



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 160229161-7898-02]**

**RIN 0648-BF86**

**Fisheries of the Northeastern United States; Amendment 6 to the Tilefish Fishery Management Plan**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule implements management measures previously approved for Amendment 6 to the Tilefish Fishery Management Plan and publicizes status quo management measures for 2018. Amendment 6 was developed by the Mid-Atlantic Fishery Management Council to establish management measures and 2017 harvest limits for the blueline tilefish fishery north of the Virginia/North Carolina border. The intended effect of this action is to establish permanent management measures for this fishery, consistent with requirements of the Magnuson-Stevens Act.

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

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

201, Dover, DE 19901. The Amendment 6 EA/FONSI/RIR is also accessible online at:  
*www.greateratlantic.fisheries.noaa.gov*.

**FOR FURTHER INFORMATION CONTACT:** Douglas Potts, Fishery Policy Analyst, 978-281-9341.

**SUPPLEMENTARY INFORMATION:**

**Background**

This final rule concurrently approves Amendment 6 to the Tilefish Fishery Management Plan (FMP) on behalf of the Secretary of Commerce and finalizes implementing regulations. The Mid-Atlantic Fishery Management Council developed this amendment to establish management measures for the blueline tilefish fishery in Federal waters north of the Virginia/North Carolina border, consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). We published a notice of availability on June 14, 2017 (82 FR 27223), announcing a 60-day period for the public to review and provide comments on whether we, acting on behalf of the Secretary of Commerce, should approve Amendment 6. This comment period ended on August 14, 2017. On June 28, 2017, we published a proposed rule (82 FR 29263) to implement the amendment's specific measures and solicited comments on the proposed measures for a 30-day period that ended on July 28, 2017.

We reviewed all comments received during these comment periods, whether directed at our approval decision or the proposed regulations. See **Comments and Responses** section for more information. Now, on behalf of the Secretary of Commerce, we are approving and implementing Amendment 6, consistent with the review and approval process outlined in section 304 of the Magnuson-Stevens Act (16 U.S.C. 1854).

## **Amendment 6 Approved Measures**

We are approving all Amendment 6 measures, as outlined in our June 28, 2017, proposed rule. However, given their complexity and novelty, development and implementation of permitting and reporting measures for private recreational vessels will take significantly more time than the other, more traditional management measures in this action. Therefore, we are approving, but delaying implementation of, the recreational permitting and reporting requirements. More information on the approved measures is outlined below.

## **Management Unit, FMP Objectives, Status Determination Criteria**

The management unit for blueline tilefish encompasses the U.S. Exclusive Economic Zone (EEZ) from the North Carolina/Virginia border (36.550278 N Latitude) extending north to the maritime boundary with Canada. This management unit is consistent with the Council's management unit for golden tilefish.

Amendment 6 establishes the management objectives of the current Tilefish FMP to apply for blueline tilefish as well, with the addition that, "management will reflect blueline tilefish's susceptibility of overfishing and the need of an analytical stock assessment."

Section 303(a)(10) of the Magnuson-Stevens Act requires that FMPs specify criteria for identifying when the fishery is overfished. Amendment 6 defines stock status determination criteria for blueline tilefish based on the results of the most recent approved stock assessment, which is consistent with all of the Council's other FMPs. The Council anticipates new stock status determination criteria will be established through a stock assessment currently being jointly conducted by the South Atlantic and Mid-Atlantic Fishery Management Councils through the Southeast Data, Assessment, and Review process (SEDAR 50). The assessment report is expected in the fall of 2017.

The Magnuson-Stevens Act also requires all FMPs contain measures that are “necessary and appropriate for the conservation and management of the fishery to prevent overfishing.”

There is insufficient scientific information currently available to establish a quantitative overfishing limit for the blueline tilefish population in the Mid-Atlantic. Analysis conducted by the Council’s Scientific and Statistical Committee (SSC) found that constraining catch of Mid-Atlantic blueline tilefish to the recommended acceptable biological catch (ABC) of 87,031 pounds (lb) (39,476 kilograms (kg)) would be unlikely to result in overfishing. Because this harvest limit is set at a level sufficient to prevent overfishing, it is consistent with the Magnuson-Stevens Act requirement at 303(a)(1)(A).

### **Permitting and Reporting Requirements**

#### *Commercial Vessels*

A commercial fishing vessel is required to be issued an open-access tilefish commercial vessel permit in order to retain and land blueline tilefish. This is the same vessel permit required for vessels fishing for golden tilefish; a vessel that has this permit already does not need a separate permit. Vessel owners and operators are subject to the current requirements to have an operator permit and to maintain and submit Vessel Trip Reports (VTRs) for each fishing trip.

#### *For-hire Vessels*

Fishing vessels that carry recreational anglers for hire are required to have an open-access tilefish charter/party vessel permit in order to fish for, retain, or land blueline tilefish. This is the same charter/party vessel permit for golden tilefish, so a vessel that has this permit already does not need a separate permit. Vessel owners and operators would be subject to the current requirements to have an operator permit and to maintain and submit VTRs for each fishing trip.

