

advance notice is given to the draw tender at the Chapel Street Bridge by calling (203) 946-7618.

The Chapel Street Bridge across the Mill River at mile 0.4, shall open on signal for all marine traffic; except that, from 7:30 a.m. to 8:30 a.m. and 4:45 p.m. to 5:45 p.m., weekdays except Federal holidays, the draw need not be opened for the passage of vessel traffic. From 9 p.m. to 5 a.m. the draw shall open on signal if at least a one hour advance notice is given to the draw tender by calling (203) 946-7618.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: April 27, 2009.

Gary Kasso,

Bridge Program Manager, First Coast Guard District.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010319075-1217-02]

RIN 0648-XP65

Fisheries of the Northeastern United States; Tilefish Fishery; Quota Harvested for Full-time Tier 2 Category

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

ACTION: Temporary rule; tilefish Full-time Tier 2 permit category closure.

SUMMARY: NMFS announces that the percentage of the tilefish annual total allowable landings (TAL) available to the Full-time Tier 2 permit category for the 2009 fishing year will be harvested prior to the end of the fishing year. Commercial vessels fishing under the tilefish Full-time Tier 2 permit may not harvest tilefish from within the Golden Tilefish Management Unit for the remainder of the 2009 fishing year. Regulations governing the tilefish fishery require publication of this notification to advise the public of this closure.

DATES: Effective 0001 hrs local time, June 6, 2009, through 2400 hrs local time, October 31, 2009.

FOR FURTHER INFORMATION CONTACT: Anna Macan, Fisheries Management Specialist, at (978) 281-9165.

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 overall annual tilefish 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 2009 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 2009 fishing year. Thus, the Full-time Tier 2 permit quota for the 2009 fishing year, which is equal to 15 percent of the TAL, was specified at 284,288 lb (106,108 kg). However, due to an over-harvest in the 2008 fishing year, the quota for the Full-time permit category was adjusted downward by 7,332 lb (3,326 kg) to 276,956 lb (125,625 kg). Notification of the 2009 Full-time Tier 2 category quota for the 2009 fishing year was sent in a Permit Holder Letter to all tilefish limited access permit holders on October 7, 2008.

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 there is a high likely hood that the 2009 tilefish TAL for the Full-time Tier 2 category has been harvested as of June 1, 2009. Therefore, effective 0001 hr local time, June 6, 2009, further landings of tilefish harvested from within the Golden Tilefish Management Unit by tilefish vessels holding Full-time Tier 2 category Federal fisheries permits are prohibited through October 31, 2009. The 2010 fishing year for commercial tilefish harvest will open on November 1, 2009. Federally permitted dealers are also advised that, effective June 6, 2009, they may not purchase tilefish from Full-time Tier 2 category federally permitted tilefish vessels who land tilefish harvested from within the Golden Tilefish Management Unit for the remainder of the 2009 fishing year (through October 31, 2009).

Classification

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. If implementation of this closure is delayed to solicit prior public comment, the quota for this category would be exceeded given the rate of harvest of tilefish for vessels in this category. This would conflict with the agency's legal obligation under section 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act to rebuild this fishery as soon as possible. Overage of the Full-time Tier 2 category quota that occurs in a given fishing year is subtracted from the quota for this category in the following fishing year. This would have a negative economic impact on owners of vessels permitted in the Full-time Tier 2 category, who did not contribute to the overage this year, and fish during the next fishing year. The AA further finds pursuant to 5 U.S.C. 553(d)(3) good cause to waive the thirty 30-day delayed effectiveness period for the reasons stated above.

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

Dated: June 3, 2009.

Kristen C. Koch,

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

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