

ancillary and supplementary under § 73.624(c) of the Commission's rules, which is the limited focus of our action today. Consistent with our rules, licensees entering into such leases still bear the responsibility to retain ultimate control over their spectrum and to ensure compliance with our broadcast regulations. Also consistent with existing Commission rules and policies, the term of any spectrum lease should be for no greater than the duration of the station's broadcast license, with renewal of the leasing arrangement permitted. Furthermore, the broadcaster must continue to provide at least one over-the-air video program signal at no charge to viewers in accordance with § 73.624(b) of the Commission's rules and remain in compliance with all other applicable Commission rules. By extension, the broadcaster is responsible for any misuse of its spectrum by a lessee in violation of applicable statutes or Commission rules.

By this declaratory ruling, we seek to provide additional clarity in order to encourage the investment in and deployment of potentially beneficial Broadcast internet services and to eliminate any possibility of unnecessary regulatory obstructions, either real or perceived. The Commission's rules for ancillary and supplementary services were intended to afford broadcasters the flexibility to use spectrum capacity in entrepreneurial and innovative ways. In recognizing "the benefit of permitting broadcasters the opportunity to develop additional revenue streams from innovative digital services," the Commission has chosen "to impose few restrictions on broadcasters and to allow them to make decisions that will further their ability to respond to the marketplace." As the industry transitions to a next-generation broadcast television standard, we seek to ensure that our rules help facilitate innovative arrangements that can result in the efficient use of spectrum. In doing so, it is our hope that the marketplace, not rules designed for different services, will ultimately decide which Broadcast internet services are developed and supported.

Congressional Review Act. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that, this rule is "non-major" under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the *Declaratory Ruling* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

It is ordered that, pursuant to sections 1, 4(i), 4(j), 303(r), and 336 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303(r), and 336, and section 1.2 of the Commission's Rules, 47 CFR 1.2, this Declaratory Ruling in MB Docket No. 20-145 is adopted. *It is further ordered* that, pursuant to § 1.103 of the Commission's rules, 47 CFR 1.103, this Declaratory Ruling shall be effective upon release. *It is further ordered* that the Commission shall send a copy of the Declaratory Ruling in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

Marlene Dortch,
Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 200707-0183]

RIN 0648-BJ67

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Abbreviated Framework Amendment 3

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

ACTION: Final rule.

SUMMARY: NMFS implements management measures described in Abbreviated Framework Amendment 3 (Abbreviated Framework 3) to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (South Atlantic Council). This final rule increases the commercial and recreational annual catch limits (ACLs) and Abbreviated Framework 3 increases the recreational annual catch target (ACT) for blueline tilefish in the South Atlantic exclusive economic zone (EEZ). The purpose of this final rule is to ensure that these measures for South Atlantic blueline tilefish are based on the best scientific information available, to achieve and maintain optimum yield (OY), and to

prevent overfishing while minimizing to the extent practicable, adverse social and economic effects.

DATES: This final rule is effective on August 17, 2020.

ADDRESSES: Electronic copies of Abbreviated Framework 3 may be obtained from www.regulations.gov or the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/abbreviated-framework-amendment-3-blueline-tilefish>. Abbreviated Framework 3 includes a Regulatory Flexibility Act (RFA) analysis and regulatory impact review.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, email: mary.vara@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery in the South Atlantic region is managed under the FMP and includes blueline tilefish, along with other snapper-grouper species. The FMP was prepared by the South Atlantic Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On April 15, 2020, NMFS published a proposed rule for Abbreviated Framework 3 in the **Federal Register** and requested public comment (85 FR 20970, April 15, 2020). Abbreviated Framework 3 and the proposed rule outline the rationale for the actions contained in this final rule. A summary of the management measures described in Abbreviated Framework 3 and implemented by this final rule is provided below. All weights described in this final rule are in round weight.