#### *Commercial Dealers*

A commercial seafood dealer must have a tilefish dealer permit in order to purchase, possess, or receive blueline tilefish harvested from the Tilefish Management Unit. This is the same dealer permit already in use for dealers of golden tilefish in the region.

Details about permit requirements for commercial fishing vessels, party/charter vessels, vessel operators, and commercial dealers, including application forms, are available at: [www.greateratlantic.fisheries.noaa.gov/aps/permits/index.html](http://www.greateratlantic.fisheries.noaa.gov/aps/permits/index.html).

#### *Private Recreational Vessels*

With this action we approve the Amendment 6 requirement for private recreational vessels to obtain a permit to fish for or retain golden or blueline tilefish in the Tilefish Management Unit. However, additional development work is necessary before we can issue recreational tilefish permits or require private anglers to start reporting their catch. Specific details of a private recreational vessel permit and reporting system will be proposed at a later date with additional opportunity for public comment, consistent with requirements of the Administrative Procedure Act.

### **Possession Limits and Fishing Season**

#### *Commercial*

Commercial vessels are limited to a maximum possession of 300 lb (136 kg) of blueline tilefish per trip. Blueline tilefish can be gutted, but must to be landed with the head and fins naturally attached.

#### *Recreational*

The applicable recreational blueline tilefish possession limit depends on the type of vessel used. Anglers fishing from private vessels are allowed to keep up to three blueline tilefish per person per trip. Anglers fishing from a for-hire vessel that has been issued a valid Tilefish

Charter/Party Permit, but does not have a current U.S. Coast Guard safety inspection sticker can retain up to five blueline tilefish per person per trip. Finally, anglers on for-hire vessels that have both a valid Tilefish Charter/Party Permit and a current U.S. Coast Guard safety inspection sticker can retain up to seven blueline tilefish per person per trip.

The recreational fishery for blueline tilefish is open from May 1 through October 31, annually. Recreational anglers are prohibited from fishing for or possessing blueline tilefish outside of this season.

### **ABC Risk Policy, Annual Catch Limit Process, and Sector Allocations**

Section 303(a)(15) of the Magnuson-Stevens Act requires FMPs to establish a mechanism for specifying annual catch limits (ACL), implementing regulations, or annual specifications to prevent overfishing. In addition, the Act requires the Council's SSC to provide it with ongoing scientific advice, including recommendations for ABC (see Magnuson-Stevens Act 302(g)(1)(B)). Amendment 6 retains the same ABC control rules and risk policy for blueline tilefish used for other Mid-Atlantic Council stocks, described in the regulations at 50 CFR 648.20 and 648.21.

The ACL process approved for blueline tilefish under Amendment 6 is consistent with the specifications-setting process for other stocks managed by the Council. The Council's SSC will review the available scientific information, the ABC control rule, and other relevant information before making ABC recommendations to the Council for up to three years. The recommendations of the SSC will be reviewed by the existing Tilefish Monitoring Committee, which will provide recommendations to the Council and/or relevant committee to ensure the blueline tilefish specifications are not exceeded and to address any other operational aspects of the fishery. To establish specific harvest limits, the recommended ABC will be allocated to

establish separate ACLs for the commercial and recreational sectors of the fishery (73 percent to recreational and 27 percent to commercial). These ACLs may be reduced to account for management uncertainty to establish annual catch targets (ACTs). Finally, anticipated discards are subtracted to determine the total allowable landings (TAL) amount for each sector. The Council would develop other management measures (seasons, trip limits, etc., as described above) that are expected to meet the TAL and not exceed the ACL. If the Council re-establishes a research set-aside program, up to three percent of the TAL may be set aside in such a program.

### **Accountability Measures**

The Magnuson-Stevens Act requires that FMPs include measures to ensure accountability with ACLs, and NMFS has created guidelines for how management measures might meet this requirement (see § 600.310(g)). This action implements different accountability measures (AMs) to address the particular needs of the commercial and recreational sectors of the fishery.

Commercial blueline tilefish landings will be monitored during the fishing year based on dealer reports and other available information. If we determine the commercial TAL will be exceeded, we will close the commercial blueline tilefish fishery, prohibiting possession or landing blueline tilefish for sale for the remainder of the fishing year, through publication of a notice in the *Federal Register*. If the commercial catch of blueline tilefish exceeds the ACL, we would deduct the amount of the overage from the commercial ACL the following year.

Catch data for the recreational fishery is much more uncertain than for the commercial fishery. We will compare the three-year moving average of recreational catch to the three-year average of the recreational ACL to determine whether the ACL has been exceeded and accountability measures for the recreational fishery are warranted. This will be phased in so that catch in 2017 will be compared to the 2017 ACL, and next year the average catch in 2017 and

2018 will be compared to the average ACL in 2017 and 2018. In subsequent years we will use three-year moving averages. If this comparison shows the recreational ACL was exceeded, then the extent of the accountability measure would depend on the status of the stock and the significance of the overage.

