



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
One Blackburn Drive  
Gloucester, MA 01930-2298

April 26, 2004

## SMALL ENTITY COMPLIANCE GUIDE

Dear Tilefish Permit Holder:

This letter is to inform you that the vessel permit requirements of the Tilefish Fishery Management Plan (FMP) have been reinstated, **effective May 31, 2004**. These measures were set aside as a result of a Federal Court Order (Court Order) in Hadaja v. Evans (May 15, 2003).

The management measures affected by the Court Order that are reinstated through this final rule include: Vessel permit requirements, vessel operator permit requirements, vessel reporting requirements, observer coverage regulations, the incidental catch limit. **The regulations prohibiting the use of gear other than longline gear have been removed through this final rule.**

### Vessel Permit Requirements

The Court Order set aside the vessel permit requirements based on a finding that the qualification criteria for the limited access permit categories were not based upon the best scientific information available. A Supplement to the Administrative Record was prepared by the Mid-Atlantic Fishery Management Council and the National Marine Fisheries Service (NOAA Fisheries) that provided further information to support the limited access qualification criteria selected for the Tilefish FMP. **Effective May 31, 2004, the same permit qualification criteria established under the FMP have been reinstated. Therefore, all vessels previously issued limited access tilefish permits will remain in the same permit category as assigned prior to the Court Order.**

### Vessel Operator Permit Requirements

Vessel operators fishing for tilefish aboard vessels issued a Federal tilefish permit are, effective May 31, 2004, subject to the vessel operator permit requirements.

### Vessel Reporting Requirements

Owners or operators of vessels issued a limited access tilefish permit are, effective May 31, 2004, required to submit a tilefish catch report via the Interactive Voice Response (IVR) reporting system within 24 hours of returning to port and offloading.

### Observer Coverage Requirements

Effective May 31, 2004, vessels issued a tilefish permit may be requested to carry a NOAA Fisheries-approved sea sampler/observer on board.



### **Incidental Catch Limit Regulations**

Effective May 31, 2004, vessels issued a tilefish incidental catch permit are prohibited from possessing more than 300 lb of tilefish per trip.

### **2004 TAL**

With the reestablishment of the permit requirements, the annual TAL of 1.995 million lb is once again distributed among permit categories according to the regulations at 50 CFR 648.290. The TAL is first reduced by 5 percent (99,750 lb) to account for incidental catch of tilefish. The remaining 1,895,250 lb is then distributed among the limited access permit categories with Full-time Tier 1 vessels allocated 66 percent of the TAL, or 1,250,865 lb; Full-time Tier 2 vessels allocated 15 percent of the TAL, or 284,288 lb; and Part-time vessels allocated 19 percent of the TAL, or 360,098 lb.

The allocations for each permit category were reduced by the amount of tilefish projected to have been landed between the start of the fishing year (November 1, 2003) through the effective date of the final rule, May 31, 2004, to determine the amount of tilefish TAL remaining for each permit category for the remainder of the 2004 fishing year. Using dealer weighout data from the 2003 fishing year (November 1, 2002 through May 31, 2003 - the most accurate data available given the impacts of the Court Order), NOAA Fisheries projected tilefish landings by each permit category through May 31. Based on this projection, Full-time Tier 1 vessels are projected to have landed 665,278 lb of tilefish; Full-time Tier 2 vessels are projected to have landed 173,997 lb of tilefish; and Part-time vessels are projected to have landed 159,307 lb of tilefish.

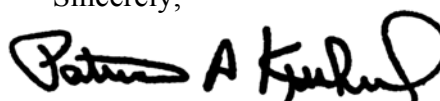
**Based upon the procedure specified above, the tilefish TAL remaining for the 2004 fishing year, beginning May 31, 2004, for each of the limited access permit categories is as follows:**

- **Full-time Tier 1 Vessels:** 585,587 lb (1,250,865 lb - 665,278 lb)
- **Full-time Tier 2 Vessels:** 110,291 lb (284,288 lb - 173,997 lb)
- **Part-time Vessels:** 200,791 lb (360,098 lb - 159,307 lb)

If the Regional Administrator determines that the quota for a specific 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.

This letter is only a summary of the tilefish regulations that have been reinstated, and has no legal force or effect. To read these regulations in their entirety, you are encouraged to obtain a complete copy by calling (978) 281-9278, or by accessing the Northeast Regional Office's web page at: <http://www.nero.noaa.gov>. You may also receive permit holder letters by e-mail by clicking on "NOAA Fisheries News Releases" on our website at <http://www.nero.noaa.gov>; or via fax by providing a fax number through a written request to the above address, or by faxing your request to 978-281-9135.

Sincerely,



Patricia A. Kurkul  
Regional Administrator

This small entity compliance guide complies with section 212 of the Small Business Regulatory Enforcement and Fairness Act of 1996.