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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 181022971-01]

RIN 0648-BI57

Fisheries of the Northeastern United States; Mid-Atlantic Blueline Tilefish Fishery; 2019 and Projected 2020-2021 Specifications

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes specifications for the 2019 blueline tilefish fishery north of the North Carolina/Virginia border and projected specifications for 2020 and 2021. The proposed action is intended to establish allowable harvest levels and other management measures to prevent overfishing while allowing optimum yield, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Tilefish Fishery Management Plan. It is also intended to inform the public of these proposed specifications for the 2019 fishing year and projected specifications for 2020-2021.

DATES: Comments must be received by 5 p.m. local time, on *[insert date 15 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2018-0115, by either of the following methods:

ELECTRONIC SUBMISSION: Submit all electronic public comments via the Federal e-

Rulemaking Portal.

1. Go to *www.regulations.gov*#!/docketDetail;D=NOAA-NMFS-2018-0115,
2. Click the “Comment Now!” icon, complete the required fields
3. Enter or attach your comments.

- OR -

MAIL: Submit written comments to Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA, 01930. Mark the outside of the envelope: “Comments on the Proposed Rule for Blueline Tilefish Specifications.”

INSTRUCTIONS: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

A draft environmental assessment (EA) has been prepared for this action that describes the proposed measures and other considered alternatives, as well as provides an analysis of the impacts of the proposed measures and alternatives. Copies of the specifications document, including the EA and the Initial Regulatory Flexibility Analysis (IRFA), are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the Internet at *www.mafmc.org*.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, (978)

281-9341.

SUPPLEMENTARY INFORMATION:

Background

The blueline tilefish fishery north of the North Carolina/Virginia border is managed by the Mid-Atlantic Fishery Management Council under the Tilefish Fishery Management Plan (FMP), which outlines the Council's process for establishing annual specifications. Blueline tilefish south of the North Carolina/Virginia border are managed by the South Atlantic Fishery Management Council under the Snapper Grouper FMP.

The Tilefish FMP requires the Mid-Atlantic Council to recommend acceptable biological catch (ABC), annual catch limit (ACL), annual catch target (ACT), total allowable landings (TAL), and other management measures for the commercial and recreational sectors of the fishery, for up to three years at a time. The Council's Scientific and Statistical Committee (SSC) provides an ABC recommendation to the Council to derive these catch limits. The Council makes recommendations to NMFS that cannot exceed the recommendation of its SSC. The Council's recommendations must include supporting documentation concerning the environmental, economic, and social impacts of the recommendations. We are responsible for reviewing these recommendations to ensure that they achieve the FMP objectives and are consistent with all applicable laws. Following review, NMFS publishes the final specifications in the **Federal Register**.

A benchmark stock assessment was completed in late 2017 for the blueline tilefish population along the entire East Coast through the Southeast Data, Assessment, and Review process (SEDAR 50). Within the assessment, the coast-wide population was modeled separately north and south of Cape Hatteras, North Carolina, because of data limitations within the northern

area. To assist in developing an ABC recommendation, the Mid- and South Atlantic Councils' SSCs, as well as staff from the NMFS Northeast and Southeast Fisheries Science Centers formed a joint subcommittee to examine available information for the region north of Cape Hatteras, and to develop separate catch advice for each Councils' jurisdiction.

At its March 2018 meeting, the Mid-Atlantic SSC reviewed the results from the SEDAR 50 benchmark stock assessment as well as additional work using the Data-Limited Methods Toolkit and derived a recommendation for acceptable biological catch (ABC) using the Mid-Atlantic Council's risk policy. The resulting ABC was 179,500 lb (81.4 mt) annually for 2019-2021 for the region north of Cape Hatteras. The SSC then followed the recommendation of the Joint Mid- and South Atlantic Blueline Tilefish Subcommittee to assign 56 percent of that ABC to the Mid-Atlantic Council (north of the VA/NC border) and 44 percent to the South Atlantic Council. This percentage breakdown is based on the catch distribution from the 2017 Pilot Blueline Tilefish Longline Survey.

The Mid-Atlantic Council took final action on 2019-2021 quota specifications for the blueline tilefish fishery at its April 2018 meeting, and submitted its recommended specifications to us on August 17, 2018. A summary of the Council's recommended specifications is shown below in Table 1.

Proposed Specifications

The Council's recommendations are consistent with the SSC's recommended ABC, and represent an approximate 15-percent increase in ABC from 2018.

