



## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

**[Docket No. 240315-0081]**

**RIN 0648-BM55**

#### **Fisheries of the Northeastern United States; Mid-Atlantic Blueline Tilefish and Golden Tilefish Fisheries; 2024 Specifications**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule implements status quo harvest limits for the 2024 golden tilefish and blueline tilefish fisheries north of the North Carolina/Virginia border, shifts the recreational season for blueline tilefish to May 15 through November 14, and modifies regulations to reflect the January 1 start date of the golden tilefish fishing year. The action is necessary to establish allowable harvest levels and other management measures to prevent overfishing while allowing optimum yield, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Tilefish Fishery Management Plan.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Copies of the supporting documents for this action are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901. These documents are also accessible via the Internet at <https://www.mafmc.org>.

**FOR FURTHER INFORMATION CONTACT:** Douglas Potts,

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## **SUPPLEMENTARY INFORMATION:**

### **Background**

The Mid-Atlantic Fishery Management Council (the Council) manages the golden tilefish and blueline tilefish fisheries north of the North Carolina/Virginia border under the Tilefish Fishery Management Plan (FMP), which outlines the Council’s process for establishing annual specifications. The Tilefish FMP requires the Council to recommend the acceptable biological catch (ABC), annual catch limit (ACL), annual catch target (ACT), total allowable landings (TAL), and other management measures for the commercial and recreational sectors of the fisheries. Detailed information about the development of these specifications was provided in the specifications proposed rule (88 FR 77944, November 14, 2023). That information is not repeated here.

### **Specifications**

The 2024 specifications for blueline tilefish and golden tilefish are detailed in tables 1 and 2. The regulations at 50 CFR 648.293(b)(2) specify that commercial landings of blueline tilefish in excess of the commercial ACL will be deducted from the commercial ACL the following year. NMFS closed the 2023 commercial blueline tilefish fishery on September 5, 2023 (88 FR 60597), because 100 percent of the commercial TAL was projected to have been caught. Total commercial blueline tilefish landings in 2023 were 31,339 pounds (lb) (14,215 kilograms (kg)), which exceeded the 2023 commercial ACL by 4,470 lb (2,028 kg). Therefore, that amount is deducted from the 2024 commercial ACL.

**Table 1 -- Blueline Tilefish 2024 Specifications**

<b>ABC – North of NC/VA line</b>	100,520 lb (45.6 mt)
<b>Recreational ACL / ACT</b>	73,380 lb (33.3 mt)
<b>Commercial ACL / ACT</b>	27,140 lb (12.3 mt)

<b>2023 Overage Adjustment</b>	-4,470 lb (-2.0 mt)
<b>Adjusted Commercial ACL</b>	22,670 lb (10.3 mt)
<b>Recreational TAL</b>	71,912 lb (32.6 mt)
<b>Commercial TAL</b>	22,399 lb (10.2 mt)

**Table 2 -- Golden Tilefish 2024 Specifications**

<b>ABC</b>	1,964,319 lb (891 mt)
<b>ACL</b>	1,964,319 lb (891 mt)
<b>IFQ* fishery ACT</b>	1,763,478 lb (800 mt)
<b>Incidental fishery ACT</b>	92,815 lb (42 mt)
<b>IFQ fishery TAL = IFQ ACT (no discards permitted in fishery)</b>	1,763,478 lb (800 mt)
<b>Incidental fishery TAL = Incidental fishery ACT - discards</b>	75,410 lb (42 mt)

\*IFQ = Individual Fishing Quota

The 2024 fishing year for golden tilefish and blueline tilefish began on January 1, 2024. The regulations include rollover provisions for both species that allow the fisheries to operate under status quo specifications until this action is effective.

