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Title 50 —Wildlife and Fisheries

Chapter VI —Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce

Part 648 —Fisheries of the Northeastern United States

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Subpart N Management Measures for the Golden Tilefish and Blueline Tilefish Fisheries

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Editorial Note: Nomenclature changes to part 648 appear at 62 FR 14651, Mar. 27, 1997.

Subpart N—Management Measures for the Golden Tilefish and Blueline Tilefish Fisheries

Source: 66 FR 49145, Sept. 26, 2001, unless otherwise noted.

§ 648.290 Tilefish Annual Catch Limits (ACL).

(a) **Golden tilefish.** The Tilefish Monitoring Committee shall recommend to the MAFMC an ACL for the commercial golden tilefish fishery, which shall not exceed the ABC recommended by the SSC.

(1) [Reserved]

(2) **Periodicity.** The tilefish commercial ACL may be established on an annual basis for up to three years at a time, dependent on whether the SSC provides single or multiple-year ABC recommendations.

(b) **Blueline tilefish.** The Tilefish Monitoring Committee shall recommend to the MAFMC separate ACLs for the commercial and recreational blueline tilefish fisheries, the sum total of which shall not exceed the ABC recommended by the SSC.

(c) **Performance review.** The Tilefish Monitoring Committee shall conduct a detailed review of golden tilefish and blueline tilefish fishery performance relative to the appropriate sector ACLs at least every 5 years.

- (1) If an ACL is exceeded with a frequency greater than 25 percent (*i.e.*, more than once in 4 years or in any 2 consecutive years), the Tilefish Monitoring Committee will review fishery performance information and make recommendations to the MAFMC for changes in measures intended to ensure ACLs are not as frequently exceeded.
- (2) The MAFMC may specify more frequent or more specific ACL performance review criteria as part of a stock rebuilding plan following a determination that either the golden tilefish or blueline tilefish stock has become overfished.
- (3) Performance reviews shall not substitute for annual reviews that occur to ascertain if prior year ACLs have been exceeded, but may be conducted in conjunction with such reviews.

[82 FR 52857, Nov. 15, 2017, as amended at 91 FR 22466, Apr. 27, 2026]

§ 648.291 Tilefish Annual Catch Targets (ACT).

- (a) **Golden tilefish.** The Tilefish Monitoring Committee shall identify and review the relevant sources of management uncertainty to recommend ACTs for the individual fishing quota (IFQ) and incidental sectors of the fishery as part of the golden tilefish specification process. The Tilefish Monitoring Committee recommendations shall identify the specific sources of management uncertainty that were considered, technical approaches to mitigating these sources of uncertainty, and any additional relevant information considered in the ACT recommendation process.
 - (1) **ACT allocation.**
 - (i) The ACT shall be less than or equal to the ACL.
 - (ii) The Tilefish Monitoring Committee shall include the fishing mortality associated with the recreational fishery in its ACT recommendations only if this source of mortality has not already been accounted for in the ABC recommended by the SSC.
 - (iii) The Tilefish Monitoring Committee shall allocate 5 percent of the ACT to the incidental sector of the fishery and the remaining 95 percent to the IFQ sector.
 - (2) **Periodicity.** ACTs may be established on an annual basis for up to three years at a time, dependent on whether the SSC provides single or multiple-year ABC recommendations.
- (b) **Blueline tilefish.** The Tilefish Monitoring Committee shall identify and review the relevant sources of management uncertainty to recommend ACTs for the commercial and recreational fishing sectors as part of the blueline tilefish specification process. The Tilefish Monitoring Committee recommendations shall identify the specific sources of management uncertainty that were considered, technical approaches to mitigating these sources of uncertainty, and any additional relevant information considered in the ACT recommendation process.
 - (1) **Sectors.** Commercial and recreational specific ACTs shall be less than or equal to the sector-specific ACLs. The Tilefish Monitoring Committee shall recommend any reduction in catch necessary to address sector-specific management uncertainty, consistent with paragraph (b) of this section.
 - (2) **Periodicity.** ACTs may be established on an annual basis for up to three years at a time, dependent on whether the SSC provides single or multiple-year ABC recommendations.

- (c) **Performance review.** The Tilefish Monitoring Committee shall conduct a detailed review of golden tilefish and blueline tilefish fishery performance relative to the appropriate ACTs in conjunction with any ACL performance review, as outlined in § 648.290(c)(1) through (3).

[82 FR 52857, Nov. 15, 2017, as amended at 83 FR 10806, Mar. 13, 2018]

§ 648.292 Tilefish specifications.