Management Measure Contained in This Final Rule

This final rule revises the commercial and recreational ACLs for South Atlantic blueline tilefish based on updated information from a Southeast Data, Assessment, and Review (SEDAR) benchmark assessment that was completed for the Atlantic stock of blueline tilefish, using data through 2015 (SEDAR 50).

Prior to this final rule, the blueline tilefish commercial ACL was 87,521 lb (39,699 kg) and the recreational ACL was 87,277 lb (39,588 kg).

Consistent with the results of SEDAR 50 and the acceptable biological catch (ABC) recommendation from the South Atlantic Council's Scientific and Statistical Committee (SSC) that was accepted by the South Atlantic Council, this final rule increases the commercial

and recreational ACLs for blueline tilefish in the South Atlantic EEZ.

The total ACL for South Atlantic blueline tilefish will equal the total South Atlantic ABC of 233,968 lb (106,126 kg). The commercial ACL will be set at 117,148 lb (53,137 kg) and the recreational ACL will be set at 116,820 lb (52,989 kg).

The revised ACLs are consistent with the South Atlantic Council SSC's ABC recommendation, and this final rule does not change the sector allocation percentages in the FMP. The sector ACLs for blueline tilefish are based on an allocation of 50.07 percent of the total ACL to the commercial sector and 49.93 percent of the total ACL to the recreational sector.

Since 2014, the blueline tilefish commercial sector has experienced in-season fishing closures every year between April and August, regardless of the amount of the commercial ACL. If the catch rates of blueline tilefish in the commercial sector continue as expected in the future, the revised commercial ACL is still expected to result in an in-season closure during the commercial season as a result of the ACL being reached. However, the increase to the commercial ACL in this final rule is expected to extend the commercial fishing season further into the fishing year. Because of recent changes to blueline tilefish management measures and in-season closures, a reliable estimate of future commercial season lengths is not available.

Blueline tilefish is closed to recreational harvest in the South Atlantic each year from January 1 through April 30, and from September 1 through December 31. Each year since 2016, recreational landings of blueline tilefish have exceeded the current recreational ACL. However, a recreational closure during the May through August fishing season as a result of landings being projected to reach the recreational ACL prior to the end of August has not occurred, because in-season recreational landings are typically not available until after the May through August fishing season concludes. When compared to recent trends in estimated recreational landings, the increase in the recreational ACL through this final rule could reduce the likelihood that the ACL would be met during the fixed May through August fishing season.

Management Measure Contained in Abbreviated Framework 3 Not Codified Through This Final Rule

In addition to the ACL changes in this final rule, Abbreviated Framework 3 will update the recreational ACT for

blueline tilefish in the South Atlantic EEZ. The recreational ACT is based on an ACT equation in the FMP, unchanged by Abbreviated Framework 3 or this final rule, where the recreational ACT is equal to the recreational ACL multiplied by (1 minus the Percent Standard Error) or the recreational ACL multiplied by 0.5, whichever is greater. Abbreviated Framework 3 increases the recreational ACT from 54,653 lb (24,790 kg) to 70,886 lb (32,153 kg).

Comments and Responses

NMFS received six comments from individuals during the public comment period on the proposed rule for Abbreviated Framework 3. One of the comments was in general support of the actions in the proposed rule. NMFS acknowledges the comment in favor of the actions in the proposed rule and agrees with it. NMFS did not respond to comments that were beyond the scope of the proposed rule in this final rule. The public comment that opposed an action contained in Abbreviated Framework 3 and the proposed rule is summarized below, as well as NMFS' response.

Comment 1: To improve catch levels, the blueline tilefish ACLs should not be increased until the population is more abundant.

