

the LAGC fishery are found at §§ 648.59 and 648.60. Regulations specifically governing IFQ scallop vessel operations in the LAGC fishery are specified at § 648.53(a)(8)(iii). These regulations authorize vessels issued a valid IFQ scallop permit to fish in the LAGC fishery under specific conditions, including a TAC. The TACs were established by the final rule that implemented Framework 19 to the FMP (73 FR 30790 May 29, 2008) and included a TAC of 623,747 lb (282,927 kg) that may be landed by IFQ vessels during the third quarter of the 2008 fishing year. The regulations at § 648.53(a)(8)(iii) require the LAGC fishery to be closed to IFQ vessels once the Northeast Regional Administrator has determined that the TAC is projected to be landed.

Based on dealer reporting and vessel pre-landing reports through Vessel Monitoring Systems (VMS), a projection concluded that, given current activity levels by IFQ scallop vessels in the area, 623,747 lb (282,927 kg) will have been landed on October 4, 2008. Therefore, in accordance with the regulations at § 648.53(a)(8)(iii), the LAGC scallop fishery is closed to all general IFQ vessels as of 0001 hr local time, October 5, 2008. IFQ scallop vessels are not allowed to fish for, possess, or retain scallops, or declare, or initiate, a scallop trip following this closure for the remainder of the 2008 third quarter, ending on November 30, 2008. This closure is in effect for the remainder of the third quarter of the 2008 scallop fishing year under current regulations. The LAGC scallop fishery is scheduled to re-open to IFQ scallop vessels on December 1, 2008.

#### Classification

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

This action closes the LAGC scallop fishery to all IFQ scallop vessels until December 1, 2008, under current regulations. The regulations at § 648.53(a)(8)(iii) require such action to ensure that IFQ scallop vessels do not exceed the 2008 third quarter TAC. The LAGC scallop fishery opened for the third quarter of the 2008 fishing year at 0001 hours on September 1, 2008. Data indicating the IFQ scallop fleet has landed all of the 2008 third quarter TAC have only recently become available. 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 quarter will be exceeded, thereby undermining the conservation objectives of the FMP. Also, if the magnitude of any overage is significant, it would warrant a decrease in the fourth quarter quota. This would have a negative economic impact on vessels that fish seasonally in that period. 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: October 2, 2008.

**Emily H. Menashes,**

*Acting 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. 010319075-1217-02]

RIN 0648-XK42

#### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Tilefish Fishery

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

**ACTION:** Temporary rule, tilefish commercial quota adjustment.

**SUMMARY:** NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has determined that the quota for the tilefish Full-time Tier 2 permit category has been exceeded for fishing year (FY) 2008, requiring an adjustment of the Full-time Tier 2 permit category quota for FY 2009. This action complies with the Fishery Management Plan for the Tilefish Fishery (FMP) and is intended to continue the rebuilding program in the FMP by taking into account previous overages of the tilefish quota.

**DATES:** Effective November 1, 2008, through October 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** Timothy A. Cardiasmenos, Fishery Policy Analyst, (978) 281-9204.

**SUPPLEMENTARY INFORMATION:**

## Background

The regulations at 50 CFR 648.290(c) state that any overages of the quota for any tilefish limited access category that occur in a given fishing year will be subtracted from the quota for that category in the following fishing year. This same section also states that, if the tilefish harvest attributed to the open access Incidental permit category exceeds 5 percent of the total allowable landings (TAL) for a given fishing year, the trip limit for the Incidental category may be reduced the following year. In both of these instances, § 648.290(c) specifies that, if an adjustment is required, a notification of adjustment of the quota will be published in the **Federal Register**.

The tilefish TAL for FY 2009 remains unchanged from previous years at 1.995 million lb (905 mt). The FMP dictates that the TAL be divided between the three limited access tilefish permit categories after the TAL is reduced by 5 percent to account for incidental tilefish landings (open-access Incidental permit category) as follows: Sixty-six percent (1,250,865 lb (567,383 kg)) to Full-time Tier 1; 15 percent (284,288 lb (128,951 kg)) to Full-time Tier 2; and 19 percent (360,098 lb (163,338 kg)) to Part-time vessels.

