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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200121-0026]

RIN 0648-BJ38

Fisheries of the Northeastern United States; Implementing Permitting and Reporting for Private Recreational Tilefish Vessels

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement permitting and reporting measures for private recreational tilefish vessels that were approved in Amendment 6 to the Tilefish Fishery Management Plan. These measures are being implemented after the other management measures in Amendment 6 because of additional time needed for development. The intended effect of this action is to notify private recreation tilefish vessels of the proposed changes and to solicit public comment on these measures.

DATES: Comments must be received on or before [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2020-005, by either of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to

www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-005, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Michael Pentony, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: “Comments on Permitting and Reporting for Private Recreational Tilefish Anglers.”

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 to *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).

Copies of Amendment 6, and of the Environmental Assessment (EA), are available from the Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901. The EA and Regulatory Impact Review are also accessible via the Internet at: <http://www.mafmc.org/actions/blueline-tilefish>.

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, 978-281-9225.

SUPPLEMENTARY INFORMATION:

Background

On November 15, 2017, we announced our approval of all the measures proposed by the Mid-Atlantic Fishery Management Council in the Amendment 6 to the Tilefish Fishery Management Plan (FMP) final rule (82 FR 52851). The final rule implemented most, but not all, of the measures in the amendment. The amendment implemented management measures and quotas for the previously unregulated blueline tilefish fishery in the Mid-Atlantic region and additional information and analysis on these measures are provided in the EA (see **ADDRESSES**). We also approved, but did not implement, Mid-Atlantic Council recommended measures to better characterize and monitor the recreational fisheries for both blueline tilefish and golden tilefish. Angler intercepts for these species are rare events and are poorly captured by the Marine Recreational Information Program (MRIP). Amendment 6 measures included a new Federal permit for private recreational fishing vessels to target or retain blueline or golden tilefish, as well as mandatory reporting requirements for these vessels. These measures required additional time for development, prior to implementation.

Proposed Permitting and Reporting Requirements

We are proposing regulations to require private recreational vessels to obtain a Federal vessel permit to fish for or a retain golden or blueline tilefish in the Mid-Atlantic, which are permitting and reporting requirements recommended by the Council and approved as part of Amendment 6.

This action does not impact the regulations for party/charter vessels and will apply to anglers using a personal vessel, to fish for and/or obtain blueline and golden tilefish. Retained fish may only be kept for personal consumption and may not be sold or bartered. We would issue this permit through an online application on the Greater

Atlantic Regional Fisheries Office (GARFO) website. GARFO would issue and renew private recreational tilefish permits annually. Private recreational tilefish vessels would also be required to submit vessel trip reports (VTRs) for any trip targeting tilefish through any NMFS-approved electronic reporting system. There are several platforms to submit electronic reports including SAFIS eTrips, SAFIS eTrips Online, and Fish Online. Fish Online is the simplest system and is the preferred method to submit reports. Users can create an account by calling (978) 281-9188 or emailing the GARFO Helpdesk at *nmfs.gar.helpdesk@noaa.gov*. Fish Online can be accessed via a computer, phone, and/or tablet, and we intend to conduct outreach and education to minimize burden and confusion with filling out the VTRs. Private recreational vessels targeting tilefish may keep a paper log to keep records while out at sea, to be submitted electronically within 24 hours of returning to port. The 24-hour submission requirement is proposed to coincide with the requirement for Highly Migratory Species permit holders because we expect there to be some overlap between the two groups. We would like comments on the suitability of the proposed timeframe for submission of the VTRs.

Classification

Pursuant to section 304(b)(1)(A) of the 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.

This proposed rule is not an Executive Order 13771 regulatory action, because this rule is not significant under 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 the measures approved in Amendment 6 to the Tilefish FMP, would not have a significant economic impact on a substantial number of small entities. Private recreational anglers are not considered small entities. As a result, an initial regulatory flexibility analysis is not required for this action and none has been prepared.

This proposed rule contains two revisions to existing collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). NMFS has submitted these requirements to OMB for approval under control number 0648-0202 and 0648-0212.

The public reporting burden for initial private recreational tilefish permit applications is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public reporting burden for private recreational tilefish vessel trip reports is estimated to average five minutes per response. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Greater Atlantic Regional Fisheries Office and by e-mail to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of

information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 22, 2020.

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 § 648.4, add paragraphs (a)(12)(iii) and (c)(2)(i)(A) through (B) to read as follows:

§648.4 Vessel permits.

(a) * * *

(12) * * *

(iii) *Private recreational vessel permits.* Any private recreational vessel must have been issued, under this part, a Federal recreational tilefish vessel permit to fish for, possess, or land either golden tilefish or blueline tilefish in the Tilefish Management Unit. Such vessel must observe the recreational possession limits as specified at § 648.296 and the prohibition on sale.

* * * * *

(c) * * *

(2) * * *

(i) * * *

(A) An application for a private recreational tilefish permit issued under this section, in addition to the information specified in paragraph (c)(1) of this section, also must contain at least the following information, and any other information required by the Regional Administrator: Vessel name, owner name or name of the owner's authorized representative, mailing address, and telephone number; USCG documentation number and a copy of the vessel's current USCG documentation or, for a vessel not required to be documented under title 46 U.S.C., the vessel's state registration number and a copy of the current state registration.

(B) [Reserved]

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3. Amend § 648.7 by:

a. Revising paragraphs (b)(1)(i) and (iii) and;

b. Adding paragraphs (b)(1)(iv) and (f)(2)(iv).

The revisions and additions read as follows:

§648.7 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(1) * * *

(i) *General.* Except for vessel owners or operators fishing under a surfclam or ocean quahog permit, or fishing under a private recreational tilefish permit, the owner or

operator of any vessel issued a valid permit or eligible to renew a limited access permit under this part must:

(A) Maintain on board the vessel, and submit, an accurate fishing log report for each fishing trip, regardless of species fished for or taken, on forms supplied by or approved by the Regional Administrator.