If the most recent estimate of biomass is below the  $B_{MSY}$  threshold (*i.e.*, the stock is overfished), the stock is under a rebuilding plan, or the biological reference points are unknown, and the recreational ACL has been exceeded, then in the following fishing year the recreational ACT would be reduced by the exact amount, in pounds, by which the most recent year's recreational catch estimate exceeded the most recent year's recreational ACL. Changes to management measures would also be considered through the specifications process to avoid future overages. If the most recent estimate of biomass is above  $B_{MSY}$  (*i.e.*, the stock is above the biomass target), then adjustments to the recreational management measures (*e.g.*, changes in per-angler possession limits could be considered to reduce subsequent year's catch) would be made in the following fishing year, but a reduction in the recreational ACT would not be necessary. If the stock biomass is between these extremes, the accountability measures would be scaled.

If the most recent estimate of biomass is above the biomass threshold, but below the biomass target ( $B/B_{MSY}$  is greater than 0.5 but less than 1.0), and the stock is not under a rebuilding plan, then the severity of the payback would depend on the significance of the overage. If the recreational ACL is exceeded but the overall ABC is not, then adjustments to the recreational management measures would be made in the following fishing year, but a reduction in the recreational ACT would not be necessary. If the ABC is exceeded, in addition to adjusting the recreational management measures, a deduction from the recreational ACT would be made in the following fishing year. The size of the deduction would be proportional to the health of the



stock. The ACT would be reduced by the amount of the overage (in pounds) multiplied by a payback coefficient. The payback coefficient would be the difference between the most recent estimate of biomass and  $B_{MSY}$  (*i.e.*,  $B_{MSY}-B$ ) divided by one-half of  $B_{MSY}$ . This coefficient allows for a smaller deduction if the stock is close to the biomass target and a larger deduction the more the stock is below the target. The recreational accountability measure is consistent with those in use for other Mid-Atlantic fisheries.

### **Essential Fish Habitat (EFH)**

We approve the following EFH definition for different life stages of blueline tilefish based on the best available scientific information:

*Eggs and larvae:* Blueline tilefish egg and larval EFH in the Greater Atlantic region is the water column on the outer continental shelf from eastern Georges Bank to the Virginia/North Carolina boundary in depths of 46-256 meters (m) (151-840 feet (ft)).

*Juveniles and adults:* Blueline tilefish juvenile and adult EFH in the Greater Atlantic region is benthic habitats on the outer continental shelf from eastern Georges Bank to the Virginia/North Carolina boundary in depths of 46-256 m (151-840 ft) at bottom water temperatures which range from 8-18° C (46-64° F). Blueline tilefish create horizontal or vertical burrows in sediments composed of silt, clay, and sand.

The Council is currently conducting a comprehensive review of EFH designations and fishery impacts on habitat for all Council-managed species, including blueline tilefish. The EFH Review Fishery Management Action Team will review scientific and technical information on fish habitat and develop recommendations as to whether changes to the existing EFH descriptions and other habitat components of the FMPs are warranted. Based on this review, the

Council may choose to modify its FMPs (*e.g.*, revise EFH descriptions, designate Habitat Areas of Particular Concern, or implement other habitat management measures).

### **Framework Adjustment Measures**

Framework adjustments allow the Council to make changes to management measures that were previously considered in the FMP or FMP amendment through a more efficient process than a full FMP amendment. The full list of blueline tilefish management measures that could be changed by framework adjustment were published in the proposed rule and are not repeated here.

### **2017 Specifications**

Table 1 outlines catch limits for blueline tilefish for the 2017 fishing year. We will count landings of blueline tilefish in or from the Tilefish Management Unit that have already occurred in 2017 against these limits when determining if a harvest limit has been met or exceeded.

**Table 1. 2017 Blueline Tilefish Specifications.**

<b>Specification</b>	<b>Recreational</b>	<b>Commercial</b>
ABC	87,031 lb (39,476 kg)	
ACLs	63,533 lb (28,818 kg)	23,498 lb (10,658 kg)
ACTs	63,533 lb (28,818 kg)	23,498 lb (10,658 kg)
TALs	62,262 lb (28,242 kg)	23,263 lb (10,552 kg)

### **2018 Specifications**

The regulations at § 648.292(b)(2) state in part that 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 the section and NMFS will issue notification in the *Federal Register* if the previous year's specifications will not be changed. At its April 2017 meeting, the Council voted to maintain status quo specifications for the 2018 blueline tilefish fishing year. As a result, we do not intend to change the 2017 blueline tilefish specifications for next year, so the status quo measures remain effective for through December 31, 2018.

## **Comments and Responses**

We received 42 comments on the notice of availability and proposed rule. The majority of comments were from individuals. Four commenters self-identified as owners of for-hire recreational vessels. One commenter identified as president of a recreational saltwater fishing association with over 600 members. Two commenters did not specifically address any of the proposed measures. One was generally supportive of the proposed action while the other simply opposed all commercial fishing. Detailed comments and our responses are grouped by topic below.