### **Blueline Tilefish Recreational Season**

This action shifts the recreational fishing season for blueline tilefish by two weeks. The recreational fishing season for blueline tilefish will now be May 15 through November 14. The blueline tilefish recreational possession limits are not changed and depend on the type of fishing vessel used. Anglers fishing from a private vessel that has been issued a valid Federal Tilefish Private Recreational Permit 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 Federal Tilefish Party/Charter 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 Federal Tilefish

Party/Charter Permit and a current U.S. Coast Guard safety inspection sticker can retain up to seven blueline tilefish per person per trip.

### **Corrections**

The final rule to implement Framework Adjustment 7 to the Tilefish FMP (87 FR 67830, November 10, 2022) moved the start of the fishing year for golden tilefish from November 1 to January 1. However, the rule did not change the following ancillary dates in the regulations that derive from the start of the fishing year, including: (1) the date by which an IFQ permit application must be submitted to ensure the IFQ permit is issued before the start of the fishing year; (2) the date when an IFQ permit ceases to be valid (*i.e.*, the last day of the fishing year); and (3) the cut-off date for submitting an IFQ transfer application for the current fishing year. This rule adjusts those dates in the regulations based on January 1 being the start of the fishing year.

### **Comments**

On November 14, 2023, we published a proposed rule (88 FR 77944) requesting comment on these measures. The comment period was open through December 14, 2023. We received three comments. Two comments were from members of the for-hire fishing industry, and one comment was submitted anonymously.

*Comment 1:* Two comments were submitted by head boat operators in New York and New Jersey. Both commenters disagree with the rationale for changing the blueline tilefish recreational season. In their experience, the bycatch of black sea bass on fishing trips targeting blueline tilefish that prompted the Council to recommend the change only occurs farther south, primarily in the waters off Virginia. They also mention that for-hire fishing trips for blueline tilefish in the first two weeks of May are important to their businesses because there are few other species available during that time.

*Response:* The type and extent of bycatch and incidental catch often varies based on numerous factors including location and fishing method. The Council used an analysis

of the coast-wide bycatch of black sea bass in blue-line tilefish recreational trips to assess the need for, and likely effect of, changing the recreational season. While this analysis may not fully reflect the conditions observed at a given location, it can be useful in understanding the likely impact of a management change overall. Based on that analysis, adjusting the recreational season for blue-line tilefish is likely to reduce the number of black sea bass discarded by anglers who are fishing for blue-line tilefish. NMFS and the Council will continue to monitor the blue-line tilefish recreational fishery and may make further adjustments in the future, including the recreational season, if warranted.

*Comment 2:* One commenter asserted that specifications need to be revised in light of the development of offshore wind projects. However, the commenter did not specify how they believe offshore wind development might affect blue-line tilefish and golden tilefish populations or what changes to the specifications might be necessary.

*Response:* NMFS is closely involved in assessing the potential impact of offshore wind development on a broad range of marine resources. No specific impacts on blue-line tilefish and golden tilefish populations from the construction or operation of offshore wind turbines have been identified and, therefore, no changes to current specifications are necessary. If an issue does arise, NMFS will work with the Council to make any needed changes to management measures.

### **Changes from Proposed Rule**

The commercial blue-line tilefish ACL and TAL have each been reduced by 4,470 lb (2,028 kg) from what appeared in the proposed rule. This change reflects the small overage that occurred in 2023 and the requirement of § 648.293(b)(1) that such overages be deducted from the commercial ACL in the next fishing year. The calculation of this overage was not available at the time the proposed rule was published.

### **Classification**

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant

Administrator has determined that this final rule is consistent with the Tilefish FMP, 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.

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

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

#### **List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 15, 2024.

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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, NMFS amends 50 CFR part 648 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 §648.294, revise paragraphs (b)(1)(ii), (b)(2) and (3), and (e)(4) introductory text to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(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.

\* \* \* \* \*

(e) \* \* \*

(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.

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3. In §648.296, revise paragraph (b) introductory text to read as follows:

**§648.296 Tilefish recreational possession limits and gear restrictions.**

\* \* \* \* \*

(b) *Blueline tilefish.* The recreational blueline tilefish fishery is open May 15 through November 14, and closed November 15 through May 14.

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