Response: NMFS disagrees that the blueline tilefish ACLs in the South Atlantic EEZ should not be increased. Abbreviated Framework 3 and this final rule respond to the latest stock assessment for Atlantic blueline tilefish (SEDAR 50) completed in October 2017. SEDAR 50 included blueline tilefish data from the South Atlantic Council and the Mid-Atlantic Fishery Management Councils' (Mid-Atlantic Council) jurisdictions. The South Atlantic Council's SSC reviewed the assessment, determined that the assessment represented the best scientific information available, and provided the South Atlantic Council with an overfishing limit and updated ABC recommendation for blueline tilefish in the EEZ south of Cape Hatteras, North Carolina. Abbreviated Framework 3 and this final rule are increasing the harvest levels for blueline tilefish in the South Atlantic EEZ based on SEDAR 50. These harvest levels are considered by the SSC to be sustainable and will not negatively impact the health of the stock. Additionally, NMFS has determined that blueline tilefish south of Cape Hatteras, North Carolina, is not currently overfished or undergoing overfishing.

Classification

The Regional Administrator for the NMFS Southeast Region has determined that this final rule is consistent with Abbreviated Framework 3, the FMP, the Magnuson-Stevens 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 action is not significant under Executive Order 12866.

The Magnuson-Stevens Act provides the legal basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting and record-keeping requirements are introduced by this rule. Accordingly, the Paperwork Reduction Act does not apply to this rule.

A description of this final rule, why it is being implemented, and the purposes of this rule are contained in the preamble and in the **SUMMARY** section. The objectives of this rule are to ensure that these measures for South Atlantic blueline tilefish are based on the best scientific information available, to achieve and maintain OY, and to prevent overfishing while minimizing adverse social and economic effects to the extent practicable.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. NMFS did not receive any comments from the SBA Office of Advocacy or the public regarding the economic analysis of Abbreviated Framework 3 or the certification contained in the proposed rule. No changes to this final rule were made in response to public comments.

The analysis included in the abbreviated framework action concluded that no charter vessels or headboats (for-hire) would be directly regulated by this rule. However, NMFS subsequently determined that some for-hire fishing businesses would be directly regulated by this rule. The rationale for that determination and the factual basis for the certification were published in the proposed rule and are repeated here for clarity.

This rule increases the total ACL and consequently the commercial and recreational ACLs for South Atlantic blueline tilefish. Thus, this rule applies to entities that harvest South Atlantic blueline tilefish. Recreational anglers

fishing for South Atlantic blueline tilefish will be directly affected by the rule. However, anglers are not considered entities under the RFA and thus will not be directly regulated by this rule.

This rule is expected to directly regulate commercial and for-hire businesses (vessels) that harvest or have the ability to harvest South Atlantic blueline tilefish. In 2018, there were 549 vessels with valid or renewable Federal South Atlantic snapper-grouper unlimited permits and 110 vessels with valid or renewable 225-lb (102-kg) trip limited permits. Any vessel with a valid Federal South Atlantic snapper-grouper unlimited permit or 225-lb (102-kg) trip limited permit may commercially harvest blueline tilefish. In 2018, there were 2,176 for-hire vessels that possessed a valid or renewable Federal charter vessel/headboat permit for South Atlantic snapper-grouper. Any for-hire vessel with a valid Federal charter vessel/headboat permit for South Atlantic snapper-grouper may harvest South Atlantic blueline tilefish. The number of charter vessels with a valid Federal permit that harvest South Atlantic blueline tilefish cannot be determined with available data. Based on the information above, NMFS determined that this rule may directly regulate 659 commercial fishing businesses and 2,176 for-hire fishing businesses.

From 2014 through 2018, an average of 143 commercial vessels per year landed blueline tilefish in the South Atlantic. Taken together, these vessels averaged 716 trips per year in the South Atlantic on which blueline tilefish were landed, and an additional 4,400 trips in the South Atlantic that did not land any blueline tilefish or were taken outside the South Atlantic regardless of the species caught. In 2018 dollars, the average annual total revenues were approximately \$0.03 million from blueline tilefish, \$1.89 million from other species co-harvested with blueline tilefish on the same trips, and \$8.95 million from trips in the South Atlantic on which no blueline tilefish were harvested or trips that occurred outside the South Atlantic. Average annual gross revenue from all species landed by vessels harvesting blueline tilefish in the South Atlantic was approximately \$11.15 million. Thus, average annual gross revenue per commercial vessel was about \$78,000 per vessel. For comparison, average annual gross revenue of federally permitted charter vessels and headboats in the South Atlantic is \$123,064 per charter vessel and \$267,067 per headboat in 2018 dollars.