### *Recreational Possession Limit Comments*

Numerous commenters expressed opposition to the proposed tiered recreational possession limits. A dozen commenters said the limits unfairly favored for-hire vessels. Ten commenters stated the three-fish per person limit for private vessels was unreasonably low. Twenty commenters generally opposed any differentiation between aspects of the recreational fishery. Six individuals stated the low limit would increase dead discards of blue-line tilefish when anglers target co-occurring species such as golden tilefish or black sea bass. Twenty-five commenters expressed support for the seven-fish per person limit across the board that was in the Council's public hearing draft of the Amendment.

*Response:* The Council's analysis indicated management measures needed to constrain recreational catch by 50 percent, relative to the 2014/2015 average, to stay below the ACL. A year-round season and seven-fish per person possession limit would not have achieved this target. The available VTR data indicate that per-person catch rates of blue-line tilefish are lower on charter boats than party boats, and public comment indicated that the retention rate on private vessels is lower than on either type of for-hire vessel. Based on this information, the Council

devised a set of possession limits to reflect this pattern and spread the reduction across the recreational sector of the fishery equitably, such that each vessel group would be subject to the same relative restriction. We recognize anglers may inadvertently exceed the blueline tilefish possession limit when targeting other species. We hope people will try to avoid this situation, and encourage them to visit our website

<https://www.greateratlantic.fisheries.noaa.gov/sustainable/recfishing/> for information on best practices, including the use of descending devices to minimize barotrauma in released fish. If additional catch information becomes available that indicates a single possession limit is more equitable, the Council may revise these measures through the specifications process if necessary. The effective date of this action has been set such that the new recreational possession limits will not take effect until the fishery opens on May 1, 2018, to avoid confusion of setting a new possession limit just before the new annual closure.

#### *Recreational Closed Season Comments*

A majority of commenters (26) expressed opposition to the proposed recreational closed season. Twenty commenters noted they typically catch blueline tilefish and black sea bass together and seasons for these species need to be coordinated to avoid excessive discard of either species. Several individuals stated blueline tilefish is one of the few species available during the winter months, and a closure could preclude any recreational fishing during that time.

*Response:* As mentioned above, the Council developed recreational measures to affect a 50-percent reduction in catch relative to the 2014/2015 average. The result is as a combination of tiered possession limits and a closed season that the available data suggest will achieve this goal. The available catch data indicate a closure from November through April would account for a 19-percent reduction in recreational catch. That combined with the expected impact of the

possession limits should allow the recreational TAL to be achieved, but not exceeded. The Council could have chosen to coordinate its blueline tilefish recreational season with its existing season for black sea bass, but did not. However, the Council can re-evaluate recreational measures through the specifications process.

#### *Recreational Permit Comments*

One commenter expressed opposition to a requirement for another vessel permit for his charter boat. A few commenters noted Virginia already has recreational permit and reporting requirements, and any new requirements may be redundant. One commenter supported the proposed permit for private recreational vessels, suggesting we require vessels get a letter of authorization (LOA) until the new recreational permit is fully implemented.

*Response:* This action does not create a new charter/party vessel permit for blueline tilefish. Rather, we are using the existing permit for golden tilefish that most, if not all, for-hire vessels have. Therefore, if you already have the Tilefish Party/Charter vessel permit no further action is needed. The potential to use existing permitting and reporting requirements and avoid duplication is one of the factors we will be looking into as we work to implement the private recreational permitting and reporting aspects of Amendment 6. Likewise, we will consider whether an LOA program to begin collecting data about recreational effort while measures that are more permanent are developed and implemented is feasible and cost effective.

#### *Council Process Comments*

Apart from the specific comments on the recreational possession limits and closed season addressed above, the recreational fishing association and several individuals submitted matching comments opposing the process by which the Council selected those measures. These 20 commenters feel they did not have an adequate opportunity to express to the Council their

opposition to these measures, and, therefore, ask the Secretary to disapprove the Amendment and remand it to the Council for further public input.

*Response:* The Council developed a range of potential management measures then sought public comment on a draft of Amendment 6, including a series of public hearings. While the Council typically selects its preferred measures from among those in the draft document, it is not required to do so. The purpose of the public hearings is to solicit feedback that could improve the measures under consideration. During the public hearings, the Council received comments that led to the development of tiered possession limits based on the type of vessel. As mentioned above in the response to comments on the possession limit, these measures were intended to spread the catch reductions more equitably across the fishery. Similarly, public comment led to the consideration of a closed season in order to maintain a higher bag limit when the fishery is open. These new measures were discussed publicly during the April 2016 Council meeting before the Council voted to select preferred alternatives and approve Amendment 6. Because some measures were developed after the regular public hearing process, the Council took the unusual step of holding an additional webinar-based public hearing in June 2016, with the option to reconsider its decisions later during the June 2016 Council meeting after reviewing submitted comments.