Based upon vessel reports and other information available, FY 2008 tilefish landings for limited access Full-time Tier 2 permit category were 291,620 lb (132,277 kg), resulting in an overage of 7,332 lb (3,326 kg). This overage amount is being deducted from the FY 2009 Full-time Tier 2 permit category quota through this action, which results in an adjusted quota of 276,956 lb (125,625 kg) for this category in FY 2009. Adjustments to the remaining permit categories are not needed at this time, and the FY 2009 quotas for these categories therefore, remain status quo, including the Incidental trip limit for tilefish for FY 2009, which will remain at its default value of 300 lb (136 kg). If final landings data for 2008 indicate that an adjustment of the quota for any of the other permit categories is necessary, a notification of the adjustment will be published in the **Federal Register**.

The FY 2009 tilefish Full-time Tier 2 permit category quota, the FY 2008 tilefish Full-time Tier 2 permit category landings, and the resulting overage of the FY 2008 tilefish Full-time Tier 2 permit category quota are presented in Table 1. The resulting adjusted FY 2009 tilefish Full-time Tier 2 permit category commercial quota is presented in Table 2.

TABLE 1. TILEFISH FULL-TIME TIER 2 CATEGORY 2008 LANDINGS AND OVERAGE

Permit Category	2008 Quota		2008 Landings		2008 Overage	
	Lb	Kg <sup>1</sup>	Lb	Kg <sup>1</sup>	Lb	Kg <sup>1</sup>
Full-time Tier 2	284,288	128,951	291,620	132,277	7,332	3,326

<sup>1</sup> Kilograms are as converted from pounds, and may not necessarily add due to rounding.

TABLE 2. TILEFISH FULL-TIME TIER 2 CATEGORY ADJUSTED FY 2009 QUOTA

Permit Category	2009 Initial Quota		2009 Adjusted Quota	
	Lb	Kg <sup>1</sup>	Lb	Kg <sup>1</sup>
Full-time Tier 2	284,288	128,951	276,956	125,625

<sup>1</sup> Kilograms are as converted from pounds, and may not necessarily add due to rounding.

## Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866. Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator finds good cause to waive prior notice and opportunity for public comment as notice and comment would be impracticable and unnecessary. The regulations under § 648.290(c) requires the Regional Administrator to subtract any overage of the quota for any tilefish limited access category from the quota for that category in the following fishing year. Accordingly, the action being taken by this temporary rule is nondiscretionary. There is no discretion to modify this action based on public comment at this time. The rate of harvest of tilefish by the Full-time permit category is updated weekly on the internet at <http://www.nero.noaa.gov>. Accordingly, the public is able to obtain information that would provide at least some advanced notice of a potential action as a result of a tilefish quota being exceeded during FY 2008. Further, the potential for this action was considered and open to public comment during the development of the tilefish FMP. Therefore, any negative effect the waiving of public comment may have on the public is mitigated by these factors.

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

Dated: October 1, 2008.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 0809231252-81272-01]

RIN 0648-AX28

#### Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Inseason Adjustments; Correction

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

**ACTION:** Final rule; inseason adjustments to biennial groundfish management measures; correcting amendment.

**SUMMARY:** NMFS announces correction to Federal regulations for the West Coast groundfish fishery. This action corrects trip limits for vessels using multiple bottom trawl gears, which were published in a final rule. That final rule announced inseason changes to management measures in the commercial Pacific Coast groundfish fisheries. This correction is intended to eliminate any confusion for the public that may have occurred as a result of prior incorrect NMFS publications.

**DATES:** Effective 0001 hours (local time) October 7, 2008. Comments on this final rule must be received no later than 5 p.m., local time on November 6, 2008.

**ADDRESSES:** You may submit comments, identified by RIN 0648-AX28 by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- Fax: 206-526-6736, Attn: Gretchen Arentzen.

• Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070, Attn: Gretchen Arentzen.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Gretchen Arentzen (Northwest Region, NMFS), phone: 206-526-6147, fax: 206-526-6736 and e-mail [gretchen.arentzen@noaa.gov](mailto:gretchen.arentzen@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This final rule is accessible via the Internet at the Office of the **Federal Register's** Website at <http://www.gpoaccess.gov/fr/index.html>. Background information and documents are available at the Pacific Fishery Management Council's website at <http://www.pcouncil.org/>.

##### Background

The Pacific Coast Groundfish FMP and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subpart G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon, and California. Groundfish specifications and management measures are developed by the Pacific Fishery Management Council (Council), and are implemented by NMFS. A