

# **2022-2024 Blueline Tilefish Specifications**

## **Supplemental Information Report (SIR), Regulatory Impact Review (RIR), and Regulatory Flexibility Analysis (RFA)**

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**Prepared by the  
Mid-Atlantic Fishery Management Council (Council)  
in cooperation with  
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## Acronyms and Abbreviations

ABC	Acceptable Biological Catch
ACL	Annual Catch Limit
AM	Accountability Measure
APA	Administrative Procedure Act
ASMFC	Atlantic States Marine Fisheries Commission (Commission)
Board	ASMFC Summer Flounder, Scup, and Black Sea Bass Board
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
Commission	Atlantic States Marine Fisheries Commission (ASMFC)
Council	Mid-Atlantic Fishery Management Council (MAFMC)
CZMA	Coastal Zone Management Act
EA	Environmental Assessment
EEZ	Exclusive Economic Zone
EFH	Essential Fish Habitat
EO	Executive Order
ESA	Endangered Species Act
FMP	Fishery Management Plan
FR	Federal Register
GARFO	Greater Atlantic Regional Fisheries Office
IRFA	Initial Regulatory Flexibility Analysis
IQA	Information Quality Act
MAFMC	Mid-Atlantic Fishery Management Council
MC	Monitoring Committee
MMPA	Marine Mammal Protection Act
MRIP	Marine Recreational Information Program
MSA	Magnuson-Stevens Fishery Conservation and Management Act (as currently amended)
NEFSC	Northeast Fisheries Science Center
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service (also known as NOAA Fisheries)
NOAA	National Oceanic and Atmospheric Administration
OFL	Overfishing Limit
PRA	Paperwork Reduction Act
RFA	Regulatory Flexibility Act
RIR	Regulatory Impact Review
RHL	Recreational Harvest Limit
SEA	Supplemental Environmental Assessment
SIR	Supplemental Information Report
SSB	Spawning Stock Biomass
SSC	Scientific and Statistical Committee
TL	Total Length
U.S.	United States
VTR	Vessel Trip Report

## **1.0 Introduction**

This document supports an action that would establish 2022-2024 quotas and management measures for blueline tilefish. The Mid-Atlantic Fishery Management Council (Council) implemented 2019-2021 commercial and recreational annual catch limits (ACL), annual catch targets (ACT), and total allowable landings (TAL) for blueline tilefish based on updated recommendations resulting from a Southeast Data, Assessment, and Review (SEDAR 50) benchmark stock assessment in 2017 and a rerun of the Data Limited Toolkit (DLMTool) in 2018. These specifications were recommended and approved for three years as the next SEDAR operational stock assessment for blueline tilefish is tentatively scheduled for 2024<sup>1</sup>. This operational assessment will be used to inform the next blueline tilefish specifications package for 2025 and beyond. The purpose of this action is to implement 2022-2024 commercial and recreational ACLs, ACTs, and TALs for blueline tilefish. This action is needed to prevent overfishing and ensure ACLs are not exceeded. The proposed measures are provided in more detail in Section 4.0.

### **1.1 Specifications Process Background**

As required by the Magnuson-Stevens Fishery Conservation and Management Act (MSA) the Council's Scientific and Statistical Committee (SSC) provides ongoing advice on preventing overfishing while achieving maximum sustainable yield (MSY), including recommendations for acceptable biological catch (ABC). The Council's catch limit recommendations cannot exceed the ABCs recommended by the SSC.

The Tilefish Monitoring Committee (MC) (combined golden and blueline tilefish) develops management measures, including ACTs, TALs, trip limits, etc., to constrain catch in the commercial and recreational sector within the ACLs. Recommendations from the SSC, MC, and Tilefish Advisory Panel are the basis for the Council's blueline tilefish management measures.