- (a) **Golden Tilefish.** The golden tilefish fishing year is the 12-month period beginning with January 1, annually.
- (1) **Annual specification process.** The Tilefish Monitoring Committee shall review the ABC recommendation of the SSC, golden tilefish landings and discards information, and any other relevant available data to determine if the golden tilefish ACL, ACT, or total allowable landings (TAL) for the IFQ and/or incidental sectors of the fishery require modification to respond to any changes to the golden tilefish stock's biological reference points or to ensure any applicable rebuilding schedule is maintained. The Monitoring Committee will consider whether any additional management measures or revisions to existing measures are necessary to ensure that the IFQ and/or incidental TAL will not be exceeded. Based on that review, the Monitoring Committee will recommend the golden tilefish ACL, ACTs, and TALs to the Tilefish Committee of the MAFMC. Based on these recommendations and any public comment received, the Tilefish Committee shall recommend to the MAFMC the appropriate golden tilefish ACL, ACT, TAL, and other management measures for both the IFQ and the incidental sectors of the fishery for a single fishing year or up to the maximum number of years needed to be consistent with the Northeast Regional Coordinating Council-approved stock assessment schedule. The MAFMC shall review these recommendations and any public comments received, and recommend to the Regional Administrator, at least 120 days prior to the beginning of the next fishing year, the appropriate golden tilefish ACL, ACT, TAL, the percentage of TAL allocated to research quota, and any management measures to ensure that the TAL will not be exceeded, for both the IFQ and the incidental sectors of the fishery, for the next fishing year, or up to the maximum number of fishing years consistent with the Northeast Regional Coordinating Council-approved stock assessment schedule. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Administrator shall review these recommendations and, after such review, NMFS will publish a proposed rule in the FEDERAL REGISTER specifying the annual golden tilefish ACL, ACT, TAL, and any management measures to ensure that the TAL will not be exceeded for the upcoming fishing year or years for both the IFQ and the incidental sectors of the fishery. After considering public comments, NMFS will publish a final rule in the FEDERAL REGISTER to implement the golden tilefish ACL, ACTs, TALs and any management measures. The previous year's specifications will remain effective unless revised through the specification process and/or the research quota process described in paragraph (a)(5) of this section. NMFS will issue notification in the FEDERAL REGISTER if the previous year's specifications will not be changed.
- (2) **Total Allowable Landings (TAL).**
- (i) The TALs for both the IFQ and the incidental sectors of the fishery for each fishing year will be specified pursuant to paragraph (a)(1) of this section.
- (ii) The sum of the sector-specific TAL and the estimated sector-specific discards shall be less than or equal to the ACT for that sector of the fishery.

- (3) **TAL allocation.** For each fishing year, up to 3 percent of the incidental and IFQ TALs may be set aside for the purpose of funding research. The remaining IFQ TAL will be allocated to the individual IFQ permit holders as described in § 648.294(a).
- (4) **Adjustments to the quota.** If the incidental harvest exceeds the incidental TAL for a given fishing year, the incidental trip limit specified at § 648.295(a)(2) may be reduced in the following fishing year. If an adjustment is required, a notification of adjustment of the quota will be published in the FEDERAL REGISTER.
- (5) **Research quota.** See § 648.22(g).
- (b) **Blueline tilefish.** The blueline tilefish fishing year is the calendar year beginning on January 1, annually.
 - (1) **Recommended measures.** Based on annual review, the Tilefish Monitoring Committee shall recommend to the Tilefish Committee of the MAFMC measures to ensure that the ACLs specified by the process outlined in § 648.290(b), including:
 - (i) Total Allowable Landings (TAL) for both the commercial and recreational sectors for each fishing year, where the sum of the TAL and sector-specific estimated discards shall be less than or equal to the sector ACT;
 - (ii) Research quota for both the commercial and recreational sectors set from a range of 0 to three percent of the TAL, as described in paragraph (b)(3) of this section;
 - (iii) Commercial trip limit;
 - (iv) Commercial minimum fish size;
 - (v) Recreational possession limit;
 - (vi) Recreational minimum fish size;
 - (vii) Recreational season;
 - (viii) Retention requirements; and/or
 - (ix) Any other measure needed to ensure the ACLs are not exceeded.
 - (2) **Annual specification process.** The Tilefish Committee of the MAFMC shall review the recommendations of the Tilefish Monitoring Committee. Based on these recommendations and any public comment received, the Tilefish Committee shall recommend to the MAFMC the appropriate ACL, ACT, TAL, and other management measures for the blueline tilefish commercial and recreational sectors for a single fishing year or up to three years. The MAFMC shall review these recommendations and any public comments received, and recommend to the Regional Administrator, at least 120 days prior to the beginning of the next fishing year, the appropriate blueline tilefish ACLs, ACTs, TALs, the percentage of TAL allocated to research quota, and any management measures to ensure that the sector ACLs will not be exceeded, for the next fishing year, or up to three fishing years. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Administrator shall review these recommendations, and after such review, NMFS will publish a proposed rule in the FEDERAL REGISTER specifying the annual blueline tilefish ACL, ACT, TAL and any management measures for the blueline tilefish commercial and recreational sectors to ensure that the sector ACLs will not be exceeded for the upcoming fishing year or years. After considering public comments, NMFS will publish a final rule in the FEDERAL

REGISTER to implement the blueline tilefish commercial and recreational ACLs, ACTs, TALs and any management measures. The previous year's specifications will remain effective unless revised through the specification process and/or the research quota process described in paragraph (b)(3) of this section. NMFS will issue notification in the FEDERAL REGISTER if the previous year's specifications will not be changed.

- (3) **Research quota.** See § 648.22(g).

[82 FR 52858, Nov. 15, 2017, as amended at 83 FR 10806, Mar. 13, 2018; 87 FR 67832, Nov. 10, 2022]

§ 648.293 Tilefish accountability measures.

(a) **Golden tilefish** —

- (1) **Commercial incidental fishery closure.** See § 648.295(a)(3).
- (2) **Commercial ACL overage evaluation.** If the golden tilefish ACL is exceeded, the amount of the ACL overage that cannot be directly attributed to IFQ allocation holders having exceeded their IFQ allocation will be deducted from the golden tilefish ACL in the following fishing year. All overages directly attributable to IFQ allocation holders will be deducted from the appropriate IFQ allocation(s) in the subsequent fishing year, as required by § 648.294(f).