On December 29, 2015, NMFS issued a final rule establishing a small business size standard of \$11 million in annual gross receipts (revenue) for all businesses primarily engaged in the commercial fishing industry (NAICS code 11411) for RFA compliance purposes only (80 FR 81194, December 29, 2015). In addition to this gross revenue standard, a business primarily involved in commercial fishing is classified as a small business if it is independently owned and operated, and is not dominant in its field of operations (including its affiliates). From 2014 through 2018, the maximum average annual gross revenue for a single vessel in the commercial snapper-grouper fishing industry was about \$1.6 million in 2018 dollars. Based on this information, all directly regulated commercial fishing businesses are determined, for the purpose of this analysis, to be small entities.

The SBA has established size standards for all other major industry sectors in the U.S., including for-hire fishing businesses (NAICS code 487210). A business primarily involved in the for-hire fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has annual receipts (revenue) not in excess of \$8 million for all its affiliated operations worldwide. In 2017, the maximum annual gross revenue for a single headboat in the South Atlantic was about \$765,200 in 2018 dollars. On average, annual gross revenue for headboats is more than double the annual gross revenue for charter vessels. Thus, it is assumed the maximum annual gross revenue for charter vessels is less than \$765,200. Based on this information, all directly regulated for-hire fishing businesses are determined, for the purpose of this analysis, to be small entities.

For South Atlantic blueline tilefish, this rule increases the total ACL from 174,798 lb to 233,968 lb (79,287 kg to 106,126 kg), the commercial ACL from 87,521 lb to 117,148 lb (39,699 kg to 53,137 kg), the recreational ACL from 87,277 lb to 116,820 lb (39,588 kg to 52,989 kg). In addition, Abbreviated Framework 3 increases the recreational ACT from 54,653 lb to 70,886 lb (24,790 kg to 32,153 kg). The recreational ACT does not constrain harvest in the recreational sector and therefore is not relevant with respect to determining effects on small entities.

The increase in the commercial ACL is expected to increase annual gross revenue for commercial snapper-grouper fishing entities harvesting

blueline tilefish by a total of \$96,979, or by about \$678 per active vessel, while profits for all commercial snapper-grouper fishing entities harvesting blueline tilefish are expected to increase by \$23,134, or about \$162 per vessel, in 2018 dollars. Because the recreational ACL is shared between private anglers and for-hire vessels, but without an established allocation among those components, it is not possible to determine how much of the increase in the recreational ACL will accrue to the for-hire snapper-grouper vessels that harvest blueline tilefish. However, the higher recreational ACL would be expected to at least minimally increase the number of for-hire trips harvesting blueline tilefish, which in turn would be expected to minimally increase the for-hire vessels' profits.

Because this final rule is not expected to have a significant economic impact on a substantial number of small entities, a final regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Annual catch limits, Blueline tilefish, Fisheries, Fishing, South Atlantic.

Dated: July 7, 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 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

- 1. The authority citation for part 622 continues to read as follows:

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

- 2. In § 622.193, revise the first sentence in paragraphs (z)(1)(i), (2)(i), and (3) to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(z) * * * (1) * * * (i) If commercial landings for blueline tilefish, as estimated by the SRD, reach or are projected to reach the commercial ACL of 117,148 lb (53,137 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. * * *

* * * * *

(2) * * * (i) If recreational landings for blueline tilefish, as estimated by the SRD, reach or are projected to reach the

recreational ACL of 116,820 lb (52,989 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year, unless the RA determines that no closure is necessary based on the best scientific information available. * * *

(3) The combined commercial and recreational sector ACL (total ACL) is 233,968 lb (106,126 kg), round weight.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 180117042-8884-02]

RTID 0648-XA263

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS is transferring 30 metric tons (mt) of Atlantic bluefin tuna (BFT) quota from the Reserve category to the Harpoon category. With this transfer, the adjusted Harpoon category quota for the 2020 fishing season is 76 mt. The 2020 Harpoon category fishery is open until November 15, 2020, or until the Harpoon category quota is reached, whichever comes first. The action is based on consideration of the regulatory determination criteria regarding inseason adjustments, and applies to Atlantic tunas Harpoon category (commercial) permitted vessels.