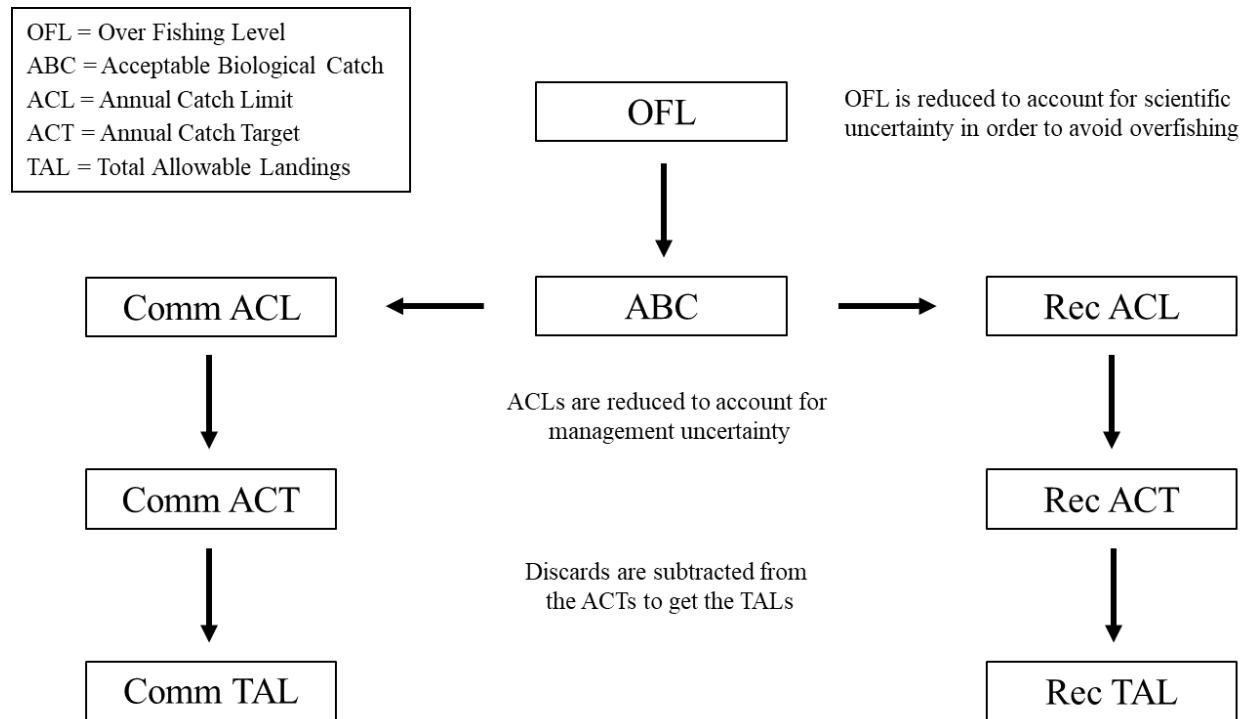
The Council's SSC now meets on a yearly basis to recommend new or review existing ABCs for blueline tilefish. The SSC derives ABCs using a combination of the Council's risk policy and specific methods based on the degree of uncertainty associated with information provided in the stock assessments for each species. Blueline tilefish are a data-poor stock, and an overfishing limit (OFL) could not be determined in 2018. In this case, the SSC relied on data from a commercial catch time series and fishery independent surveys along with a DLMTool (Carruthers et al. 2014) to develop an ABC based on a constant catch procedure that sought to maintain the stock status. The DLMTool used a combination of performance measures, life history data, and removals to achieve an ABC.

When an OFL is provided, the SSC defines the ABC as the catch level below the OFL that adequately accounts for scientific uncertainty to achieve the Council's desired risk of overfishing. This ABC includes both landings and discards and is equal to the sum of the commercial and recreational ACLs for blueline tilefish (Figure 1). The MC is then responsible for recommending ACLs, ACTs, and TALs. Based on the allocation percentages in Amendment 6 to the Tilefish Fishery Management Plan (FMP), 27% of the TALs are allocated to the commercial fishery and 73% to the recreational fishery.

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<sup>1</sup> <http://sedarweb.org/species/blue-line-tilefish>.

The MC meets each year to recommend new or review existing ACTs and management measures. More details on the SSC, MC, and Advisory Panel recommendations relevant to this action can be found in the briefing materials for the April 2021 Council meeting, at: <https://www.mafmc.org/briefing/april-2021>.



**Figure 1: Flowchart for blueline tilefish commercial and recreational landings limits**

Amendment 6 to the Tilefish Fishery Management Plan (FMP) was implemented by the Council in 2017. This amendment incorporated blueline tilefish into the (golden) tilefish FMP and includes a jurisdiction from Virginia to the Canadian border. The South Atlantic Fishery Management Council (SAFMC) manages blueline tilefish in the Atlantic from North Carolina to Florida. The Council works cooperatively with the SAFMC to develop best management practices and ultimately submits recommendations to the Greater Atlantic Regional Fisheries Office Administrator to consider for implementation. The Regional Administrator will review the recommendations in this document and may revise them, if necessary, to achieve FMP objectives and to meet statutory requirements.

## 2.0 Purpose of this Supplemental Information Report and the Proposed Action

The purpose of this SIR is to determine if the recommended blueline tilefish catch and landings limits for 2022-2024 (section 5.0) require further analysis beyond that presented in the 2019-2021 Specifications EA.

The proposed action would implement 2022-2024 specifications for blueline tilefish based on a benchmark stock assessment in 2017 and a rerun of the Data Limited Toolkit (DLMTool) in 2018. Catch and landings limits were previously implemented for 2019-2021 based on prior recommendations of the Council and Board (MAFMC 2018; 84 FR 3341, effective February 12, 2019). Ultimately, implementation of this specifications package will allow for the MAFMC to sync up with the tentative assessment schedule provided through SEDAR and the SAFMC for 2024.

As previously stated, this SIR is supported by the information and analysis presented in the 2019-2021 Specifications EAs referenced above. Additional information is also provided in the SIR which details revisions to the Council's risk policy. The proposed catch and landings limits described in this document for blueline tilefish are within the range of limits previously analyzed in the 2019-2021 Specifications EA. As described in more detail below, a review of recent fishery information and the assessment indicates that there have been no substantial changes in the fishery or other new information that would alter the range of impacts previously considered in the 2019-2021 Specifications EA (see section 6.0).

