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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 170717675-7675-01]

RIN 0648-XF571

Fisheries of the Northeastern United States; Golden Tilefish Fishery; 2018 and Projected 2019-2020 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 2018 commercial golden tilefish fishery and projected specifications for 2019 and 2020. 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 2018 fishing year and projected specifications for 2019-2020.

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-2017-0091, 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-2017-0091*,

2. Click the “Comment Now!” icon, complete the required fields
3. Enter or attach your comments.

- OR -

MAIL: Submit written comments to John Bullard, 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 Golden 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 <http://www.mafmc.org>.

FOR FURTHER INFORMATION CONTACT: Cynthia Hanson, Fishery Management Specialist, (978) 281-9180.

SUPPLEMENTARY INFORMATION:

Background

The golden tilefish fishery 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. The FMP requires the Council to recommend acceptable biological catch (ABC), annual catch limit (ACL), annual catch target (ACT), total allowable landings (TAL), and other management measures, for up to three years at a time. The directed fishery is managed under an individual fishing quota (IFQ) program, with small amounts of non-IFQ catch allowed under an incidental permit. 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, and may modify them if they do not. Following review, NMFS publishes the final specifications in the *Federal Register*.

In January 2014, the 58th Northeast Stock Assessment Workshop (SAW) declared the golden tilefish stock rebuilt and concluded that overfishing is not occurring. A stock assessment update with data through 2016 is currently in development, but the 58th SAW is still the most up to date and best available science for the Council to use in its decision-making on these golden tilefish specifications. Based on this report, and the ABC recommendations made by the Council's SSC, the Council took final action April 2017 on 2018-2020 quota specifications for the golden tilefish fishery, and submitted its recommended specifications to us on July 5, 2017. 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 ABCs, and represent a reduction in ABC and overall commercial quota from 2017 to ensure overfishing does not occur. The proposed IFQ quota of 1,554,038 lb (705 mt) is a 13-percent reduction from 2017, and the incidental quota of 72,397 lb (33 mt) is a 23-percent reduction. The proposed incidental sector typically lands less than half of its allocated quota each year, so this larger reduction is unlikely to have a significant impact. As golden tilefish are not overfished or experiencing overfishing, the reduction in the quotas is a result of the SSC applying the Council’s risk policy to the most recent assessment outputs to derive its ABC recommendation.

Table 1. Summary of Recommended Golden Tilefish Specifications

| | 2018 | | 2019 | | 2020 | |
|--------------------------|------------|-------|------------|-------|------------|-------|
| | million lb | mt | million lb | mt | million lb | mt |
| Overfishing Limit | 2.332 | 1,058 | 2.421 | 1,098 | 2.291 | 1,039 |
| ABC | 1.636 | 742 | 1.636 | 742 | 1.636 | 742 |
| ACL | 1.636 | 742 | 1.636 | 742 | 1.636 | 742 |
| IFQ ACT | 1.554 | 705 | 1.554 | 705 | 1.554 | 705 |
| Incidental ACT | 0.082 | 37 | 0.082 | 37 | 0.082 | 37 |
| IFQ TAL | 1.554 | 705 | 1.554 | 705 | 1.554 | 705 |
| Incidental TAL | 0.072 | 33 | 0.072 | 33 | 0.072 | 33 |
| IFQ Quota | 1.554 | 705 | 1.554 | 705 | 1.554 | 705 |
| Incidental Quota | 0.072 | 33 | 0.072 | 33 | 0.072 | 33 |

As in recent years, the Council recommended ABC=ACL=ACT. The TAL is derived by deducting anticipated discards of tilefish from the ACT. Under the FMP, 95 percent of the TAL is allocated for the IFQ fishery, and the remaining 5 percent is allocated for the incidental fishery. Prior to 2018, ACTs and TALs were specified at the overall commercial level, with the IFQ fishery and incidental fishery combined. Framework Adjustment 2 to the Tilefish FMP is being developed concurrently with these specifications, and modifies this system to allow discards to be deducted from the specific component of the commercial sector (IFQ fishery or

incidental fishery) where they were generated. The Council made recommendations based on the new process being developed under Framework 2, so that IFQ and incidental specific category discards are used, allowing for more specific adjustments to the commercial sector. This also divides the ACT and TAL between IFQ and incidental categories within the specifications. Framework 2 is still in development, and a proposed rule outlining the new measures is expected soon. Because Framework 2 will be implemented before this action is finalized, we are proposing to use the Framework 2 measures for the 2018-2020 specifications.

The golden tilefish industry strongly supports consistency in annual harvest quotas, and has operated under a constant landings strategy since 2001. Continuing this strategy, the Council opted to recommend the same quota for the 2018-2020 period, with the understanding that the specifications will be reviewed on an annual basis. We are proposing the 2018 specifications along with the projected specifications for 2019 and 2020 so that the public is aware of the likely values for those years. We will publish a notice in the *Federal Register* prior to each fishing year to confirm or announce any necessary changes to the specifications for 2019 and 2020. The Council did not recommend changes to other regulations for this fishery. We propose, based on this recommendation, that all other management measures in the golden tilefish fishery will remain unchanged for the 2018-2020 fishing years. The incidental trip limit will stay 500 lb (226.8 kg) (live weight), and the recreational catch limit will remain eight fish per angler per trip. Annual IFQ allocations will be issued to individual quota shareholders in mid-October, ahead of the November 1 start of the fishing year.

