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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 200706-0178]

RIN 0648-BJ38

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

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

ACTION: Final rule.

SUMMARY: This action establishes permitting and reporting requirements for privately owned and operated recreational vessels fishing for tilefish north of the Virginia/North Carolina border. This action is necessary to implement technical measures for the conceptual permitting and reporting requirements previously approved as part of Amendment 6 to the Tilefish Fishery Management Plan. The intended effect of this action is to monitor recreational tilefish effort and catch for this periodic offshore fishery.

DATES: This rule is effective [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: Copies of Amendment 6 and the Environmental Assessment (EA), with its associated Finding of No Significant Impact (FONSI) and the Regulatory Impact Review (RIR), are available from the Mid-Atlantic Fishery Management Council, 800

North State Street, Suite 201, Dover, DE 19901. The Amendment 6 EA/FONSI/RIR is also accessible online at: www.mafmc.org.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to the Greater Atlantic Regional Fisheries Office and by visiting www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under Review – Open for Public Comments” or by using the search function.

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

SUPPLEMENTARY INFORMATION:

Background

This rule implements the technical components for the previously approved private recreational tilefish permitting and reporting requirements in Amendment 6 to the Tilefish Fishery Management Plan (FMP) (82 FR 52851; November 15, 2017). The Mid-Atlantic Fishery Management Council developed these measures for the tilefish fishery in Federal waters north of the Virginia/North Carolina border, consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). On January 29, 2020, we published a proposed rule (85 FR 5186) and solicited comments on the proposed measures for a 30-day period that ended on February 28, 2020.

We reviewed all comments received during this comment period. See **Comments and Responses** section for more information.

Permitting and Reporting Requirements

With this rule, private recreational vessel owners are required to obtain a Federal vessel permit to fish for and/or retain golden or blueline tilefish in the mid-Atlantic, as recommended by the Council and approved as part of Amendment 6.

Any vessel that intends to fish for golden and/or blueline tilefish must obtain a Federal private recreational tilefish vessel permit before taking a trip. Tilefish retained on recreational trips may only be kept for personal consumption and may not be sold or bartered. Private recreational tilefish anglers may apply for the permit on the Greater Atlantic Regional Fisheries Office (GARFO) website (<https://www.fisheries.noaa.gov/about/greater-atlantic-regional-fisheries-office>). The GARFO website has a link to the Fish Online system, where applicants will create a username and password, fill out the required information, and submit their application. Applicants will be required to provide the following information: 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; and any other information required by the Regional Administrator. Once the application has been processed, the permit will be available to print from the computer and/or a paper copy can be mailed to the applicant. There will be no cost to obtain the private recreational tilefish vessel permit. Permits must be renewed annually.

Private recreational tilefish vessels will also be required to submit electronic vessel trip reports (eVTR) for any trip targeting tilefish through a NMFS-approved

electronic reporting system. There are several platforms available to submit electronic reports including SAFIS's eTrips, and GARFO's Fish Online. Fish Online is a system with both browser-based and mobile application versions available and is the recommended method to submit reports. Additionally, once a permit is issued to a vessel through the Fish Online system, the permit holder may use the same username and password to log on to either the Fish Online browser or app to submit their eVTR. The following information will be required to submit an eVTR for a private recreational tilefish trip: Vessel name; USCG documentation number (or state registration number, if undocumented); permit number; date/time sailed; date/time landed; trip type; number of anglers; species caught; gear fished; quantity and size of gear; soak time; depth; chart area; latitude/longitude where fishing occurred; count of individual golden and blueline tilefish landed or discarded; and port and state landed. The 24-hour submission requirement is consistent with the requirement for Highly Migratory Species (HMS) permit holders, because we expect some anglers may hold both permits.

This action does not change the regulations for tilefish party/charter vessels and will apply to anglers using a personal vessel to fish for and/or retain blueline or golden tilefish. However, this may be the same vessel that is used in for-hire or commercial fisheries on other trips. This is a separate permit that will be required if a boat fishes privately (not taking paying clients) for tilefish. Fish retained on a recreational trip may only be kept for personal consumption and may not be sold or bartered.

Comments and Responses

We received 27 comments during the proposed rule. Fourteen commenters supported and 12 opposed the new measures. One comment was not relevant to this

action and was forwarded to staff that work with Atlantic bluefin tuna. The commenters opposed to the permitting and reporting requirements said the measures were overly burdensome, unfairly targeted recreational fishermen, were duplicative with requirements for HMS, and there are costs associated with obtaining the proper equipment to report. Several commenters also noted their dissatisfaction with the different bag limits between the recreational and commercial sectors; however, that issue is not related to this action.

We do understand the requirements for private recreational fishermen to obtain a permit and submit reports are new concepts in our region and that they require extra effort. We will be conducting outreach and education to minimize confusion and assist private recreational fishermen with obtaining a permit and understanding the reporting forms. The permitting and reporting requirements will help to gather necessary recreational tilefish catch and effort data that are not currently captured through dockside interviews and/or angler phone surveys. These data are critical to the Council's efforts to manage effectively both blueline and golden tilefish.

There is no cost to obtain the private recreational tilefish vessel permit, and there are no postage costs associated with the permit or the eVTR because both will be submitted electronically. We estimate that the initial private recreational tilefish permit applications would take an average of 45 minutes to complete and an average of 5 minutes to complete the eVTR. We expect that private recreational fishermen already have a smartphone, computer, or tablet to obtain the Federal private recreational tilefish vessel permit and submit their electronic trip report. Additionally, many vessels that are fishing offshore for tilefish are likely equipped with a Global Positioning System to

provide location information for the reports. This is because the tilefish fishery occurs offshore, typically in waters 50-100 miles (80-160 kilometers) from shore, and most vessels venturing that far have electronic navigational capabilities.

We did explore using existing HMS permitting and reporting systems for tilefish. This was not adopted because HMS permits and reporting data are managed in a separate database from our region, tilefish are not migratory species, and the HMS permit is a coast wide permit, where this permit covers waters north of the Virginia/North Carolina line. In response to the comments relating to duplication of permit requirements, if a vessel has an HMS permit and the private recreational tilefish permit there may be some duplication as they report certain highly migratory species caught through the HMS report system, then report all catch through our eVTR system. This duplication should only be temporary as we are working on a “one-stop shop” reporting system that will allow one report to meet the requirements from GARFO, HMS, and the Southeast Regional Office. This long-term solution is under development, but will not be ready by the time these tilefish private recreational measures are due to be implemented.

Changes from the Proposed Rule

There are no changes to the measures from the proposed rule.

Classification

The Administrator, Greater Atlantic Region, NMFS, determined that this action is necessary for the conservation and management of the tilefish fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

This final 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 during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains two collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by the Office of Management and Budget (OMB) under the 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 5 minutes per response. Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the

burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to GARFO at the **ADDRESSES** above, and to OIRA by visiting www.reginfo.gov/public.do/PRAMain. Find this particular information collection by selecting “Currently under Review – Open for Public Comments” or by using the search function. 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: July 6, 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 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]

* * * * *

3. In § 648.7, revise paragraphs (b)(1)(i) and (b)(1)(iii) and add paragraphs (b)(1)(iv) and (f)(2)(iv) to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(1) * * *

(i) *General.* The reporting requirements specified in this paragraph (b)(1)(i) for an owner or operator of a vessel fishing for, possessing, or landing Atlantic chub mackerel are effective through December 31, 2020. 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. 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).

* * * * *

(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 Monitoring coverage.

(a) *Coverage.* 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.

* * * * *

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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