In making a determination on the need for additional analysis under NEPA, we have considered and have been guided by the Council on Environmental Quality (CEQ) NEPA regulations and applicable case law. The CEQ's regulations state that "[a]gencies shall prepare supplements to either draft or final environmental impact statements if: (i) the agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts." 40 Code of Federal Regulations (C.F.R.) § 1502.9(d)(1). Consistent with 40 C.F.R. 1502.9(d)(4) and 1501.3(b) we have determined that any changes to the proposed action or new circumstances or information relevant to environmental concerns are not significant and therefore do not require a supplement.

### **3.0 Original Action(s)**

The sections below describe the original in the context of the proposed action for the 2022-2024 blueline tilefish fishery.

#### ***3.1 Original Tilefish Fishery Management Plan***

The Golden Tilefish FMP was implemented in 2001. The FMP was proposed to initiate management of golden tilefish north of the North Carolina/Virginia border with a goal to rebuild tilefish so that optimum yield could be obtained from the resource. To meet the goal, management measures were set to prevent overfishing and support MSY, prevent overcapitalization, describe essential tilefish habitat and collect necessary data to avoid overfishing and reduce bycatch in all fisheries. Amendments to the original FMP have been implemented to allocate individual fishing quotas (Amendment 1), to address standardized bycatch reporting methodologies (Amendment 2 and 4), to establish ACLs and accountability measures (AM) (Amendment 3), and to prohibit expansion/development of directed fisheries on unmanaged forage species until adequate scientific information is available (Amendment 5). Additionally, Framework 1 created quota set-aside for the purposes of conducting research.

### **3.2 *Amendment 6 to the Tilefish Fishery Management Plan (2017)***

Amendment 6 to the Tilefish FMP added blueline tilefish to the FMP. The purpose of the document was to present a range of alternatives for management measures for the blueline tilefish fishery off the coasts of the Mid-Atlantic and New England, along with a characterization of the environmental impacts of those alternatives. The action also set the 2017 specifications for blueline tilefish.

### **3.3 *2019-2021 Catch and Landings Limits***

The SEDAR 50 benchmark assessment for blueline tilefish concluded in late 2017. Within the assessment, blueline tilefish were split into two separate stocks, north and south of Cape Hatteras, North Carolina. ABC recommendations were set for the region south of Cape Hatteras (not overfished, overfishing not occurring), but data limitations restricted an ABC recommendation for the region north of Cape Hatteras, which encompasses part of the South Atlantic and the Mid-Atlantic management areas. To assist in developing an ABC recommendation, the Mid- and South Atlantic Councils/SSCs, as well as staff from the Northeast and Southeast Fisheries Science Centers developed a joint subcommittee to rerun the DLMTTool for the region north of Cape Hatteras. The results were partitioned at the Council boundaries using coastwide catch data from the recently completed pilot tilefish survey funded by the MAFMC out of SUNY Stony Brook.

At their March 2018 meeting, the SSC reviewed the output from the most recent blueline tilefish DLMTTool runs (as recommended by the Joint Mid- and South Atlantic Blueline Tilefish Subcommittee) as well as the output from the SEDAR 50 benchmark stock assessment and provided recommendations for annual OFL and ABC levels for 2019-2021<sup>2</sup>. The blueline tilefish ABCs for 2019-2021 were derived using the DLMTTool. The SSC also concluded that the MSY estimate based on the DLMTTool analysis for the region north of Cape Hatteras is an estimate of the OFL, not the ABC (as recommended by the joint subcommittee), which enabled the SSC to use the P\* approach and the Council's (old) risk policy in setting ABC specifications. This was considered a reasonable recommendation for 2019-2021 (with annual reviews) due to limited data and broad uncertainties (e.g., max age, short time series, no estimate of recruitment, etc.) within the fishery. Revisions due to changes in the risk policy were not made in 2021 because of the small quotas.

Since the SSC lacked information on the estimate of stock biomass relative to  $B_{MSY}$ , a ratio of  $B/B_{MSY} = 1$  was applied as a default value for the P\* (i.e.,  $P^* = 0.4$  under the MAFMC's risk policy, at the time). The SSC also assumed a typical life history (similar to golden tilefish). Based on this application of the Council's (old) risk policy, the resulting SSC-recommended ABC was 179,500 pounds 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 allocate 56% of that ABC to the MAFMC (VA/NC border – north) and 44% to the South Atlantic Fishery Management Council. The basis for this percentage breakdown came from the catch results and random stratified design of the Pilot Blueline Tilefish Longline Survey (SUNY Stony Brook-Frisk et al. 2018). Using the 56% allocation, the MAFMC ABC for 2019-2021 was 100,520 pounds.

As defined by the Omnibus ACLs and AMs Amendment (Amendment 3 to the Tilefish FMP; MAFMC 2011), the ABC includes both landings and discards, and is equal to the sum of the

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<sup>2</sup> The March 2018 SSC meeting report is available at: <http://www.mafmc.org/ssc>.



commercial and recreational ACLs (Figure 1). The MC is responsible for recommending ACLs and ACTs derived from the ABC recommendations of the SSC. The ABC is then apportioned into total landings and discards based on recent information that is representative of the current fishery. Based on the allocation percentages in the FMP, 73% of the ABC is allocated to the recreational fishery as the recreational ACL, and 27% to the commercial fishery as the commercial ACL. Total projected discards are apportioned based on the contribution from each fishing sector. Commercial and recreational TALs are derived from the sector-specific ACTs after subtracting sector-specific projected discards (Figure 1).