(b) **Blueline tilefish** —

- (1) **Commercial fishery closure.** See § 648.295(b)(2).
- (2) **Commercial ACL overage evaluation.** The commercial sector ACL will be evaluated based on a single-year examination of total catch (landings and discards).
- (i) **Commercial landings overage repayment.** Landings in excess of the commercial ACL will be deducted from the commercial ACL for the following year.
- (ii) **Non-landing accountability measure.** In the event that the commercial ACL has been exceeded and the overage has not been accommodated through the landings-based AM, then the exact amount by which the commercial ACL was exceeded, in pounds, will be deducted, as soon as possible, from the applicable subsequent single fishing year commercial ACL.
- (3) **Recreational ACL overage evaluation.** The recreational sector ACL will be evaluated based on a three-year moving average comparison of total catch (landings and discards). Both landings and dead discards will be evaluated in determining if the three-year average recreational sector ACL has been exceeded. The three-year moving average will be phased in over the first three years, beginning with 2017: Total recreational total catch from 2017 will be compared to the 2017 recreational sector ACL; the average total catch from both 2017 and 2018 will be compared to the average of the 2017 and 2018 recreational sector ACLs; the average total catch from 2017, 2018, and 2019 will be compared to the average of the 2017, 2018, and 2019 recreational sector ACLs and, for all subsequent years, the preceding three-year average recreational total catch will be compared to the preceding three-year average recreational sector ACL.
- (4) **Recreational accountability measures (AM).** If the recreational ACL is exceeded, then the following procedure will be followed:

- (i) ***If biomass is below threshold, the stock is under rebuilding, or biological reference points are unknown.*** If the most recent estimate of biomass is below the B_{MSY} threshold (i.e., B/B_{MSY} is less than 0.5), the stock is under a rebuilding plan, or the biological reference points (B or B_{MSY}) are unknown, and the recreational ACL has been exceeded, then the exact amount, in pounds, by which the most recent year's recreational catch estimate exceeded the most recent year's recreational ACL will be deducted in the following fishing year, or as soon as possible thereafter, once catch data are available, from the recreational ACT, as a single-year adjustment. Changes to management measures would also be considered through the specifications process to avoid future overages.
- (ii) ***If biomass is above the threshold, but below the target, and the stock is not under rebuilding.*** If the most recent estimate of biomass is above the biomass threshold (B/B_{MSY} is greater than 0.5), but below the biomass target (B/B_{MSY} is less than 1.0), and the stock is not under a rebuilding plan, then the following AMs will apply:
 - (A) ***If the recreational ACL has been exceeded.*** If the Recreational ACL has been exceeded, then adjustments to the recreational management measures, taking into account the performance of the measures and conditions that precipitated the overage, will be made in the following fishing year, or as soon as possible thereafter, once catch data are available, as a single-year adjustment.
 - (B) ***If the ABC has been exceeded.*** If the ABC has been exceeded, then a single-year adjustment to the recreational ACT will be made in the following fishing year, or as soon as possible thereafter, once catch data are available, as described below. In addition, adjustments to the recreational management measures, taking into account the performance of the measures and conditions that precipitated the overage, will be made in the following year.
 - (1) ***Adjustment to recreational ACT.*** If an adjustment to the following year's recreational ACT is required, then the ACT will be reduced by the exact amount, in pounds, of the product of the overage, defined as the difference between the recreational catch and the recreational ACL, and the payback coefficient.
 - (2) ***Payback coefficient.*** The payback coefficient is the difference between the most recent estimate of biomass and B_{MSY} (i.e., $B_{MSY}-B$) divided by one-half of B_{MSY} .
- (iii) ***If biomass is above target.*** If the most recent estimate of biomass is above B_{MSY} (i.e., B/B_{MSY} is greater than 1.0), then adjustments to the recreational management measures, taking into account the performance of the measures and conditions that precipitated the overage, will be made in the following fishing year, or as soon as possible thereafter, once catch data are available, as a single-year adjustment.

[82 FR 52859, Nov. 15, 2017, as amended at 83 FR 10807, Mar. 13, 2018]

§ 648.294 Golden tilefish individual fishing quota (IFQ) program.

Link to an amendment published at 91 FR 57805, Sept. 11, 2026.

- (a) ***IFQ allocation permits.***

- (1) After adjustments for incidental catch, research set-asides, and overages, as appropriate, pursuant to § 648.292(a)(3), the Regional Administrator shall divide the remaining golden tilefish TAL among the IFQ quota shareholders who held IFQ quota share as of September 1 of a given fishing year. Allocations shall be made by applying the IFQ quota share percentages that exist on September 1 of a given fishing year to the IFQ TAL pursuant to § 648.292(a)(3), subject to any deductions for overages pursuant to paragraph (f) of this section. Amounts of IFQ allocation of 0.5 lb (0.23 kg) or smaller created by this calculation shall be rounded downward to the nearest whole number, and amounts of IFQ allocation greater than 0.5 lb (0.23 kg) shall be rounded upward to the nearest whole number, so that annual IFQ allocations are specified in whole pounds.
- (2) Allocations shall be issued in the form of an annual IFQ allocation permit. The IFQ allocation permit shall specify the quota share percentage held by the IFQ allocation permit holder and the total pounds of golden tilefish that the IFQ allocation permit holder is authorized to harvest.
- (3) In order to be eligible to hold tilefish IFQ allocation, an individual must be a U.S. citizen or permanent resident alien. Businesses or other entities that wish to hold allocation must be eligible to own a documented vessel under the terms of 46 U.S.C. 12103(b).

