

Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction because the rule establishes a temporary safety zone.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping

requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T08-0359 to read as follows:

§ 165.T08-0359 Safety Zone; Sabine River, Orange, TX.

(a) *Definitions.* As used in this section, Participant Vessel means all vessels officially registered with event officials to race or work in the event. These vessels include race boats, rescue boats, tow boats, and picket boats associated with the race.

(b) *Location.* The following area is a safety zone: All waters of the Sabine River, from shoreline to shoreline, adjacent to the Naval Reserve Unit and the Orange public boat ramps located in Orange, Texas. The northern boundary is from the end of Navy Pier One at 30°05'45" N and 93°43'24" W then easterly to the river's eastern shore. The southern boundary is a line from shoreline to shoreline at latitude 30°05'33" N.

(c) *Effective date.* This rule is effective from 9 a.m. on September 19, 2009 until 6 p.m. on September 20, 2009.

(d) *Periods of Enforcement.* This rule will be enforced from 9 a.m. until 6 p.m. on September 19, 2009, and 9 a.m. until 6 p.m. on September 20, 2009. The Captain of the Port, Port Arthur will inform the public through broadcast notice to mariners of the enforcement periods for the safety zone.

(e) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited to all vessels except participant vessels and those vessels specifically authorized by the Captain of the Port, Port Arthur or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port, Port Arthur, or a designated representative. They may be contacted on VHF Channel 13 or 16, or by telephone at (409) 723-6500.

(3) All persons and vessels must comply with the instructions of the Captain of the Port, Port Arthur,

designated representatives and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: July 22, 2009.

J.J. Plunkett,

Captain, U.S. Coast Guard, Captain of the Port, Port Arthur.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010319075-1217-02]

RIN 0648-XP75

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: Temporary rule; tilefish Part-time permit category closure.

SUMMARY: NMFS announces that the percentage of the tilefish annual total allowable landings (TAL) available to the tilefish Part-time permit category for the 2009 fishing year has been harvested. Therefore, 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 2009 fishing year. Regulations governing the tilefish fishery require publication of this notification to advise the public of this closure.

DATES: Effective August 21, 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 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 Part-time permit category quota for the 2009 fishing year, which is equal to 19 percent of the TAL, was specified at 360,098 lb (163,338 kg). Notification of the 2009 Part-time permit 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 the 2009 tilefish TAL for the Part-time category has been harvested. Therefore, effective August 21, 2009, 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, 2009. The 2010 fishing year for commercial tilefish harvest will open on November 1, 2009. Federally permitted dealers are also advised that, effective August 21, 2009, 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 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 were 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 Act to prevent overfishing and to rebuild this fishery as soon as possible. Overage of the Part-time category quota that occurs in a given fishing year is subtracted from the quota for this category in the following fishing year. Thus, allowing an overage would have a negative economic impact on owners of vessels permitted in the Part-time category, who did not contribute to the overage this year, and who would fish during the next fishing year. The AA further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

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

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

Dated: August 21, 2009

William D. Chappell,

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