.* In addition to the Commonwealth's adopted use designations, the following waterbodies

in Puerto Rico have the beneficial use designated in this paragraph (a) within the bays specified below, and within the Commonwealth's territorial seas, as defined in section 502(8) of the Clean

Water Act, and 33 CFR 2.05-5, except such waters classified by the Commonwealth as SB.

Waterbody segment	From	To	Designated use
Coastal Waters	500m offshore	3 miles offshore	Primary Contact. Recreation.
Guayanilla & Tallaboa Bays	Cayo Parguera	Punta Verraco	Primary Contact. Recreation.
Mayaguez Bay	Punta Guanajibo	Punta Algarrobo	Primary Contact. Recreation.
Ponce Port	Punta Carenero	Punta Cuchara	Primary Contact. Recreation.
San Juan Port	Mouth of Río Bayamón	Punta El Morro	Primary Contact. Recreation.
Yabucoa Port	N/A	N/A	Primary Contact. Recreation.

(b) *Criteria that apply to Puerto Rico's marine waters.* In addition to all other Commonwealth criteria, the following criteria for bacteria apply to the waterbodies in paragraph (a) of this section:

Bacteria: The fecal coliform geometric mean of a series of representative samples (at least five samples) of the waters taken sequentially shall not exceed 200 colonies/100 ml, and not more than 20 percent of the samples shall exceed 400 colonies/100 ml. The enterococci density in terms of geometric mean of at least five representative samples taken sequentially shall not exceed 35/100 ml. No single sample should exceed the upper confidence limit of 75% using 0.7 as the log standard deviation until sufficient site data exist to establish a site-specific log standard deviation.

(c) *Water quality standard variances.*

(1) The Regional Administrator, EPA Region 2, is authorized to grant variances from the water quality standards in paragraphs (a) and (b) of this section where the requirements of this paragraph (c) are met. A water quality standard variance applies only to the permittee requesting the variance and only to the pollutant or pollutants specified in the variance; the underlying water quality standard otherwise remains in effect.

(2) A water quality standard variance shall not be granted if:

(i) Standards will be attained by implementing effluent limitations required under sections 301(b) and 306 of the CWA and by the permittee implementing reasonable best management practices for nonpoint source control; or

(ii) The variance would likely jeopardize the continued existence of any threatened or endangered species listed under section 4 of the Endangered

Species Act or result in the destruction or adverse modification of such species' critical habitat.

(3) A water quality standards variance may be granted if the applicant demonstrates to EPA that attaining the water quality standard is not feasible because:

(i) Naturally occurring pollutant concentrations prevent the attainment of the use;

(ii) Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating Commonwealth water conservation requirements to enable uses to be met;

(iii) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place;

(iv) Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way which would result in the attainment of the use;

(v) Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like unrelated to water quality, preclude attainment of aquatic life protection uses; or

(vi) Controls more stringent than those required by sections 301(b) and 306 of the CWA would result in substantial and widespread economic and social impact.

(4) Procedures. An applicant for a water quality standards variance shall submit a request to the Regional Administrator of EPA Region 2. The

application shall include all relevant information showing that the requirements for a variance have been met. The applicant must demonstrate that the designated use is unattainable for one of the reasons specified in paragraph (c)(3) of this section. If the Regional Administrator preliminarily determines that grounds exist for granting a variance, he/she shall provide public notice of the proposed variance and provide an opportunity for public comment. Any activities required as a condition of the Regional Administrator's granting of a variance shall be included as conditions of the NPDES permit for the applicant. These terms and conditions shall be incorporated into the applicant's NPDES permit through the permit reissuance process or through a modification of the permit pursuant to the applicable permit modification provisions of Puerto Rico's NPDES program.

(5) A variance may not exceed five years or the term of the NPDES permit, whichever is less. A variance may be renewed if the applicant reapplies and demonstrates that the use in question is still not attainable. Renewal of the variance may be denied if the applicant did not comply with the conditions of the original variance, or otherwise does not meet the requirements of this section.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648****[I.D. 101403A]****New England Fishery Management Council; Public Meeting**

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

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 3-day Council meeting on November 4–6, 2003, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, November 4, 2003, beginning at 9 a.m. and on Wednesday and Thursday November 5 and 6, beginning at 8:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, One Newbury Street, Peabody, MA 01960; telephone (978) 535-4600. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465-0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council, (978) 465-0492.

SUPPLEMENTARY INFORMATION:**Tuesday, Wednesday, and Thursday, November 4–6, 2003**

Following introductions, the Council will receive reports on recent activities from the Council Chairman and Executive Director, the NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and representatives of the U.S. Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. For the remainder of the day the Council will focus on discussion, selection, and approval of final management measures for inclusion in Amendment 13 to the Northeast Multispecies Fishery Management Plan (FMP). This process will continue through mid-day on Wednesday, November 5. At that time the Council has scheduled an open period for public comment on items relevant to Council business, but not otherwise listed on the

agenda. The Council will then continue with the Amendment 13 decision-making process through Thursday, November 6. During the afternoon session on November 6 the Council will consider initial action on a framework adjustment that would allow limited access scallop vessels to fish in the Georges Bank areas now closed to protect groundfish. Framework Adjustment 16 to the Sea Scallop FMP/ Framework Adjustment 39 to the Northeast Multispecies FMP could include Total Allowable Catch and possession limits for finfish, seasonal access, gear modifications, mandatory observer coverage and other measures to minimize bycatch. The meeting will adjourn once any other business-related issues have been addressed.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 14, 2003.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03-26395 Filed 10-17-03; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 697****[I.D. 063003A]****RIN 0648-AR33****Atlantic Striped Bass Conservation Act; Atlantic Striped Bass Fishery**

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

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) and notice of scoping process; request for comments.

SUMMARY: Based on recommendations from the Atlantic States Marine Fisheries Commission (Commission) and comments received from an advance notice of proposed rulemaking (ANPR), NMFS announces its intent to prepare an environmental impact statement (EIS) to analyze the impacts on the human environment of potential revisions to Federal Atlantic striped bass regulations for the U.S. Exclusive Economic Zone (EEZ). In addition, NMFS announces that the public will have additional opportunities to comment on potential management measures, including a no action alternative, addressing the Commission's recommendations and on issues that should be considered in development of the EIS during scheduled scoping meetings. The purpose of this notice is to alert the interested public: (1) of NMFS intent to prepare an EIS; (2) that NMFS will be accepting written comments on its intention to draft an EIS; and (3) that NMFS will conduct public scoping hearings for the impact statement during which the public is invited to attend and comment.

DATES: NMFS will discuss and take scoping comments at public meetings in November and December 2003. Written scoping comments will also be accepted and must be received at the appropriate address or facsimile (fax) number (see **ADDRESSES**) no later than 5 p.m. Eastern Standard Time on or before December 22, 2003.

ADDRESSES: Written scoping comments and requests for copies of the scoping document and other information should be sent to: Anne Lange, Chief, State-Federal Fisheries Division, Office of Sustainable Fisheries, NMFS, 1315 East West Highway, Room 13317, Silver Spring, MD 20910. Copies of scoping documents may also be obtained on the State-Federal Fisheries Division's website at http://www.nmfs.noaa.gov/sfa/state_federal/state_federal.htm after 5 p.m. Eastern Standard Time on November 3, 2003. Comments may also be sent via fax to (301) 713-0596. Comments submitted via e-mail or Internet will not be accepted.

FOR FURTHER INFORMATION CONTACT: Anne Lange, telephone (301)713-2334.

SUPPLEMENTARY INFORMATION:**Background**

NMFS published an ANPR concerning striped bass in the **Federal**