(b) **Application –**

- (1) **General.** Applicants for a permit under this section must submit a completed application on an appropriate form obtained from NMFS. The application must be filled out completely and signed by the applicant. Each application must include a declaration of all interests in IFQ quota shares and IFQ allocations, as defined in § 648.2, listed by IFQ allocation permit number, and must list all Federal vessel permit numbers for all vessels that an applicant owns or leases that would be authorized to possess golden tilefish pursuant to the IFQ allocation permit. The Regional Administrator will notify the applicant of any deficiency in the application.
 - (i) [Reserved]
 - (ii) **Renewal applications.** Applications to renew an IFQ allocation permit must be received by November 15 to be processed in time for the January 1 start of the next fishing year. Renewal applications received after this date may not be approved, and a new permit may not be issued before the start of the next fishing year. An IFQ allocation permit holder must renew his/her IFQ allocation permit on an annual basis by submitting an application for such permit prior to the end of the fishing year for which the permit is required. Failure to renew an IFQ allocation permit in any fishing year will result in any IFQ quota share held by that IFQ allocation permit holder to be considered abandoned and relinquished.
- (2) **Issuance.** Except as provided in subpart D of 15 CFR part 904, and provided an application for such permit is submitted by November 15, as specified in paragraph (b)(1)(ii) of this section, NMFS shall issue annual IFQ allocation permits on or before December 31 to those who hold IFQ quota share as of November 1 of the current fishing year. From November 1 through December 31, permanent transfer of IFQ quota share is not permitted, as described in paragraph (e)(4) of this section.
- (3) **Duration.** An annual IFQ allocation permit is valid until December 31 of each fishing year unless it is suspended, modified, or revoked pursuant to 15 CFR part 904; revised due to a transfer of all or part of the IFQ quota share or annual IFQ allocation under paragraph (e) of this section; or suspended for non-payment of the cost recovery fee as described in paragraph (h)(4) of this section.
- (4) **IFQ vessel.**

- (i) All Federal vessel permit numbers listed on the IFQ allocation permit are authorized to possess golden tilefish pursuant to the IFQ allocation permit.
- (ii) An IFQ allocation permit holder who wishes to authorize an additional vessel(s) to possess golden tilefish pursuant to the IFQ allocation permit must send written notification to NMFS. This notification must include:
 - (A) The vessel name and permit number, and
 - (B) The dates on which the IFQ allocation permit holder desires the vessel to be authorized to land golden tilefish pursuant to the IFQ allocation permit.
- (iii) A vessel listed on the IFQ allocation permit is authorized to possess golden tilefish pursuant to the subject permit, until the end of the fishing year or until NMFS receives written notification from the IFQ allocation permit holder to remove the vessel.
- (iv) A single vessel may not be listed on more than one IFQ allocation permit at the same time.
- (v) A copy of the IFQ allocation permit must be carried on board each vessel so authorized to possess IFQ golden tilefish.

(5) **Alteration.** An annual IFQ allocation permit that is altered, erased, or mutilated is invalid.

(6) **Replacement.** The Regional Administrator may issue a replacement permit upon written application of the annual IFQ allocation permit holder.

(7) **Transfer.** The annual IFQ allocation permit is valid only for the person to whom it is issued. All or part of the IFQ quota share or the annual IFQ allocation specified in the IFQ allocation permit may be transferred in accordance with paragraph (e) of this section.

(8) **Abandonment or voluntary relinquishment.** Any IFQ allocation permit that is voluntarily relinquished to the Regional Administrator, or deemed to have been voluntarily relinquished for failure to pay a recoverable cost fee, in accordance with the requirements specified in paragraph (h)(2) of this section, or for failure to renew in accordance with paragraph (b)(1)(ii) of this section, shall not be reissued or renewed in a subsequent year.

(c)-(d) [Reserved]

(e) **Transferring IFQ allocations –**

- (1) **Temporary transfers.** Unless otherwise restricted by the provisions in paragraph (e)(3) of this section, the initial holder of an annual IFQ allocation may transfer the entire annual IFQ allocation, or a portion of the annual IFQ allocation, to any person or entity eligible to hold tilefish IFQ allocation under paragraph (a)(3) of this section. Annual IFQ allocation transfers shall be effective only for the fishing year in which the transfer is requested and processed, unless the applicant specifically requests that the transfer be processed for the subsequent fishing year. The Regional Administrator has final approval authority for all annual IFQ allocation transfer requests. The approval of a temporary transfer may be rescinded if the Regional Administrator finds that an emergency has rendered the lessee unable to fish for the transferred annual IFQ allocation, but only if none of the transferred allocation has been landed.