#### *Economic Impact Comments*

Many individuals cited the time and expense that recreational anglers invest to participate in this fishery. These individuals indicated that a closed season, and to a lesser extent low possession limits, could have adverse impact on local businesses.

*Response:* We acknowledge the economic contributions that recreational fishing can have in coastal communities. NMFS conducts nation-wide surveys of marine anglers to assess

those impacts and better inform our management decisions. The recreational fishery for blueline tilefish in the Mid-Atlantic is relatively small, and the number of participants has not historically been well documented. The analysis of the anticipated economic impacts of this action indicate some potential adverse impact resulting from the possession limits and closed season. However, those impacts should be limited and temporary if the measures result in the expected increase in the blueline tilefish stock size.

### **Changes from the Proposed Rule**

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

### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Administrator, Greater Atlantic Region, NMFS, has determined that this final rule is consistent with Amendment 6, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866. Because this rule is not significant under Executive Order 12866, this rule is not an Executive Order 13771 regulatory action.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action will not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

## List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 9, 2017.

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Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

### **PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.1, revise paragraph (a) to read as follows:

#### **§ 648.1 Purpose and scope.**

(a) This part implements the fishery management plans (FMPs) for the Atlantic mackerel, squid, and butterfish fisheries (Atlantic Mackerel, Squid, and Butterfish FMP); Atlantic salmon (Atlantic Salmon FMP); the Atlantic sea scallop fishery (Scallop FMP); the Atlantic surfclam and ocean quahog fisheries (Atlantic Surfclam and Ocean Quahog FMP); the NE multispecies and monkfish fisheries ((NE Multispecies FMP) and (Monkfish FMP)); the summer flounder, scup, and black sea bass fisheries (Summer Flounder, Scup, and Black Sea Bass FMP); the



Atlantic bluefish fishery (Atlantic Bluefish FMP); the Atlantic herring fishery (Atlantic Herring FMP); the spiny dogfish fishery (Spiny Dogfish FMP); the Atlantic deep-sea red crab fishery (Deep-Sea Red Crab FMP); the golden and blueline tilefish fisheries (Tilefish FMP); and the NE skate complex fisheries (Skate FMP). These FMPs and the regulations in this part govern the conservation and management of the above named fisheries of the Northeastern United States.

\* \* \* \* \*

3. In § 648.2:

- a. Add in alphabetical order the definition of “Blueline tilefish;”
- b. Revise paragraph 4 of the definition for “Fishing year;”
- c. Add in alphabetical order the definition of “Golden tilefish;” and
- d. Revise paragraph 2 of the definition for “Lessee,” paragraph 2 of the definition for “Lessor,” and the definitions for “Tilefish,” “Tilefish FMP Monitoring Committee,” and “Tilefish Management Unit.”

The additions and revisions read as follows:

**§ 648.2 Definitions.**

\* \* \* \* \*

*Blueline tilefish* means *Caulolatilus microps*.

\* \* \* \* \*

*Fishing year* \* \* \*

(4) For the golden tilefish fishery, from November 1 through October 31 of the following year.

\* \* \* \* \*

*Golden tilefish* means *Lopholatilus chamaeleonticeps*.

\* \* \* \* \*

*Lessee* \* \* \*

(2) A person or entity eligible to hold golden tilefish IFQ allocation, who receives temporarily transferred golden tilefish IFQ allocation, as specified at § 648.294(e)(1).

*Lessor* \* \* \*

(2) An IFQ allocation permit holder who temporarily transfers golden tilefish IFQ allocation, as specified at § 648.294(e)(1).

\* \* \* \* \*

*Tilefish* means golden tilefish and blueline tilefish, collectively, unless otherwise noted.

*Tilefish FMP Monitoring Committee* means a committee made up of staff representatives of the MAFMC, the NMFS Greater Atlantic Regional Fisheries Office, the Northeast Fisheries Science Center, up to three state representatives (the New England states having one representative and the Mid-Atlantic states having a maximum of two representatives) and one non-voting industry member. The MAFMC Executive Director or his designee chairs the committee.

*Tilefish Management Unit* means an area of the Atlantic Ocean from the latitude of the VA and NC border (36°33.36' N. Lat.), extending eastward from the shore to the outer boundary of the exclusive economic zone and northward to the United States-Canada border in which the United States exercises exclusive jurisdiction over all golden tilefish (*Lopholatilus chamaeleonticeps*) and blueline tilefish (*Caulolatilus microps*) fished for, possessed, caught or retained in or from such area.

\* \* \* \* \*

4. In § 648.4, paragraphs (a)(12) and (b)(1)(i) are revised to read as follows:

**§ 648.4 Vessel permits.**

(a) \* \* \*

(12) *Tilefish vessels*--(i) *Commercial vessel permits.* Any vessel of the United States must have been issued, under this part, and carry on board, a valid commercial vessel permit to fish for, possess, or land golden tilefish or blueline tilefish for a commercial purpose, in or from the Tilefish Management Unit.