The MC meets each year to recommend new or review existing TALs and other management measures such as trip limits, gear restrictions, and possession limits. In 2018, the MC recommended changing the commercial trip limit from 300 pounds to 500 pounds with a reduction to 300 pounds once 70% of the quota has been landed. This trigger was put into place to allow fishermen to catch the TAL, while providing enough of a buffer (30% of the quota) to make sure catch remains below the ACL. The measures approved in the 2019-2021 EA are presented in Table 1.

**Table 1: OFL, catch limits, and discards (in pounds and metric tons) for the preferred alternative for blueline tilefish in 2019-2021.**

Management Measure	2019-2021		Basis
	Pounds	mt	
OFL: North of Cape Hatteras	236,329	107.20	Outcome of the DLMTool for the region North of Cape Hatteras as specified by the SSC
ABC: North of Cape Hatteras	179,500	81.42	SSC recommendation based on application of the Council risk policy
ABC: Mid-Atlantic	100,520	45.60	56% allocation of the North of Cape Hatteras ABC
Recreational ACL	73,380	33.28	73% of ABC (per FMP allocation)
Recreational ACT	73,380	33.28	Recreational ACL, less deduction for management uncertainty
Projected Recreational Discards	1,468	0.67	MC assumes a 2% discard rate for the recreational fishery (projected with VTR data)
Recreational TAL	71,912	32.62	Recreational ACT, less projected discards
Recreational Trip Limit	N/A	N/A	Private angler: 3-fish For-hire (U.S Coast Guard uninspected vessel): 5-fish For-hire (U.S Coast Guard inspected vessel): 7-fish
Commercial ACL	27,140	12.31	27% of ABC (per FMP allocation)
Commercial ACT	27,140	12.31	Commercial ACL, less deduction for management uncertainty
Projected Commercial Discards	271	0.12	MC assumes a 1% discard rate for the commercial fishery (projected with VTR data)
Commercial TAL	26,869	12.19	Commercial ACT, less projected discards
Commercial Trip Limit	500-lbs to 300-lbs after 70%	0.23-mt to 0.14 mt after 70%	MC recommendation to achieve the TAL, yet remain under the quota with the 70% trigger

## **4.0 New Information/Circumstances**

Determining whether a supplemental NEPA analysis is required involves a two-step process. First, one must identify new information or circumstances. Secondly, if there is new information, one must analyze whether it is significant to the analysis of the action and relevant to environmental concerns and bearing on the action or its impacts.

The information in this document presents blueline tilefish specifications for 2022-2024. The Council reviewed recommendations from the public, MC and tilefish AP, and ultimately recommended status quo blueline tilefish specifications. Status quo recommendations provided no changes to the current specifications provided in the 2019-2021 Specifications EA. No new additional information was available to suggest changes. Finally, these specifications were recommended and approved for three years as the next SEDAR operational stock assessment for blueline tilefish is tentatively scheduled for 2024. This operational assessment will be used to inform the next blueline tilefish specifications package for 2025 and beyond.

### **4.1 Private Recreational Permitting and Reporting**

In the recreational fishery, intercepts by dockside samplers through the Marine Recreational Information Program are rare events. Thus, recreational catch accounting for the private angler must be improved. To improve tilefish management and reporting in the recreational fishery, the Greater Atlantic Regional Fisheries Office (GARFO) implemented mandatory private recreational permitting and reporting for tilefish anglers in August 2020. *This action was approved in late 2017 through Amendment 6 to the Tilefish FMP*, but with delayed implementation. Outreach materials and webinars were provided by GARFO and the Council leading up to the final rule and will continue to be circulated as these regulations become better understood.

