

## Fishery Conservation and Management

§ 648.290

members, present and voting, to the Regional Administrator. The Councils' recommendation must include supporting rationale, an analysis of impacts and, if management measures are recommended, a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Councils recommend that the management measures should be issued as a final rule, they 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 Councils' recommended management measures.

(iii) Whether there is an immediate need to protect the resource.

(iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(3) *NMFS action.* If the Councils' recommendation includes adjustments or additions to management measures and:

(i) If NMFS concurs with the Councils' recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraph (b)(2) of this section, then the measures will be issued as a final rule in the FEDERAL REGISTER.

(ii) If NMFS concurs with the Councils' recommendation and determines that the recommended management measures should be published first as a proposed rule, then the measures will be published as a proposed rule in the FEDERAL REGISTER. After additional public comment, if NMFS concurs with the Councils' recommendation, then the measures will be issued as a final rule in the FEDERAL REGISTER.

(iii) If NMFS does not concur, the Councils will be notified in writing of the reasons for the non-concurrence.

(iv) Framework actions can be taken only in the case where both Councils approve the proposed measure.

(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.

### Subpart M—[Reserved]

### Subpart N—Management Measures for the Tilefish Fishery

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

#### § 648.290 Catch quotas and other restrictions.

The fishing year is the 12-month period beginning with November 1, 2001.

(a) *Total allowable landings (TAL).* The TAL for each fishing year will be 1.995 million lb (905,172 kg) unless modified pursuant to paragraph (d) of this section.

(b) *TAL allocation.* For each fishing year, up to 3 percent of the TAL may be set aside for the purpose of funding research. Once a research TAC, if any, is set aside, the TAL will first be reduced by 5 percent to adjust for the incidental catch. The remaining TAL will be allocated as follows: Full-time tier Category 1, 66 percent; Full-time tier Category 2, 15 percent; and Part-time, 19 percent.

(c) *Adjustments to the quota.* Any overages of the quota for any limited access category that occur in a given fishing year will be subtracted from the quota for that category in the following fishing year. If incidental harvest exceeds 5 percent of the TAL for a given fishing year, the trip limit of 300 lb (138 kg) for the incidental category may be reduced in the following year. If an adjustment is required, a notification of adjustment of the quota will be published in the FEDERAL REGISTER.

(d) *Annual specification process.* The Tilefish FMP Monitoring Committee (Monitoring Committee) will meet

after the completion of each stock assessment or at the request of the Council Chairman. The Monitoring Committee shall review tilefish landings information and any other relevant available data to determine if the annual quota requires modification to respond to any changes to the 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 provide a recommendation to the Tilefish Committee of the Council. Based on these recommendations and any public comment received, the Tilefish Committee shall recommend to the Council the appropriate quota and management measures for the next fishing year. The Council 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 TAL for the next fishing year, the percentage of TAL allocated to research quota, and any management measures to assure that the TAL will not be exceeded. The Council'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 TAL and any management measures to assure that the TAL will not be exceeded. After considering public comments, NMFS will publish a final rule in the FEDERAL REGISTER to implement a 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 (e) of this section. NMFS will issue notification in the FEDERAL REGISTER if the previous year's specifications will not be changed.

(e) *Research quota.* See § 648.21(g).

#### § 648.291 Closures.

(a) *EEZ closure.* If the Regional Administrator determines that the quota for a certain limited access category will be exceeded, the Regional Administrator will close the EEZ to fishing for tilefish by those vessels in that category for the remainder of the fishing year and publish notification in the FEDERAL REGISTER.

(b) [Reserved]

#### § 648.292 Tilefish trip limits.

Any U.S. fishing vessel fishing under a tilefish incidental catch category permit is prohibited from possessing more than 300 lb (138 kg) of tilefish per trip.

#### § 648.293 Framework specifications.

(a) *Within-season management action.* The Council 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 implemented or adjusted at any time through the framework 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) Overfishing definition and related thresholds and targets,
- (x) Annual specification quota setting process,
- (xi) Tilefish FMP Monitoring Committee composition and process,
- (xii) Description and identification of EFH,
- (xiii) Fishing gear management measures that impact EFH,
- (xiv) Habitat areas of particular concern, and
- (xv) Set-aside quotas for scientific research.

(2) *Adjustment process.* If the Council determines that an adjustment to management measures is necessary to meet the goals and objectives of the FMP, it will recommend, develop, and analyze