(A) A commercial vessel must fish under the authorization of a golden tilefish IFQ allocation permit, issued pursuant to § 648.294, to possess, or land golden tilefish in excess of the trip limit as specified under § 648.295(a).

(B) [Reserved]

(ii) *Party and charter vessel permits.* Any party or charter vessel must have been issued, under this part, a Federal charter/party vessel permit to fish for either golden tilefish or blueline tilefish in the Tilefish Management Unit, if it carries passengers for hire. Such vessel must observe the recreational possession limits as specified at § 648.296 and the prohibition on sale.

\* \* \* \* \*

(b) *Permit conditions.* (1)(i) Any person who applies for and is issued or renews a fishing permit under this section agrees, as a condition of the permit, that the vessel and the vessel's fishing activity, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ; and without regard to where such fish or gear are possessed, taken, or landed); are subject to all requirements of this part, unless exempted from such requirements under this part. All such fishing activities, catch, and gear will remain subject to all applicable state requirements. Except as otherwise provided in this part, if a requirement of this part and a management measure required by a state or local law differ, any vessel owner

permitted to fish in the EEZ for any species managed under this part, except tilefish, must comply with the more restrictive requirement. Except as otherwise provided in this part, if a requirement of this part and a management measure required by a state or local law differ, any vessel owner permitted to fish in the tilefish management unit for tilefish managed under this part must comply with the more restrictive requirement. Owners and operators of vessels fishing under the terms of a summer flounder moratorium, scup moratorium, or black sea bass moratorium; or a spiny dogfish or bluefish commercial vessel permit, must also agree not to land summer flounder, scup, black sea bass, spiny dogfish, or bluefish, respectively, in any state after NMFS has published a notification in the *Federal Register* stating that the commercial quota for that state or period has been harvested and that no commercial quota is available for the respective species. A state not receiving an allocation of summer flounder, scup, black sea bass, or bluefish, either directly or through a coast-wide allocation, is deemed to have no commercial quota available. Owners and operators of vessels fishing under the terms of the tilefish commercial permit must agree not to land golden tilefish or blueline tilefish after NMFS has published a notification in the *Federal Register* stating that the respective quota for the golden tilefish incidental fishery and/or the commercial blueline tilefish fishery has been harvested, as described in § 648.295, unless landing golden tilefish authorized under a golden tilefish IFQ allocation permit. Owners or operators fishing for surfclams and ocean quahogs within waters under the jurisdiction of any state that requires cage tags are not subject to any conflicting Federal minimum size or tagging requirements. If a surfclam and ocean quahog requirement of this part differs from a surfclam and ocean quahog management measure required by a state that does not require cage tagging, any vessel owners or operators permitted to fish in the EEZ for surfclams and ocean quahogs must comply with the more restrictive requirement while fishing in

state waters. However, surrender of a surfclam and ocean quahog vessel permit by the owner by certified mail addressed to the Regional Administrator allows an individual to comply with the less restrictive state minimum size requirement, as long as fishing is conducted exclusively within state waters.

\* \* \* \* \*

5. In § 648.5, paragraph (a) is revised to read as follows:

**§ 648.5 Operator permits.**

(a) *General.* Any operator of a vessel fishing for or possessing: Atlantic sea scallops, NE multispecies, spiny dogfish, monkfish, Atlantic herring, Atlantic surfclam, ocean quahog, Atlantic mackerel, squid, butterfish, scup, black sea bass, or Atlantic bluefish, harvested in or from the EEZ; golden tilefish or blueline tilefish harvested in or from the EEZ portion of the Tilefish Management Unit; skates harvested in or from the EEZ portion of the Skate Management Unit; or Atlantic deep-sea red crab harvested in or from the EEZ portion of the Red Crab Management Unit, issued a permit, including carrier and processing permits, for these species under this part, must have been issued under this section, and carry on board, a valid operator permit. An operator's permit issued pursuant to part 622 or part 697 of this chapter satisfies the permitting requirement of this section. This requirement does not apply to operators of recreational vessels.

\* \* \* \* \*

6. In § 648.6, paragraph (a)(1) is revised to read as follows:

**§ 648.6 Dealer/processor permits.**

(a) *General.* (1) All dealers of NE multispecies, monkfish, skates, Atlantic herring, Atlantic sea scallop, Atlantic deep-sea red crab, spiny dogfish, summer flounder, Atlantic

surfclam, ocean quahog, Atlantic mackerel, squid, butterfish, scup, bluefish, golden tilefish, blueline tilefish, and black sea bass; Atlantic surfclam and ocean quahog processors; Atlantic hagfish dealers and/or processors, and Atlantic herring processors or dealers, as described in § 648.2; must have been issued under this section, and have in their possession, a valid permit or permits for these species.

