

coast all-depth sport halibut fishery. The additional potential reopening dates and increased bag limit are intended to allow anglers an opportunity to attain the Oregon central coast halibut quota for 2004 and flexibility in scheduling openings for any or all of those dates. However, there was not sufficient time between getting the information on the slow season catch for 2004 and the additional reopening dates to afford the public prior notice and opportunity for comment. NMFS received the information on September 1, 2004. The first new reopening date is September 24, 2003. NMFS needed time to write and review the changes to the regulations. In addition, this action relieves a restriction by providing additional opportunity for anglers to harvest halibut if sufficient quota remains. If there are no additional reopening dates added to the season or an increased bag limit, anglers may be restricted by not being able to harvest the full halibut quota for 2004. For the above reasons and because this action relieves a restriction, the AA has also determined that good cause exists to waive the delay of effectiveness of this action under 5 U.S.C. 553(d)(1) and (d)(3).

Public comments will be received for a period of 15 days after the publication in the **Federal Register**. This action is authorized by section 25 of the IPHC's annual management measures for Pacific halibut fisheries published on May 4, 2004 (69 FR 24524), and has been determined to be not significant for purposes of Executive Order 12866.

**Authority:** 16 U.S.C. 773–773k.

Dated: September 20, 2004.

**John H. Dunnigan,**

*Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 040122024–4105–02; I.D. 092104C]

#### Fisheries of the Northeastern United States; Tilefish Fishery; Quota Harvested for Part-time Category

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

**ACTION:** Closure.

**SUMMARY:** NMFS announces that the percentage of the tilefish annual total allowable landing (TAL) available to the Part-time category has been harvested. Commercial vessels fishing under the Part-time tilefish category may not harvest tilefish from within the golden tilefish management unit for the remainder of the 2004 fishing year (through October 31, 2004). Regulations governing the tilefish fishery require publication of this notification to advise the public of this closure.

**DATES:** Effective 0001 hrs local time, September 25, 2004, through 2400 hrs local time, October 31, 2004.

**FOR FURTHER INFORMATION CONTACT:** Brian R. Hooker, Fishery Policy Analyst, at (978) 281–9220.

**SUPPLEMENTARY INFORMATION:**

Regulations governing the tilefish fishery are found at 50 CFR part 648. The regulations require annual specification of a TAL for federally permitted tilefish vessels harvesting tilefish from within the golden tilefish management unit. The golden tilefish management unit is defined as 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 U.S.-Canada border. After 5 percent of the TAL is deducted to reflect landings by vessels issued an open-access incidental permit category, and after up to 3 percent of the TAL is set aside for research purposes, should research TAL be set aside, the remaining TAL is distributed among three tilefish limited access permit categories: Full-time tier 1 category (66 percent), Full-time tier 2 category (15 percent), and the Part-time category (19 percent).

The TAL for tilefish for the 2004 fishing year was set at 1.995 million lb (905,172 kg) and then adjusted downward by 5 percent to 1,895,250 lb (859,671 kg) to account for incidental catch. There was no research set-aside for the 2004 fishing year. Thus, the Part-time category quota for the 2004 fishing year, which is equal to 19 percent of the TAL, is 360,098 lb (163,338 kg). As a result of the decision in the *Hadaja v. Evans* lawsuit on May 15, 2003, the permitting and reporting requirements for the tilefish fishery were suspended for nearly a year. The decision rendered the subquotas for the various limited access permit categories inoperative. These requirements were reinstated on May 31, 2004, through a final rule (69 FR 22454, April 26, 2004). During the period that the permitting and reporting

requirements were vacated, it was impossible to attribute tilefish landings to a particular limited access permit category. Consequently, projected landings were used for the period November 1, 2003 - May 31, 2004. Based on this projection, the adjusted Part-time category quota for the remainder of the fishing year (June 1–October 31, 2004) was calculated to be 200,791 lb (91,077 kg).

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial tilefish quota for each fishing year using dealer reports, vessel catch reports, and other available information to determine when the quota for each limited access permit category is projected to have been harvested. NMFS is required to publish notification in the **Federal Register** notifying commercial vessels and dealer permit holders that, effective upon a specific date, the tilefish TAL for the specific limited access category has been harvested and no commercial quota is available for harvesting tilefish by that category for the remainder of the fishing year, from within the golden tilefish management unit.

The Regional Administrator has determined, based upon dealer reports and other available information, that the 2004 tilefish TAL for the Part-time category has been harvested. Therefore, effective 0001 hrs local time, September 25, 2004, further landings of tilefish harvested from within the golden tilefish management unit by tilefish vessels holding Part-time category Federal fisheries permits are prohibited through October 31, 2004. The 2005 fishing year for commercial tilefish harvest will open on November 1, 2004. Federally permitted dealers are also advised that, effective September 25, 2004, they may not purchase tilefish from Part-time category federally permitted tilefish vessels who land tilefish harvested from within the golden tilefish management unit for the remainder of the 2004 fishing year (through October 31, 2004).

#### Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: September 22, 2004.

**Alan D. Risenhoover,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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