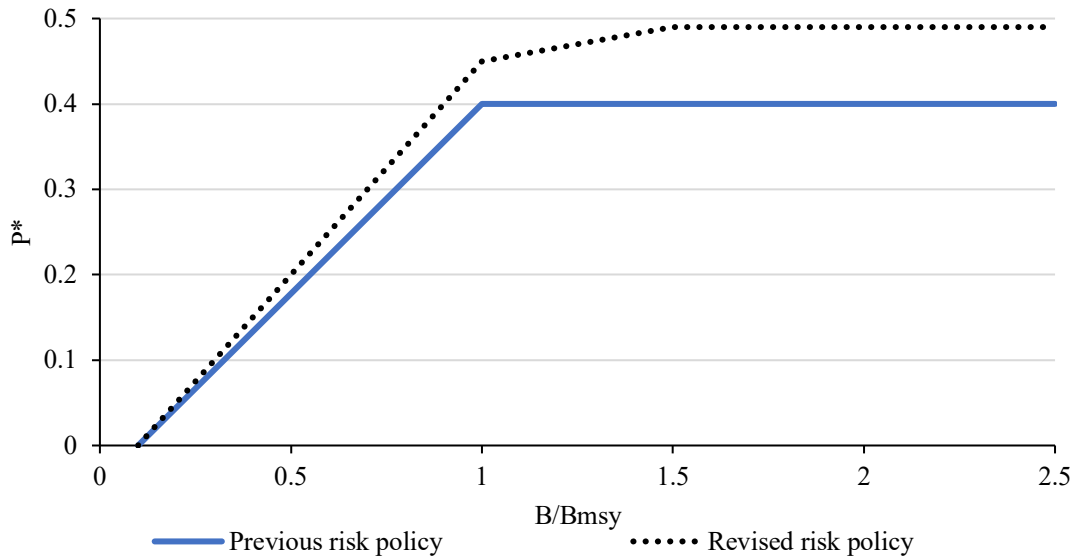
Under this rule, private recreational vessels (including for-hire operators using their vessels for non-charter, recreational trips) are required to obtain a federal vessel permit to target or retain blueline or golden tilefish north of the Virginia/North Carolina border. These vessel operators would also be required to submit vessel trip reports (VTR) electronically within 24 hours of returning to port for trips where tilefish were targeted or retained. For more information about the proposed requirements, check out the [Recreational Tilefish Permitting and Reporting FAQs](#). These rules have led to collection of some additional data, but do not affect catch or fishing behavior, and given limited awareness of the requirements to date, these data are likely incomplete and have not changed the general perception that private tilefish catches are relatively rare events.

### **4.2 Revised Council Risk Policy**

The risk policy specifies the Council's acceptable level of risk of overfishing (i.e., the probability of overfishing,  $P^*$ ) for managed stocks and works in conjunction with the ABC control rule to account for scientific uncertainty when determining the ABC.

The Council revised their risk policy in late 2019, however these revisions were not incorporated into the 2022-2024 specifications due to the uncertainties associated with the Mid-Atlantic blueline tilefish stock. The revised risk policy will likely be incorporated into the next specifications package when the SSC reviews the outcomes of the 2024 operational assessment. This policy will allow for increased risk of overfishing under most biomass levels compared to the previous risk policy (Figure 2). The change is greatest for stocks with biomass above the target level ( $B_{MSY}$ ). The revised risk policy allows a maximum  $P^*$  of 49% for stocks at or above 150% of the target

level (previously a maximum of 40% for stocks at or above the target level). The rationale behind these revisions is described in more detail in the EA and final rule available here: <https://www.mafmc.org/actions/risk-policy-framework>.



**Figure 2: Acceptable probability of overfishing ( $p^*$ ) at different biomass levels under the Council’s previous and revised risk policies.**

### 5.0 Proposed New Action

For 2022-2024, the proposed action is a recommendation of status quo blueline tilefish management measures that would be identical to the measures analyzed in the previous EA. The recreational and commercial management measures of the 2019-2021 Specifications EA would remain as presented in Table 1. The Council chose to continue the use of these management measures as blueline tilefish is still a data limited stock with no new assessment information.

As specified in the FMP, 27% of the ABC is allocated to the commercial fishery as a commercial ACL and 73% is allocated to the recreational fishery as a recreational ACL (Figure 1). Based on the recommendations of the Tilefish AP, SSC, Tilefish MC, and Council, the resulting recreational and commercial ACLs for 2022-2024 are 73,380 pounds and 27,140, respectively.

### 6.0 NEPA Compliance and Supporting Analysis

In this section, the proposed 2022-2024 catch and landings limits are compared to those considered through the 2019-2021 Specifications EA in terms of their expected impacts. The methods, assumptions, and data sources used in this analysis are described in more detail below and are consistent with those applied in the 2019-2021 Specifications EA.

CEQ requirements indicate that a supplemental NEPA analysis must be prepared if a new proposed action is substantially different from a previously completed but related action. However, not every change to a proposed action, including the presence of new information, necessitates the

development of a new or supplemental NEPA analysis. NOAA Fisheries provided guidance to Councils on the use of “non-NEPA documents” to help determine whether a new or supplemental NEPA document is necessary or if a non-NEPA document (SIR) may be used to demonstrate that an original NEPA document sufficiently considered and analyzed the proposed actions and its effects. At this time, it appears that an SIR would be appropriate given the lack of changes to the expected impacts as discussed below.

The proposed commercial and recreational ACLs for 2022-2024 are identical to the management measures defined in the 2019-2021 Specifications EA, which are summarized in Table 1 above and include annual catch limits, recreational possession limits, and commercial trip limits. The management measures were developed using the same ABC resulting from the DLMTool that informed the 2021 specifications. Since no changes are proposed for the blueline tilefish catch limits or other measures, fishing effort would be expected to continue in a similar manner, and likewise for impacts. Accordingly, the specifications are not expected to result in changes to the impacts on the valued ecosystem components (VEC) analyzed in the previous EA. The impacts previously described for 2019-2021 specifications in the EA for that action, are summarized below for each of the VECs.

The existing specifications were expected to result in moderate negative to moderate positive impacts on blueline tilefish given stock status is still unknown in the Mid-Atlantic. The small ABC and associated effort (as compared to other Council-managed species) was not expected to increase interactions with non-target species or exacerbate their current stock statuses.