\* \* \* \* \*

7. In § 648.14, paragraph (u) is revised to read as follows:

**§ 648.14 Prohibitions.**

\* \* \* \* \*

(u) *Golden and blueline tilefish.* It is unlawful for any person owning or operating a vessel to do any of the following:

(1) *Permit requirements*—(i) *Operator permit.* Operate, or act as an operator of, a vessel with a tilefish permit, or a vessel fishing for or possessing golden or blueline tilefish in or from the Tilefish Management Unit, unless the operator has been issued, and is in possession of, a valid operator permit. This requirement does not apply to operators of private recreational vessels.

(ii) *Dealer permit.* Purchase, possess, receive for a commercial purpose; or attempt to purchase, possess, or receive for a commercial purpose; as a dealer, or in the capacity of a dealer, golden or blueline tilefish that were harvested in or from the Tilefish Management Unit, without having been issued, and in possession of, a valid tilefish dealer permit.

(iii) *Vessel permit.* (A) Sell, barter, trade, or otherwise transfer from a vessel; or attempt to sell, barter, trade, or otherwise transfer from a vessel; for a commercial purpose, other than solely for transport on land, any golden or blueline tilefish, unless the vessel has been issued a

commercial tilefish permit, or unless the tilefish were harvested by a vessel without a commercial tilefish permit that fished exclusively in State waters.

(B) Operate a vessel that takes recreational fishermen for hire to fish for golden or blueline tilefish in the Tilefish Management Unit without a valid tilefish charter/party vessel permit, as required in § 648.4(a)(12)(i).

(2) *Possession and landing.* (i) Fish for, possess, retain, or land golden or blueline tilefish, unless:

(A) The tilefish are being fished for or were harvested in or from the Tilefish Management Unit by a vessel holding a valid tilefish permit under this part, and the operator on board such vessel has been issued an operator permit that is on board the vessel.

(B) The tilefish were harvested by a vessel that has not been issued a tilefish permit and that was fishing exclusively in State waters.

(C) The tilefish were harvested in or from the Tilefish Management Unit by a vessel, other than a charter/party vessel, that is engaged in recreational fishing.

(ii) Land or possess golden or blueline tilefish harvested in or from the Tilefish Management Unit, in excess of either:

(A) The relevant commercial trip limit specified at § 648.295, unless possessing golden tilefish authorized pursuant to a valid tilefish IFQ allocation permit, as specified in § 648.294(a).

(B) The relevant recreational possession limit specified at § 648.296, if engaged in recreational fishing including charter/party vessels.

(iii) Land golden tilefish harvested in or from the Tilefish Management Unit in excess of that authorized under a tilefish IFQ allocation permit as described at § 648.294(a).

(iv) Fish for golden or blueline tilefish inside and outside of the Tilefish Management

Unit on the same trip.

(v) Discard golden tilefish harvested in or from the Tilefish Management Unit, as defined in § 648.2, unless participating in recreational fishing, as defined in § 648.2, or while fishing subject to a trip limit pursuant to § 648.295(a).

(vi) Land or possess golden tilefish in or from the Tilefish Management Unit, on a vessel issued a valid tilefish permit under this part, after the incidental golden tilefish fishery is closed pursuant to § 648.295(a)(2), unless fishing under a valid tilefish IFQ allocation permit as specified in § 648.294(a), or engaged in recreational fishing.

(vii) Land or possess blueline tilefish in or from the Tilefish Management Unit, on a vessel issued a valid tilefish permit under this part, after the commercial blueline tilefish fishery is closed pursuant to § 648.295(b)(2), unless engaged in recreational fishing.

(viii) Land or possess blueline tilefish in or from the Tilefish Management Unit, on a vessel issued a valid commercial tilefish permit under this part, that do not have the head and fins naturally attached to the fish.

(3) *Transfer and purchase.* (i) Purchase, possess, or receive for a commercial purpose, other than solely for transport on land; or attempt to purchase, possess, or receive for a commercial purpose, other than solely for transport on land; golden or blueline tilefish caught by a vessel without a tilefish permit, unless the tilefish were harvested by a vessel without a tilefish permit that fished exclusively in State waters.

(ii) Purchase or otherwise receive for commercial purposes golden or blueline tilefish caught in the EEZ from outside the Tilefish Management Unit unless otherwise permitted under 50 CFR part 622.

(4) *Presumption.* For purposes of this part, the following presumption applies: All



golden or blueline tilefish retained or possessed on a vessel issued any permit under § 648.4 are deemed to have been harvested in or from the Tilefish Management Unit, unless the preponderance of all submitted evidence demonstrates that such tilefish were harvested by a vessel fishing exclusively in state waters.

\* \* \* \* \*

8. The heading for subpart N is revised to read as follows:

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

9. Section 648.290 is revised to read as follows:

**§ 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 be equal to 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 be equal to the ABC recommended by the SSC.

(1) *Sector allocations.* The ACL for the commercial sector of the blueline tilefish fishery shall be 27 percent of the ABC, and the ACL for the recreational sector of the fishery shall be 73 percent of the ABC.