DATES: Effective July 13, 2020, through November 15, 2020.

FOR FURTHER INFORMATION CONTACT:

Sarah McLaughlin, 978-281-9260, Nicholas Velseboer, 978-675-2168, or Larry Redd, 301-427-8503.

SUPPLEMENTARY INFORMATION:

Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S.

BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014). NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

The current baseline quotas for the Harpoon and Reserve categories are 46 mt and 29.5 mt, respectively. See § 635.27(a). To date for 2020, NMFS has published one action that has augmented the available 2020 Reserve category quota and transferred quota from the Reserve to the General category for the January 2020 Fishery. This resulted in the current available Reserve quota of 143 mt (85 FR 6828, February 6, 2020). Regulations provide that the Harpoon category fishery opens June 1 and closes on November 15 of each year, or until the Harpoon category quota is reached, whichever comes first.

Transfer of 30 mt From the Reserve Category to the Harpoon Category

Under § 635.27(a)(9), NMFS has the authority to transfer quota among fishing categories or subcategories, after considering regulatory determination criteria provided under § 635.27(a)(8). NMFS has considered all of the relevant determination criteria and their applicability to the Harpoon category fishery. These considerations include, but are not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by Harpoon category fishermen and provided by tuna dealers provides NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT in the Harpoon category would support the continued collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the catches of the Harpoon category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(8)(ii) and (ix)). As of July 13, 2020, the Harpoon category has

landed 42.1 mt. Commercial-size BFT are currently readily available to vessels fishing under the Harpoon category quota. Without a quota transfer at this time, Harpoon category participants would have to stop BFT fishing activities with very short notice, while commercial-sized BFT remain available on the fishing grounds in the areas Harpoon category permitted vessels operate. Transferring 30 mt of BFT quota from the Reserve category would result in a total of 76 mt being available for the Harpoon category for the 2020 Harpoon category fishing season.

Regarding the projected ability of the vessels fishing under the particular category quota (here, the Harpoon category) to harvest the additional amount of BFT before the end of the fishing year (§ 635.27(a)(8)(iii)), NMFS considered Harpoon category landings over the last several years. Landings are highly variable and depend on access to commercial-sized BFT and fishing conditions, among other factors. NMFS anticipates that the Harpoon category could harvest the transferred 30 mt prior to the end of the Harpoon category fishing season, subject to weather conditions and BFT availability. NMFS may transfer unused Harpoon category quota to other quota categories, as appropriate. NMFS also anticipates that some underharvest of the 2019 adjusted U.S. BFT quota will be carried forward to 2020 and placed in the Reserve category, in accordance with the regulations. Thus, this quota transfer would allow fishermen to take advantage of the availability of fish on the fishing grounds, and provide a reasonable opportunity to harvest the full U.S. BFT quota.

NMFS also considered the estimated amounts by which quotas for other gear categories of the bluefin tuna fishery might be exceeded (§ 635.27(a)(8)(iv)) and the ability to account for all 2019 landings and dead discards. In the last several years, total U.S. BFT landings have been below the available U.S. quota such that the United States has carried forward the maximum amount of underharvest allowed by ICCAT from one year to the next. NMFS will need to account for 2020 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations, and anticipates having sufficient quota to do that.

NMFS also considered the effects of the adjustment on the BFT stock and the effects of the transfer on accomplishing the objectives of the FMP (§ 635.27(a)(8)(v) and (vi)). This transfer would be consistent with the current quotas, which were established and analyzed in the 2018 BFT quota final