(B) If authorized in writing by the Regional Administrator, a vessel owner or operator may submit reports electronically, for example by using a VMS or other media.

(C) At least the following information and any other information required by the Regional Administrator must be provided:

(1) Vessel name;

(2) USCG documentation number (or state registration number, if undocumented);

(3) Permit number;

(4) Date/time sailed;

(5) Date/time landed;

(6) Trip type;

(7) Number of crew;

(8) Number of anglers (if a charter or party boat);

(9) Gear fished;

(10) Quantity and size of gear;

(11) Mesh/ring size;

(12) Chart area fished;

(13) Average depth;

- (14) Latitude/longitude (or loran station and bearings);
- (15) Total hauls per area fished;
- (16) Average tow time duration;
- (17) Hail weight, in pounds (or count of individual fish, if a party or charter vessel), by species, of all species, or parts of species, such as monkfish livers, landed or discarded; and,
- (18) In the case of skate discards, “small” (*i.e.*, less than 23 inches (58.42 cm), total length) or “large” (*i.e.*, 23 inches (58.42 cm) or greater, total length) skates;
- (19) Dealer permit number;
- (20) Dealer name;
- (21) Date sold, port and state landed; and
- (22) Vessel operator's name, signature, and operator's permit number (if

applicable).

(ii) * * *

(iii) *Charter/Party vessel permit owners and operators.* The owner or operator of any fishing vessel that holds a Federal charter/party (for-hire) permit to fish for Atlantic bluefish, black sea bass, scup, summer flounder, tilefish, Atlantic mackerel, squid, and/or butterfish, when on a trip carrying passengers for hire, must submit the required Vessel Trip Report by electronic means. This report must be submitted through a software application approved by NMFS and must contain all applicable information outlined in paragraph (b)(1)(i)(C) of this section.

(iv) *Private tilefish recreational vessel owners and operators.* The owner or operator of any fishing vessel that holds a Federal private recreational tilefish permit,

must report for each recreational trip fishing for or retaining blueline or golden tilefish in the Tilefish Management Unit. The required Vessel Trip Report must be submitted by electronic means. This report must be submitted through a NMFS approved electronic reporting system within 24 hours of the trip returning to port. The vessel operator may keep paper records while onboard and upload the data after landing. The report must contain the following information:

- (A) Vessel name;
- (B) USCG documentation number (or state registration number, if undocumented);
- (C) Permit number;
- (D) Date/time sailed;
- (E) Date/time landed;
- (F) Trip type;
- (G) Number of anglers;
- (H) Species
- (I) Gear fished;
- (J) Quantity and size of gear;
- (K) Soak time
- (L) Depth
- (M) Chart Area
- (N) Latitude/longitude where fishing occurred;
- (O) Count of individual golden and blueline tilefish landed or discarded; and
- (P) Port and state landed

* * * * *

(f) * * *

(2) * * *

(iv) Private recreational tilefish electronic log reports, required by paragraph (b)(1)(iv) of this section, must be submitted within 24 hours after entering port at the conclusion of a trip.

* * * * *

4. In §648.8 add paragraph (f) to read as follows:

§ 648.8 Vessel identification.

* * * * *

(f) *Private Recreational Tilefish Vessels.* Vessels issued only a Federal private recreational tilefish permit are not subject to the requirements of § 648.8, but must comply with any other applicable state or Federal vessel identification requirements.

5. In § 648.11 revise paragraph (a) to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

(a) The Regional Administrator may request any vessel holding a permit for Atlantic sea scallops, NE multispecies, monkfish, skates, Atlantic mackerel, squid, butterfish, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, tilefish, Atlantic surfclam, ocean quahog, or Atlantic deep-sea red crab; or a moratorium permit for summer flounder; to carry a NMFS-certified fisheries observer. A vessel holding a permit

for Atlantic sea scallops is subject to the additional requirements specific in paragraph (g) of this section. Also, any vessel or vessel owner/operator that fishes for, catches or lands hagfish, or intends to fish for, catch, or land hagfish in or from the exclusive economic zone must carry a NMFS-certified fisheries observer when requested by the Regional Administrator in accordance with the requirements of this section. The requirements of this section do not apply to vessels with only a Federal private recreational tilefish permit.

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6. In § 648.14 add paragraph (u)(1)(iii)(C) and revise paragraph (u)(2)(i)(C) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(u) * * *

(1) * * *

(iii) * * *

(C) Operate a private recreational vessel to fish for, retain, and/or possess blueline or golden tilefish, in the Tilefish Management Unit, without a valid tilefish private recreational permit as required in § 648.4(a)(12)(iii).

(2) * * *

(i) * * *

(C) The tilefish were harvested in or from the Tilefish Management Unit by a vessel with a Federal private recreational tilefish permit or a Federal charter/party tilefish permit.

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7. In 648.296 revise paragraphs (a)(1) and (b)(1) to read as follows:

§ 648.296 Tilefish recreational possession limits and gear restrictions.

(a) * * *

(1) The recreational tilefish possession limit for charter/party and private recreational anglers is eight golden tilefish per angler per trip. Any vessel engaged in recreational fishing for golden tilefish may not retain golden tilefish, unless issued a valid Federal charter/party permit, pursuant to 648.4(a)(12)(ii), or a valid Federal private recreational tilefish permit issued pursuant to 648.4(a)(12)(iv).

* * * * *

(b) * * *

(1) *Private recreational vessels.* Anglers fishing onboard a vessel issued a Federal private recreational tilefish permit pursuant to 648.4(a)(12)(iv), may land up to three blueline tilefish per person per trip.

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