- (2) ***Permanent transfers.*** Unless otherwise restricted by the provisions in paragraph (e)(3) of this section, and subject to final approval by the Regional Administrator, a holder of IFQ quota share may permanently transfer the entire IFQ quota share allocation, or a portion of the IFQ quota share allocation, to any person or entity eligible to hold tilefish IFQ allocation under paragraph (a)(3) of this section.
- (3) ***IFQ allocation transfer restrictions.***
- (i) If annual IFQ allocation is temporarily transferred to any eligible person or entity, it may not be transferred again within the same fishing year, unless the transfer is rescinded due to an emergency, as described in paragraph (e)(1) of this section.
 - (ii) A transfer of IFQ allocation or quota share will not be approved by the Regional Administrator if it would result in an entity holding, or having an interest in, a percentage of IFQ allocation exceeding 49 percent of the total golden tilefish adjusted TAL.
 - (iii) For the purpose of calculating the appropriate IFQ cost recovery fee, if the holder of an IFQ allocation leases additional IFQ allocation, the quantity and value of golden tilefish landings made after the date the lease is approved by the Regional Administrator are attributed to the transferred quota before being attributed to the allocation holder's base IFQ allocation, if any exists. In the event of multiple leases, landings would be attributed to the leased allocations in the order the leases were approved by the Regional Administrator. As described in paragraph (h) of this section, a tilefish IFQ quota share allocation holder shall incur a cost recovery fee, based on the value of landings of golden tilefish authorized under the allocation holder's annual tilefish IFQ allocation, including allocation that is leased to another IFQ allocation permit holder.
- (4) ***Application for an IFQ allocation transfer.*** Any IFQ allocation permit holder applying for either permanent transfer of IFQ quota share or temporary transfer of annual IFQ allocation must submit a completed IFQ Allocation Transfer Form, available from NMFS. The IFQ Allocation Transfer Form must be submitted to the NMFS Greater Atlantic Regional Fisheries Office at least 30 days before the date on which the applicant desires to have the IFQ allocation transfer effective. The Regional Administrator shall notify the applicants of any deficiency in the application pursuant to this section. Applications for permanent IFQ quota share allocation transfers must be received by November 1 to be processed and effective before annual IFQ allocations are issued for the next fishing year. Applications for temporary IFQ allocation transfers must be received by December 10 to be processed for the current fishing year.
- (i) ***Application information requirements.*** An application to transfer IFQ allocation must include the following information: The type of transfer (either temporary or permanent); the signature of both parties involved; the price paid for the transfer; a declaration of the recipient's eligibility to receive IFQ allocation; the amount of allocation or quota share to be transferred; and a declaration, by IFQ allocation permit number, of all the IFQ allocations in which the person or entity receiving the IFQ allocation has an interest. The person or entity receiving the IFQ allocation must indicate the permit numbers of all federally permitted vessels that will possess or land the IFQ allocation. Information obtained from the IFQ Allocation Transfer Form is confidential pursuant to 16 U.S.C. 1881a.

- (ii) **Approval of IFQ transfer application.** Unless an application to transfer IFQ quota share and/or annual IFQ allocation is denied according to paragraph (e)(4)(iii) of this section, the Regional Administrator shall issue confirmation of application approval in the form of a new or updated IFQ allocation permit to the parties involved in the transfer within 30 days of receipt of a completed application.
- (iii) **Denial of IFQ transfer application.** The Regional Administrator may reject an application to transfer IFQ quota share or annual IFQ allocation for the following reasons: The application is incomplete; the transferor does not possess a valid tilefish IFQ allocation permit; the transferor's or transferee's vessel or tilefish IFQ allocation permit has been sanctioned pursuant to an enforcement proceeding under 15 CFR part 904; the transfer would result in the transferee having a tilefish IFQ allocation or holding IFQ quota share that exceeds 49 percent of the adjusted TAL allocated to IFQ allocation permit holders; the transfer is to a person or entity that is not eligible to hold tilefish IFQ allocation under paragraph (a)(3) of this section; the transferor or transferee is delinquent in payment of an IFQ cost recovery fee as described in paragraph (h)(4) of this section; or any other failure to meet the requirements of this subpart. Upon denial of an application to transfer IFQ allocation, the Regional Administrator shall send a letter to the applicant describing the reason(s) for the denial. The decision by the Regional Administrator is the final decision of the Department of Commerce; there is no opportunity for an administrative appeal.
- (f) **IFQ allocation overages.** If an IFQ allocation is exceeded, including by amounts of golden tilefish landed by a lessee in excess of a temporary transfer of IFQ allocation, the amount of the overage will be deducted from the IFQ shareholder's allocation in the subsequent fishing year(s). If an IFQ allocation overage is not deducted from the appropriate allocation before the IFQ allocation permit is issued for the subsequent fishing year, a revised IFQ allocation permit reflecting the deduction of the overage shall be issued by NMFS. If the allocation cannot be reduced in the subsequent fishing year because the full allocation has already been landed or transferred, the IFQ allocation permit will indicate a reduced allocation for the amount of the overage in the next fishing year.
- (g) **IFQ allocation acquisition restriction.** No person or entity may acquire more than 49 percent of the annual adjusted golden tilefish TAL, specified pursuant to § 648.294, at any point during a fishing year. For purposes of this paragraph, acquisition includes any permanent transfer of IFQ quota share or temporary transfer of annual IFQ allocation. The calculation of IFQ allocation for purposes of the restriction on acquisition includes IFQ allocation interests held by: A company in which the IFQ holder is a shareholder, officer, or partner; an immediate family member; or a company in which the IFQ holder is a part owner or partner.
- (h) **IFQ cost recovery.** As required under section 304(d)(2)(A)(i) of the Magnuson-Stevens Act, the Regional Administrator shall collect a fee to recover the actual costs directly related to the management, data collection and analysis, and enforcement of the tilefish IFQ program.
 - (1) **Payment responsibility.** Each tilefish IFQ allocation permit holder with quota share shall incur a cost recovery fee annually, based on the value of landings of golden tilefish authorized under his/her tilefish IFQ allocation, including allocation that he/she leases to another IFQ allocation permit holder. The tilefish IFQ allocation permit holder is responsible for paying the fee assessed by NMFS.
 - (2) **IFQ fee determination.** The tilefish IFQ cost recovery billing period runs annually from January 1 through December 31.