Under the existing specifications, the commercial and recreational blueline tilefish fisheries were expected to impose slight negative to no impact on the physical environment/habitat/EFH compared to the current condition of the VEC. Fishing effort on blueline tilefish was expected to remain the same as the baseline conditions and mainly includes prosecution with rod and reel and longline, which minimally impact EFH.

Under the existing specifications, the commercial and recreational blueline tilefish fisheries were expected to have moderate negative to slight positive impacts on protected species, with slight negative to slight positive impacts for non-ESA listed marine mammal species in good condition (i.e., PBR levels have not been exceeded), and moderate negative to negligible impacts likely for ESA listed species and non-ESA listed marine mammals in poor condition (i.e., PBR levels have been exceeded).

The previous EA also concluded that the current specifications would result in slight positive impacts on the human communities due to opportunities for stakeholders to land fish and create revenues, ultimately leading to increased well-being.

There are no significant new circumstances or information relevant to environmental concerns bearing on the proposed action or its impacts that would alter the previous findings. Accordingly, impacts on each VEC would also be expected to persist if the current specifications and measures are maintained. The information considered in Amendment 6 and the 2019-2021 Specifications EA is similar to the information currently available and there are no changes proposed for the 2022-2024 specifications. Moreover, the fishery conditions have been relatively stable and no new information on the affected environment is available that would be expected to change the impact

assessment of the proposed action given the effort directed toward blueline tilefish. New information is expected upon the completion of the 2024 operational assessment which should inform specifications for 2025 and beyond.

## **7.0 Public Participation**

The public had the opportunity to provide comments during the development of the 2020-2021 Specifications EA. The public also had the opportunity to review and comment on the proposed 2022-2024 specifications during the AP Meeting held on February 17, 2021; during the SSC meeting held on March 9, 2021; during the MC Meeting held on March 16, 2021; and during the Council meeting held on April 7, 2021.

This document will be subject to public comment through proposed rulemaking, as required under the Administrative Procedure Act and may be improved based on comments received.

## **8.0 Conclusion**

After considering the proposed action, new information, and new circumstances, the Council has determined (as standard for draft documents accompanying proposed rules) that the proposed action and its effects fall within the scope of the 2019-2021 BlueLine Tilefish Specifications EA. Thus, it is not necessary to supplement the original EA and FONSI because 1) the impacts of this action do not differ substantially from what was originally considered in the EA analyzing a range of 2019-2021 commercial and recreational ACLs; and (2) no new information or circumstances exist that are significantly different from when the EA Finding of No Significant Impact was signed on December 18, 2018. The Specifications EA and FONSI thus remain valid to support the proposed action.

## **9.0 Compliance with Applicable Laws**

### ***9.1 Magnuson-Stevens Fishery Conservation and Management Act (MSA)***

Section 301 of the Magnuson Stevens Act (MSA) requires that FMPs contain conservation and management measures that are consistent with the ten National Standards. The actions taken in this specification document are confined to processes defined within the FMP; therefore, as actions within the FMP have been deemed to be consistent with the National Standards, these specification actions are similarly consistent. The most recent FMP Amendments address how the management actions implemented comply with the National Standards. First and foremost, the Council continues to meet the obligations of National Standard 1 by adopting and implementing conservation and management measures that will continue to prevent overfishing, while achieving, on a continuing basis, the optimum yield for blueline tilefish and the U.S. fishing industry, including annual catch limits and measures to ensure accountability for those limits. The Council uses the best scientific information available (National Standard 2) and manages blueline tilefish throughout their range (National Standard 3). These management measures do not discriminate among residents of different states, (National Standard 4), they do not have economic allocation as their sole purpose (National Standard 5), the measures account for variations in these fisheries (National Standard 6), they avoid unnecessary duplication (National Standard 7), they take into account the fishing communities (National Standard 8), and they promote safety at sea (National Standard 10). Finally, actions taken are consistent with National Standard 9, which addresses

bycatch in fisheries. The Council has implemented many regulations that have indirectly acted to reduce fishing gear impacts on EFH. By continuing to meet the National Standards requirements of the MSA through future FMP amendments, framework actions and the annual specification setting process, the Council will insure that cumulative impacts of these actions will remain positive overall for the ports and communities that depend on these fisheries, for the Nation as a whole, and for the resources.

### **9.2 *National Environmental Policy Act (NEPA)***

The Council has determined that the proposed action and its effects fall within the scope of the 2019-2021 Blueline Tilefish Specifications EA that it is based off, and that these analyses remain valid for this action. Thus, there is no need to supplement these analyses and the Finding of No Significant Impact.

### **9.3 *Marine Mammal Protection Act (MMPA)***

None of the specifications proposed in this document are expected to alter overall effort or fishing methods beyond what has been previously analyzed. Information on the potential impacts of the fishery and the proposed management action on marine mammals can be found in the 2019-2021 Blueline Tilefish Specifications EA. Consistent with the determination made in the EA, this action is not expected to affect marine mammals in any manner not considered in previous consultations on the fisheries.