(2) *Periodicity.* The blueline tilefish commercial and recreational ACLs 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 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.

10. Section 648.291 is revised to read as follows:

**§ 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 an ACT 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) *Sectors.* The ACT shall be less than or equal to the ACL. 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. The Tilefish Monitoring Committee shall recommend any reduction in catch necessary to address sector-specific management uncertainty, consistent with paragraph (a) 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.

(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).

11. Section 648.292 is revised to read as follows:

**§ 648.292 Tilefish specifications.**

(a) *Golden Tilefish.* The golden tilefish fishing year is the 12-month period beginning with November 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) requires modification to respond to any changes to the golden tilefish stock's biological reference points or to ensure that the 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 TAL will not be exceeded. Based on that review, the Monitoring Committee will recommend golden tilefish ACL, ACT, and TAL 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 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 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 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 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. After considering public comments, NMFS will publish a final rule in the *Federal Register* to implement the golden tilefish ACL, ACT, TAL 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 TAL for each fishing year will be specified pursuant to paragraph (a)(1) of this section.

(ii) The sum of the TAL and the estimated discards shall be less than or equal to the ACT.

(3) *TAL allocation*. For each fishing year, up to three percent of the golden tilefish TAL may be set aside for the purpose of funding research. Once a research amount, if any, is set aside, the golden tilefish TAL will first be reduced by 5 percent to adjust for the incidental catch. The remaining 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 5 percent of the golden tilefish TAL for a given fishing year, the incidental trip limit specified at § 648.295(a)(1) 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 blue-line 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 blue-line tilefish ACL, ACT, TAL and any management measures for the blue-line 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 blue-line 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).

12. Section 648.293 is revised to read as follows:

**§ 648.293 Tilefish accountability measures.**

(a) *Golden tilefish--(1) Commercial incidental fishery closure.* See § 648.295(a)(2).

(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.

13. In § 648.294, revise the section heading and paragraphs (a)(1) and (2), (b)(1) introductory text, (b)(4), (e)(3)(ii) and (iii), (e)(4) introductory text, (f), (g), (h)(1), (h)(2)(ii), and (h)(4)(i) to read as follows:

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

(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.

\* \* \* \* \*

(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.

\* \* \* \* \*

(4) *IFQ vessel*. All Federal vessel permit numbers that are listed on the IFQ allocation permit are authorized to possess golden tilefish pursuant to the IFQ allocation permit until the end of the fishing year or until NMFS receives written notification from the IFQ allocation permit holder that the vessel is no longer authorized to possess golden tilefish pursuant to the subject permit. 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 the vessel name and permit number, and 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. A copy of the IFQ allocation permit must be carried on board each vessel so authorized to possess IFQ golden tilefish.

\* \* \* \* \*

(e) \* \* \*

(3) \* \* \*

(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 September 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 October 10 to be processed for the current fishing year.

\* \* \* \* \*

(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) \* \* \*

(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) \* \* \*

(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.

\* \* \* \* \*

(4) \* \* \*

(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).

\* \* \* \* \*

14. Section 648.295 is revised to read as follows:

**§ 648.295 Tilefish commercial trip limits.**

(a) *Golden tilefish--(1) Incidental trip limit for vessels not fishing under an IFQ allocation.* 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 (226.8 kg) of golden tilefish at any time, unless the vessel is fishing under a tilefish IFQ allocation permit, as specified at § 648.294(a). Any golden tilefish landed by a vessel fishing under an IFQ allocation permit, on a given fishing trip, count as landings under the IFQ allocation permit.

(2) *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 300 lb (136 kg) of blueline tilefish per trip in or from the Tilefish Management Unit. Commercial blueline tilefish must be landed with head and fins naturally attached, but may be gutted.

(2) *In-season closure of the commercial fishery.* The Regional Administrator will monitor the harvest of the blueline tilefish commercial TAL based on dealer reports and other available information, and shall determine the date when the blueline tilefish commercial TAL will be 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 blueline tilefish commercial fishery is closed for the remainder of the fishing year.

15. Section 648.296 is revised to read as follows:

**§ 648.296 Tilefish recreational possession limits.**

(a) *Golden tilefish.* Any person fishing from a vessel that is not fishing under a tilefish commercial vessel permit issued pursuant to § 648.4(a)(12), may land up to eight golden tilefish per trip. Anglers fishing onboard a charter/party vessel shall observe the recreational possession limit.

(b) *Blueline tilefish--(1) Private recreational vessels.* Any person fishing from a vessel that is not fishing under a tilefish commercial or charter/party vessel permit issued pursuant to § 648.4(a)(12), may land up to three blueline tilefish 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.

16. In § 648.299, revise paragraphs (a)(1)(xix), (xx), and (xxi) and add paragraphs (a)(1)(xxii) and (xxiii) to read as follows:

**§ 648.299 Tilefish framework specifications.**

(a) \* \* \*

(1) \* \* \*

(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.

\* \* \* \* \*

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