- (i) **Determination of total recoverable costs.** The Regional Administrator shall determine the actual costs directly associated with the management, data collection and analysis, and enforcement of the tilefish IFQ program incurred by NMFS during the cost recovery billing period.
- (ii) **Calculating fee percentage.** The recoverable costs determined by the Regional Administrator will be divided by the total ex-vessel value of all golden tilefish IFQ landings during the cost recovery billing period to derive a fee percentage. Each IFQ allocation permit holder with quota share will be assessed a fee based on the fee percentage multiplied by the total ex-vessel value of all landings under his/her IFQ allocation permit, including landings of allocation that was leased to another IFQ allocation permit holder.
 - (A) The ex-vessel value for each pound of golden tilefish landed by an IFQ allocation permit holder shall be determined from Northeast Federal dealer reports submitted to NMFS, which include the price per pound paid to the vessel at the time of dealer purchase.
 - (B) The cost recovery fee percentage shall not exceed three percent of the total value of golden tilefish landings, as required under section 304(d)(2)(B) of the Magnuson-Stevens Act.
- (3) **Fee payment procedure.** NMFS will create an annual IFQ allocation bill for each cost recovery billing period and provide it to IFQ allocation permit holders with quota share. The bill will include information regarding the amount and value of IFQ allocation landed during the prior cost recovery billing period, and the associated cost recovery fees.
 - (i) **Payment due date.** An IFQ allocation permit holder who has incurred a cost recovery fee must pay the fee to NMFS within 45 days of the date of the bill.
 - (ii) **Payment submission method.** Cost recovery payments shall be made electronically via the Federal Web portal, www.pay.gov, or other Internet sites designated by the Regional Administrator. Instructions for electronic payment shall be available on both the payment Web site and the cost recovery fee bill. Electronic payment options shall include payment via a credit card, as specified in the cost recovery bill, or via direct automated clearing house (ACH) withdrawal from a designated checking account. Alternatively, payment by check may be authorized by Regional Administrator if he/she determines that electronic payment is not practicable.
- (4) **Payment compliance.** If an IFQ allocation permit holder does not submit full payment by the due date described in paragraph (h)(3)(i) of this section, the Regional Administrator may:
 - (i) At any time thereafter, notify the IFQ allocation permit holder in writing that his/her IFQ allocation permit is suspended, thereby prohibiting landings of tilefish above the incidental limit, as specified at § 648.295(a).
 - (ii) Disapprove any transfer of annual tilefish allocation or quota share to or from the IFQ allocation permit holder as described in paragraph (e)(4)(iii) of this section, until such time as the amount due is paid.
 - (iii) Deny renewal of the IFQ allocation permit if it had not yet been issued for the current year, or deny renewal of the IFQ allocation permit for the following year.
 - (iv) If the fee amount is not appealed, the Regional Administrator may issue a Final Administrative Determination (FAD) as described in paragraph (h)(5) of this section, based upon available information.

- (5) ***Appeal of IFQ fee amount.*** If a tilefish IFQ allocation permit holder disagrees with the fee amount determined by NMFS, he/she may appeal the cost recovery bill.
 - (i) IFQ fee appeals must be submitted to NMFS in writing before the due date described in paragraph (h)(3)(i) of this section.
 - (ii) The IFQ allocation permit holder shall have the burden of demonstrating that the fee amount calculated by NMFS is incorrect and what the correct amount is.
 - (iii) If a request to appeal is submitted on time, the Regional Administrator shall notify the IFQ allocation permit holder in writing, acknowledging the appeal and providing 30 days to submit any additional relevant documentation supporting an alternative fee amount.
 - (iv) While the IFQ fee is under appeal and the tilefish IFQ allocation permit is suspended, as described in paragraph (h)(4) of this section, the IFQ allocation permit holder may request a Letter of Authorization to fish until the appeal is concluded. Any tilefish landed pursuant to the above authorization will count against the IFQ allocation permit, if issued.
 - (v) ***Final Administrative Determination (FAD).*** Based on a review of available information, including any documentation submitted by the IFQ allocation permit holder in support of the appropriateness of a different fee amount, the Regional Administrator shall determine whether there is a reasonable basis upon which to conclude that an alternate fee amount is correct. This determination shall be set forth in a FAD that is signed by the Regional Administrator. A FAD shall be the final decision of the Department of Commerce.
 - (A) The IFQ allocation permit holder shall have 30 days from the date of the FAD to comply with the terms of the FAD.
 - (B) If the IFQ allocation permit holder does not comply with the terms of the FAD within this period, the Regional Administrator shall:
 - (1) Refer the matter to the appropriate authorities within the U.S. Department of the Treasury for purposes of collection; and
 - (2) Cancel any Letter of Authorization to fish that had been issued during the appeal.
 - (vi) If NMFS does not receive full payment of an IFQ cost recovery fee prior to the end of the cost recovery billing period immediately following the one for which the fee was incurred, the subject IFQ allocation permit and any associated IFQ quota share shall be deemed to have been voluntarily relinquished pursuant to paragraph (b)(8) of this section.
- (6) ***Annual cost recovery report.*** NMFS will publish annually a report on the status of the tilefish IFQ cost recovery program. The report will provide details of the costs incurred by NMFS for the management, enforcement, and data collection and analysis associated with the tilefish IFQ program during the prior cost recovery billing period, and other relevant information at the discretion of the Regional Administrator.
 - (i) ***Periodic review of the IFQ program.*** A formal review of the IFQ program must be conducted by the MAFMC within 5 years of the effective date of the final regulations. Thereafter, it shall be incorporated into every scheduled MAFMC review of the FMP (i.e., future amendments or frameworks), but no less frequently than every 7 years.