### **9.4 *Endangered Species Act (ESA)***

Section 7 of the Endangered Species Act requires federal agencies conducting, authorizing, or funding activities that affect threatened or endangered species to ensure that those effects do not jeopardize the continued existence of listed species. The proposed action is not expected to result in an increase in fishing effort or a substantial change in the way the fishery currently operates. Given this, consistent with determination made in the 2019-2021 Blueline Tilefish Specifications EA, the proposed action is not expected to affect ESA listed species or critical habitat in any manner not considered in previous consultations on the fisheries.

### **9.5 *Coastal Zone Management Act (CZMA)***

Section 307(c)(1) of the CZMA of 1972, as amended, requires that all federal activities that directly affect the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. The CZMA provides measures for ensuring stability of productive fishery habitat while striving to balance development pressures with social, economic, cultural, and other impacts on the coastal zone. Responsible management of coastal zones and fish stocks must involve mutually supportive goals. NMFS must determine whether this action is consistent to the maximum extent practicable with the CZM programs for each state (Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and North Carolina). The Council has developed these management measures and will submit them to NMFS; NMFS must determine whether this action is consistent to the maximum extent practicable with the CZM programs for each state.

### **9.6 *Administrative Procedure Act (APA)***

Section 553 of the Administrative Procedures Act establishes procedural requirements applicable to informal rulemaking by federal agencies. The purpose of these requirements is to ensure public access to the federal rulemaking process and to give the public adequate notice and opportunity

for comment. At this time, the Council is not requesting any abridgement of the rulemaking process for this action.

## **9.7 Information Quality Act (IQA)**

### **Utility of Information Product**

This action proposes 2022-2024 catch and landings limits for blueline tilefish. This document includes: A description of the proposed action and rationale for selection, and any changes to the implementing regulations of the FMP (if applicable). As such, this document enables the implementing agency (NMFS) to make a decision on implementation of annual specifications (i.e., management measures), and this document serves as a supporting document.

This document will be subject to public comment through proposed rulemaking, as required under the APA and may be improved based on comments received. The *Federal Register* notice that announces the proposed rule, the final rule and implementing regulations will be made available in printed publication, on the website for the Greater Atlantic Regional Fisheries Office ([www.greateratlantic.fisheries.noaa.gov](http://www.greateratlantic.fisheries.noaa.gov)) and through [Regulations.gov](http://Regulations.gov). The *Federal Register* documents will provide metric conversions for all measurements.

### **Integrity of Information Product**

This information product meets the standards for integrity under the following types of documents: Other/Discussion (e.g., Confidentiality of Statistics of the MSA; NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics; 50 CFR 229.11, Confidentiality of information collected under the Marine Mammal Protection Act.)

Prior to dissemination, information associated with this action, independent of the specific intended distribution mechanism, is safeguarded from improper access, modification, or destruction to a degree commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information. All electronic information disseminated by NMFS adheres to the standards set out in Appendix III, “Security of Automated Information Resources,” of Office of Management and Budget Circular A-130; the Computer Security Act; and the Government Information Security Act. All confidential information (e.g., dealer purchase reports) is safeguarded pursuant to the Privacy Act; Titles 13, 15, and 22 of the U.S. Code (confidentiality of census, business, and financial information); the Confidentiality of Statistics provisions of the MSA; and NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics.

### **Objectivity of Information Product**

For purposes of the Pre-Dissemination Review, this document is considered to be a “Natural Resource Plan.” Accordingly, the document adheres to the published standards of the MSA; the Operational Guidelines, Fishery Management Plan Process; the Essential Fish Habitat Guidelines; the National Standard Guidelines; and NOAA Administrative Order 216-6, Environmental Review Procedures for Implementing the National Environmental Policy Act. This information product, and the assessments it builds off, use information of known quality from sources acceptable to the relevant scientific and technical communities. Several sources of data were used in the development of this specifications document. These data sources included, but were not limited to, historical and current commercial landings data from the Commercial Dealer database, historical and current recreational landings data from the Marine Recreational



Information Program, VTR data and fisheries independent data collected through the NMFS bottom trawl surveys. The analyses contained in this document, and in the 2019-2021 Blueline Tilefish Specifications EA, which this document builds off, were prepared using data from accepted sources. The analyses have been reviewed by members of the Tilefish Monitoring Committee and/or by the Council's SSC where appropriate.

Conservation and management measures considered for this action were selected based upon the best scientific information available. The analyses important to this decision used the most recent data available. The data used in the specifications analyses provide the best available information on the number of permits, both active and inactive, in the fishery, the catch (including landings and discards) by those vessels, the landings per unit of effort and the revenue produced by the sale of those landings to dealers. No updates to that information were deemed appropriate for this action. Specialists (including professional members of plan development teams, technical teams, committees and Council staff) who worked with these data are familiar with the most current analytical techniques and with the available data and information relevant to the fishery.