Table 1. Proposed and Projected Blueline Tilefish Specifications

	2018	Proposed 2019	Projected 2020-2021
ABC – North of NC/VA line	87,031 lb	100,520 lb	100,520 lb

	(39.5 mt)	(45.6 mt)	(45.6 mt)
Recreational ACL / ACT	63,533 (28.8 mt)	73,380 (33.3 mt)	73,380 (33.3 mt)
Commercial ACL / ACT	23,498 lb (10.6 mt)	27,140 lb (12.3 mt)	27,140 lb (12.3 mt)
Recreational TAL	62,262 lb (28.2 mt)	71,912 lb (32.6 mt)	71,912 lb (32.6 mt)
Commercial TAL	23,263 lb (10.5 mt)	26,869 lb (12.2 mt)	26,869 lb (12.2 mt)

The Mid-Atlantic Council recommended increasing the commercial possession limit from 300 (136 kg) to 500 lb (227 kg) to assist the commercial fishery in harvesting the full commercial TAL. The Council was concerned that if fishing effort increases substantially, the small commercial TAL could be landed quickly at the 500-lb (227-kg) limit. To mitigate that concern, the Council included an inseason trigger, authorizing the Regional Administrator to reduce the possession limit to 300 lb (136 kg) per trip when 70 percent of the TAL has been landed.

The Council proposed no change to the recreational fishery beyond the increase to the recreational TAL (Table 1). The recreational fishery is open from May 1 through October 31 of each year and closed from November 1 through April 30. The bag limit for blueline tilefish depends on the type of fishing vessel being used. On a private boat, each angler may keep up to three blueline tilefish. On an U.S. Coast Guard uninspected for-hire vessel (charter boat), each angler may keep up to five blueline tilefish. On an U.S. Coast Guard inspected for-hire vessel (party boat), each angler may keep up to seven blueline tilefish.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson Stevens Fishery Conservation and

Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Tilefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The Council prepared an analysis of the potential economic impacts of the action, which is included in the draft EA for this action and supplemented by information contained in the preamble of this proposed rule.

For Regulatory Flexibility Act purposes, NOAA's National Marine Fisheries Service has established a size standard for small businesses, including their affiliated operations, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as small 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 \$11.0 million for all its affiliated operations worldwide. The Small Business Administration has established size standards for all other major industry sectors in the U.S., including defining for-hire fishing firms (NAICS code 487210) as small when their receipts are less than \$7.5 million.

The measures proposed in this action apply to vessels that hold a Federal permit for blueline tilefish. Some entities own multiple vessels with tilefish permits. In 2017, 2,028 separate vessels held tilefish permits. Those vessels were owned by 1,519 entities. Using the

size definitions above, 1,508 are small business entities, comprised of 886 small commercial fishing entities, 242 small for-hire entities, and 380 had no revenue in 2017 (but are considered small businesses). For those small businesses with revenues, their average total revenues were \$0.55 million in 2017.

This action would increase the blueline tilefish commercial total allowable landings (TAL) from 23,263 lb (10.5 mt) to 26,869 lb (12.2 mt) (about 15 percent) and increase the commercial trip limit from 300 lb (136 kg) to 500 lb (227 kg) per trip. The trip limit would reduce to 300 lb (136 kg) when 70 percent of the commercial quota has been landed. The recreational TAL would increase from 62,262 lb (28.2 mt) to 71,912 lb (32.6 mt) (about 15 percent). Therefore, the potential impact of this action on small entities is positive, but limited by the relatively low TAL.

Given the small potential economic impact of the management measures proposed, this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 13, 2018.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as

follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.295, paragraphs (b)(1) and (2) are revised to read as follows:

§ 648.295 Tilefish commercial trip limits and landing condition.

* * * * *

(b) * * *

(1) *Commercial possession limit.* Any vessel of the United States fishing under a tilefish permit, as described at §648.4(a)(12), is prohibited from possessing more than 500 lb (227 kg) of gutted blueline tilefish per trip in or from the Tilefish Management Unit.

(2) *In-season adjustment of possession limit.* The Regional Administrator will monitor the harvest of the blueline tilefish commercial TAL based on dealer reports and other available information.

(i) When 70 percent of the blueline tilefish commercial TAL will be landed, the Regional Administrator will publish a notice in the **Federal Register** notifying vessel and dealer permit holders that, effective upon a specific date, the blueline tilefish commercial possession limit is reduced to 300 lb (136 kg) of gutted blueline tilefish per trip in or from the Tilefish Management Unit.

(ii) When 100 percent of the blueline tilefish commercial TAL will be landed, the Regional Administrator will publish a notice in the **Federal Register** notifying vessel and dealer permit holders that, effective upon a specific date, the blueline tilefish commercial fishery is closed for the remainder of the fishing year. No vessel may retain or land blueline tilefish in or

from the Tilefish Management Unit.

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