[78 FR 49187, Aug. 13, 2013, as amended at 82 FR 52859, Nov. 15, 2017; 83 FR 10807, Mar. 13, 2018; 89 FR 19762, Mar. 20, 2024]

§ 648.295 Tilefish commercial trip limits and landing condition.

(a) *Golden tilefish* —

- (1) **IFQ landings.** Any golden tilefish landed by a vessel fishing under an IFQ allocation permit as specified at § 648.294(a), on a given fishing trip, count as landings under the IFQ allocation permit.
- (2) **Incidental trip limit for vessels not fishing under an IFQ allocation.** Any vessel of the United States fishing under a tilefish vessel permit, as described at § 648.4(a)(12), unless the vessel is fishing under a tilefish IFQ allocation permit, is prohibited from possessing more than:
 - (i) 500 lb (226.8 kg) of golden tilefish at any time, or
 - (ii) 50 percent, by weight, of the total of all species being landed; whichever is less.
- (3) **In-season closure of the incidental fishery.** The Regional Administrator will monitor the harvest of the golden tilefish incidental TAL based on dealer reports and other available information, and shall determine the date when the incidental golden tilefish TAL has been landed. The Regional Administrator shall publish a notice in the FEDERAL REGISTER notifying vessel and dealer permit holders that, effective upon a specific date, the incidental golden tilefish fishery is closed for the remainder of the fishing year.

(b) *Blueline tilefish* —

- (1) **Commercial possession limit.** Any vessel of the United States fishing under a tilefish permit, as described at § 648.4(a)(12), is prohibited from possessing more than 500 lb (227 kg) of gutted blueline tilefish per trip in or from the Tilefish Management Unit.
- (2) **In-season adjustment of possession limit.** The Regional Administrator will monitor the harvest of the blueline tilefish commercial TAL based on dealer reports and other available information.
 - (i) When 70 percent of the blueline tilefish commercial TAL will be landed, the Regional Administrator may publish a notice in the FEDERAL REGISTER notifying vessel and dealer permit holders that, effective upon a specific date, the blueline tilefish commercial possession limit is reduced to 300 lb (136 kg) of gutted blueline tilefish per trip in or from the Tilefish Management Unit.
 - (ii) When 100 percent of the blueline tilefish commercial TAL will be landed, the Regional Administrator will publish a notice in the FEDERAL REGISTER notifying vessel and dealer permit holders that, effective upon a specific date, the blueline tilefish commercial fishery is closed for the remainder of the fishing year. No vessel may retain or land blueline tilefish in or from the Tilefish Management Unit after the announced closure date.

- (c) **Landing condition.** Commercial golden or blueline tilefish must be landed with head and fins naturally attached, but may be gutted.

[82 FR 52860, Nov. 15, 2017, as amended at 83 FR 10807, Mar. 13, 2018; 84 FR 3342, Feb. 12, 2019]

§ 648.296 Tilefish recreational possession limits and gear restrictions.

(a) *Golden tilefish.*

- (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).
- (2) Any vessel engaged in recreational fishing may not retain golden tilefish, unless exclusively using rod and reel fishing gear, with a maximum limit of five hooks per rod. Anglers may use either a manual or an electric reel.
- (b) **Blueline tilefish.** The recreational blueline tilefish fishery is open May 15 through November 14, and closed November 15 through May 14.
- (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.
- (2) **Uninspected for-hire vessels.** Anglers fishing onboard a for-hire vessel under a tilefish charter/party vessel permit issued pursuant to § 648.4(a)(12), which has not been issued a valid U.S. Coast Guard Certificate of Inspection may land up to five blueline tilefish per person per trip.
- (3) **Inspected for-hire vessels.** Anglers fishing onboard a for-hire vessel under a tilefish charter/party vessel permit issued pursuant to § 648.4(a)(12), which has been issued a valid U.S. Coast Guard Certificate of Inspection may land up to seven blueline tilefish per person per trip.
- (c) **Enforcement.** Tilefish harvested by vessels subject to the possession limits with more than one person on board may be pooled in one or more containers. Compliance with the golden tilefish possession limit will be determined by dividing the number of golden tilefish on board by the number of persons on board. Compliance with the blueline tilefish possession limit will be determined by dividing the number of blueline tilefish on board by the number of persons on board. The captain and crew of a party or charter boat are not counted in determining the possession limit. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and operator of the vessel.

[82 FR 52861, Nov. 15, 2017, as amended at 83 FR 10807, Mar. 13, 2018; 84 FR 3342, Feb. 12, 2019; 85 FR 43152, July 15, 2020; 89 FR 19762, Mar. 20, 2024]

§ 648.297 Tilefish gear restricted areas.