The policy choice and proposed measures along with the supporting science and analyses, upon which the policy choice was based are described in the 2019-2021 Blueline Tilefish Specifications EA. All supporting materials, information, data, and analyses within this document have been, to the maximum extent practicable, properly referenced per commonly accepted standards for scientific literature to ensure transparency. The review process used in preparation of this document involves the Council, the Northeast Fisheries Science Center, the Greater Atlantic Regional Fisheries Office, and NOAA Fisheries Service Headquarters. The Northeast Fisheries Science Center's technical review is conducted by senior level scientists with specialties in population dynamics, stock assessment methods, population biology, and the social sciences. The Council review process involves public meetings at which affected stakeholders have opportunity to provide comments on the document. Review by staff at the Regional Office is conducted by those with expertise in fisheries management and policy, habitat conservation, protected species, and compliance with the applicable law. Final approval of the action proposed in this document and clearance of any rules prepared to implement resulting regulations is conducted by staff at NOAA Fisheries Service Headquarters, the Department of Commerce, and the U.S. Office of Management and Budget. In preparing this action, NMFS must comply with the requirements of the MSA, the National Environmental Policy Act, the Administrative Procedure Act, the Paperwork Reduction Act, the Coastal Zone Management Act, the Endangered Species Act, the Marine Mammal Protection Act, the Information Quality Act, and Executive Orders 12630 (Property Rights), 12866 (Regulatory Planning), 13132 (Federalism), and 13158 (Marine Protected Areas). The Council has determined that the proposed action is consistent with the National Standards of the MSA and all other applicable laws.

### **9.8 *Paperwork Reduction Act (PRA)***

The Paperwork Reduction Act (PRA) concerns the collection of information. The intent of the PRA is to minimize the federal paperwork burden for individuals, small businesses, state and local governments, and other persons, as well as to maximize the usefulness of information collected by the federal government. The Council is not proposing measures under this regulatory action that require review under PRA. There are no changes to existing reporting requirements previously approved under this FMP. This action does not contain a collection-of-information requirement for purposes of the PRA.

## **9.9 Initial Regulatory Flexibility Analysis (IRFA)**

### **9.9.1 Basis and purpose of the rule**

The Regulatory Flexibility Act (RFA), first enacted in 1980, and codified at 5 U.S.C. 600-611, was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a federal regulation. Major goals of the RFA are: 1) to increase agency awareness and understanding of the impact of their regulations on small business; 2) to require that agencies communicate and explain their findings to the public; and 3) to encourage agencies to use flexibility and to provide regulatory relief to small entities.

The RFA emphasizes predicting significant adverse impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts, while still achieving the stated objective of the action. When an agency publishes a proposed rule, it must either, (1) “certify” that the action will not have a significant adverse impact on a substantial number of small entities, and support such a certification declaration with a “factual basis”, demonstrating this outcome, or, (2) if such a certification cannot be supported by a factual basis, prepare and make available for public review an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact of the proposed rule on small entities.

This document provides the factual basis supporting a certification (by NMFS) that the proposed regulations will not have a “significant impact on a substantial number of small entities” and that an IRFA is not needed in this case. Certifying an action must include the following elements, and each element is subsequently elaborated upon below:

- A. A statement of basis and purpose of the rule
- B. A description and estimate of the number of small entities to which the rule applies
- C. Description and estimate of economic impacts on small entities, by entity size and industry
- D. An explanation of the criteria used to evaluate whether the rule would impose significant economic impacts
- E. An explanation of the criteria used to evaluate whether the rule would impose impacts on a substantial number of small entities
- F. A description of, and an explanation of the basis for, assumptions used

The basis of the rules proposed in this action are the provisions of the MSA for federal fishery management to primarily prevent overfishing, rebuild stocks, and achieve optimum yield. Optimum yield is defined as the amount of fish which will achieve the maximum sustainable yield, as reduced by any relevant economic, social, or ecological factor. The purpose of the rules associated with the preferred alternatives are to implement 2022-2024 blueline tilefish specifications that institute quotas, and related measures that will restrict and monitor catch so as to avoid overfishing, while facilitating catch such that optimum yield is achieved. Failure to implement the preferred measures described in this document could result in overfishing, stock depletion and/or failure to reach optimum yield.

### ***9.9.2 Description and Estimate of the Number of Small Entities to Which the Rule Applies***

The entities (i.e., the small and large businesses) that may be affected by this action include commercial or for-hire fishing operations with federal tilefish permits. Private recreational anglers are not considered “entities” under the Regulatory Flexibility Act. For purposes of this analysis of entities involved in fishing, an \$11 million threshold (3-year average of annual receipts) is used, per standard procedures. The most recent data indicates that there were 1096 entities in 2020 with commercial tilefish permits that were identified as commercial entities or had no revenues. Based on 2018-2020 revenues, 1087 were small businesses. 222 entities had for-hire permits and were identified as for-hire businesses, and all were small businesses based on 2018-2020 revenues.

### ***9.9.3 Description and Estimate of Economic Impacts on Regulated Entities***

The specifications are not proposed to change, so there should be no negative impacts on these small businesses compared to recent operations.

### ***9.9.5 A Description of, and an Explanation of the Basis for, Assumptions***

The only assumption is that we consider impacts relative to recent specifications, which is a standard practice.

## **10.0 Preparers and Persons Consulted**

For questions or to obtain a copy of the document, please contact:

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