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 is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

The Council prepared a draft EA for this action that analyzes the impacts of this proposed rule. The EA includes an initial regulatory flexibility analysis (IRFA), as required by section 603 of the Regulatory Flexibility Act (RFA), which is supplemented by information contained in the preamble of this proposed rule. The IRFA was prepared to further evaluate the economic impacts of the various alternatives presented in this document on small business entities. A description of the specifications, why they are being considered, and the legal basis for this action are contained at the beginning of this section and in the preamble to this proposed rule. A copy of the detailed RFA analysis is available from the Council (see **ADDRESSES**). A summary of the 2018-2020 golden tilefish specifications RFA analysis follows.

Description of the Reasons Why Action is Being Considered

This action proposes management measures, including annual catch limits and commercial quotas, for the 2018-2020 golden tilefish fishery. The measures are consistent with the best scientific information available and the most recent catch limit recommendations of the Council's SSC to prevent overfishing and achieve optimum yield in the fishery. The golden tilefish fishery successfully functions under an IFQ management program, which provides substantial benefits to fishery participants, and requires the annual specification of quotas. Another critical function of this action is to prevent overfishing and obtain the optimal yield, as mentioned earlier.

Statement of the Objectives of, and Legal Basis for, this Proposed Rule

This action is taken under the authority of the Magnuson-Stevens Act and regulations at 50 CFR part 648. A complete description of the action, why it is being considered, and the legal basis for this action are contained in the specifications document, and elsewhere in the preamble to this proposed rule, and are not repeated here.

Description and Estimate of the Number of Small Entities to Which this Proposed Rule Would Apply

This proposed rule affects small entities engaged in commercial fishing operations with Federal tilefish permits. For the purposes of the RFA analysis, the ownership entities (or firms), not the individual vessels, are considered to be the regulated entities. Ownership entities are defined as those entities or firms with common ownership personnel as listed on the permit application. Because of this, some vessels with golden tilefish permits may be considered to be part of the same firm because they may have the same owners. To identify these small and large firms, vessel ownership data from the permit database were grouped according to common owners and sorted by size. In terms of RFA, a business primarily engaged in commercial fishing is classified as a small business if it has combined annual receipts not in excess of \$11 million, for all its affiliated operations worldwide. The current ownership data set used for this analysis is based on calendar year 2016 (the most recent complete year available) and contains average gross sales associated with those permits for calendar years 2014 through 2016. According to the commercial ownership database, 148 affiliate firms landed golden tilefish during the 2014-2016 period, with 145 of those business affiliates categorized as small business and three categorized as large business.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of this Proposed Rule

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

Federal Rules Which May Duplicate, Overlap, or Conflict with this Proposed Rule

NMFS is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

This action proposes to set a commercial golden tilefish quota of 1.626 million lb (738 mt)—1.554 million lb (705 mt) of IFQ, 72,397 lb (33 mt) of incidental—for 2018-2020. Under this preferred alternative (Alternative 1), it is expected that the overall revenue reduction would be less than one percent for the approximately 145 small entities impacted by the decrease in golden tilefish quota when compared to average revenues generated during the 2014-2016 period. There is the possibility of an increase in the price for golden tilefish given the potential decrease in landings, which could mitigate some of the revenue loss associated with lower quotas, but is not guaranteed. Industry members have indicated that having consistent quota levels from year to year is favorable, and translates into price and supply stability in the fishery.

There were two alternatives (Alternative 2 and Alternative 3) to the proposed action (Alternative 1) considered by the Council. Alternative 2 is the status quo alternative, and maintains the previous year's commercial quotas of 1.793 million lb (813 mt) for the IFQ fishery and 94,357 lb (43 mt) for the incidental fishery (total commercial quota of 1.887 million lb or 856 mt). Under this alternative, commercial landings and revenues for golden tilefish would be expected to be the same relative to 2017.

Alternative 3 would set 2018-2020 commercial golden tilefish quotas at 1.505 million lb (683 mt), 1.717 million lb (779 mt), and 1.657 million lb (752 mt), respectively. While they represent similar overall quota reductions over the three-year period, Alternative 3 is non-preferred to Alternative 1 because of its inconsistency in the annual quotas, which could lead to instability in pricing and supply in the fishery.

The Council recommended these proposed specifications (Alternative 1) over Alternatives 2 and 3 to satisfy the Magnuson-Stevens Act requirements to ensure fish stocks are not subject to overfishing, while allowing quota stability, which the tilefish industry considers important in order to promote stability in price and supply in the marketplace. Alternative 2 was not recommended by the Council because it would exceed the catch level recommendations of the Council's SSC, and would be inconsistent with the requirements of the Magnuson-Stevens Act. Alternative 3 was not selected because it would not support the consistency of quota/landings from year to year that the tilefish industry considers important to maintaining price and supply stability in this fishery. NMFS agrees with the Council's IRFA analysis and rationale for recommending these catch limits. As such, NMFS is proposing to implement the Council's preferred ABCs, ACLs, ACTs, and commercial quotas, as presented in Table 1 of this proposed rule's preamble.

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

Dated: August 31, 2017.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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