No vessel of the United States may fish with bottom-tending mobile gear within the areas bounded by the following coordinates:

Canyon	N. lat.			W. long.		
	Degrees	Min	Seconds	Degrees	Min	Seconds
Oceanographer	40.0	29.0	50.0	68.0	10.0	30.0
	40.0	29.0	30.0	68.0	8.0	34.8
	40.0	25.0	51.6	68.0	6.0	36.0

Canyon	N. lat.			W. long.		
	Degrees	Min	Seconds	Degrees	Min	Seconds
Lydonia	40.0	22.0	22.8	68.0	6.0	50.4
	40.0	19.0	40.8	68.0	4.0	48.0
	40.0	19.0	5.0	68.0	2.0	19.0
	40.0	16.0	41.0	68.0	1.0	16.0
	40.0	14.0	28.0	68.0	11.0	28.0
	40.0	31.0	55.2	67.0	43.0	1.2
	40.0	28.0	52.0	67.0	38.0	43.0
	40.0	21.0	39.6	67.0	37.0	4.8
	40.0	21.0	4.0	67.0	43.0	1.0
	40.0	26.0	32.0	67.0	40.0	57.0
Veatch	40.0	28.0	31.0	67.0	43.0	0.0
	40.0	0.0	40.0	69.0	37.0	8.0
	40.0	0.0	41.0	69.0	35.0	25.0
	39.0	54.0	43.0	69.0	33.0	54.0
Norfolk	39.0	54.0	43.0	69.0	40.0	52.0
	37.0	5.0	50.0	74.0	45.0	34.0
	37.0	6.0	58.0	74.0	40.0	48.0
	37.0	4.0	31.0	74.0	37.0	46.0
	37.0	4.0	1.0	74.0	33.0	50.0
	36.0	58.0	37.0	74.0	36.0	58.0
	37.0	4.0	26.0	74.0	41.0	2.0

[76 FR 60647, Sept. 29, 2011]

§ 648.299 Tilefish framework specifications.

- (a) **Within-season management action.** The MAFMC may, at any time, initiate action to add or adjust management measures if it finds that action is necessary to meet or be consistent with the goals and objectives of the Tilefish FMP.
- (1) **Specific management measures.** The following specific management measures may be adjusted at any time through the framework adjustment process:
 - (i) Minimum fish size;
 - (ii) Minimum hook size;
 - (iii) Closed seasons;
 - (iv) Closed areas;
 - (v) Gear restrictions or prohibitions;
 - (vi) Permitting restrictions;

- (vii) Gear limits;
 - (viii) Trip limits;
 - (ix) Adjustments within existing ABC control rule levels;
 - (x) Adjustments to the existing MAFMC risk policy;
 - (xi) Introduction of new AMs, including sub ACTs;
 - (xii) Annual specification quota setting process;
 - (xiii) Tilefish FMP Monitoring Committee composition and process;
 - (xiv) Description and identification of EFH;
 - (xv) Fishing gear management measures that impact EFH;
 - (xvi) Habitat areas of particular concern;
 - (xvii) Set-aside quotas for scientific research;
 - (xviii) Changes, as appropriate, to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs;
 - (xix) Recreational management measures, including the bag limit, minimum fish size limit, seasons, and gear restrictions or prohibitions;
 - (xx) Golden tilefish IFQ program review components, including capacity reduction, safety at sea issues, transferability rules, ownership concentration caps, permit and reporting requirements, and fee and cost-recovery issues;
 - (xxi) Blueline tilefish recreational permitting and reporting requirements previously considered by the MAFMC; and
 - (xxii) Blueline tilefish allocations to the commercial and recreational sectors of the fishery within the range of allocation alternatives considered by the MAFMC in Amendment 6.
 - (xxiii) Measures that require significant departures from previously contemplated measures or that are otherwise introducing new concepts may require a formal amendment of the FMP instead of a framework adjustment.
- (2) **Adjustment process.** If the MAFMC determines that an adjustment to management measures is necessary to meet the goals and objectives of the FMP, it will recommend, develop, and analyze appropriate management actions over the span of at least two MAFMC meetings. The MAFMC will provide the public with advance notice of the availability of the recommendation, appropriate justifications and economic and biological analyses, and opportunity to comment on the proposed adjustments prior to and at the second MAFMC meeting on that framework action.
- (3) **MAFMC recommendation.** After developing management actions and receiving public testimony, the MAFMC will make a recommendation to the Regional Administrator. The MAFMC's recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts and a recommendation to the Regional Administrator on whether to issue the management

measures as a final rule. If the MAFMC recommends that the management measures should be issued as a final rule, it must consider at least the following factors and provide support and analysis for each factor considered:

- (i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season;
 - (ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the MAFMC's recommended management measures;
 - (iii) Whether there is an immediate need to protect the resource; and
 - (iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.
- (4) **Regional Administrator action.** If the MAFMC's recommendation includes adjustments or additions to management measures and, after reviewing the MAFMC's recommendation and supporting information:
- (i) If the Regional Administrator concurs with the MAFMC's recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraphs (a)(2) and (a)(3) of this section, the measures will be issued as a final rule in the FEDERAL REGISTER.
 - (ii) If the Regional Administrator concurs with the MAFMC's recommendation and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the FEDERAL REGISTER. After additional public comment, if the Regional Administrator concurs with the MAFMC's recommendation, the measures will be issued as a final rule in the FEDERAL REGISTER.
 - (iii) If the Regional Administrator does not concur with the MAFMC's recommendation, the MAFMC will be notified in writing of the reasons for the non-concurrence.
- (b) **Emergency action.** Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

[76 FR 60648, Sept. 29, 2011, as amended at 76 FR 81850, Dec. 29, 2011; 80 FR 37199, June 30, 2015; 82 FR 52861, Nov. 15, 2017]