

transition DTV channel 16 at Yuma, Arizona.

**DATES:** This rule is effective June 4, 2009.

**FOR FURTHER INFORMATION CONTACT:** Adrienne Y. Denysyk, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 08-163, adopted May 20, 2009, and released May 27, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail <http://www.BCPIWEB.com>. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

#### List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

#### § 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Arizona, is amended by adding DTV channel 13 and removing DTV channel 16 at Yuma.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9-13054 Filed 6-3-09; 8:45 am]

BILLING CODE 6712-01-P

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

RIN 0648-XP47

#### Atlantic Highly Migratory Species; Inseason Action To Close the Commercial Gulf of Mexico Non-Sandbar Large Coastal Shark Fishery

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

**ACTION:** Fishery closure.

**SUMMARY:** NMFS is closing the commercial fishery for non-sandbar large coastal sharks (LCS) in the Gulf of Mexico region. This action is necessary because that quota for the 2009 fishing season is projected to have reached at least 80 percent of the available quota.

**DATES:** The commercial non-sandbar LCS fishery is closed effective 11:30 p.m. local time June 6, 2009 until the publication of the 2010 shark season specifications in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz, 301-713-2347; fax 301-713-1917.

**SUPPLEMENTARY INFORMATION:** The Atlantic shark fisheries are managed under the Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and its implementing regulations found at 50 CFR part 635 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Under § 635.5(b)(1), shark dealers are required to report every two weeks. Dealer reports for fish received between the 1<sup>st</sup> and 15<sup>th</sup> of any month must be received by NMFS by the 25<sup>th</sup> of that month. Dealer reports for fish received between the 16<sup>th</sup> and the end of any

month must be received by NMFS by the 10<sup>th</sup> of the following month. Under § 635.28(b)(2), when NMFS projects that fishing season landings for a specific shark quota have reached or are about to reach 80 percent of the available quota, NMFS will file for publication with the Office of the Federal Register a notice of closure for that shark species group that will be effective no fewer than 5 days from the date of filing. From the effective date and time of the closure until NMFS announces, via a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fishery for that specific quota is closed, even across fishing years.

On December 24, 2008 (73 FR 79005), NMFS announced that the non-sandbar LCS quota for the Gulf of Mexico region for the 2009 fishing year would be 390.5 metric tons (mt) dressed weight (dw) (860,896 lb dw). Dealer reports through the April 30, 2009, reporting period indicate that 293.8 mt dw or 75 percent of the available quota for non-sandbar LCS has been taken in the Gulf of Mexico. Dealer reports indicate that 56 percent of the quota was taken from the opening of the fishery on January 23, 2009, through February 28, 2009; 9 percent of the quota was taken in March; and 10 percent was taken in April. Based on dealer reports in March and April, NMFS expects that approximately 10 percent of the quota will also be taken in May. Based on this projection, the fishery could reach 85 percent of the quota, which exceeds the 80 percent limit specified in the regulations. Accordingly, NMFS is closing the commercial non-sandbar LCS fishery in the Gulf of Mexico region as of 11:30 p.m. local time June 6, 2009. All other shark fisheries remain open.

At § 635.27(b)(1)(ii), the boundary between the Gulf of Mexico region and the Atlantic region is defined as a line beginning on the east coast of Florida at the mainland at 25°20.4' N. lat, proceeding due east. Any water and land to the south and west of that boundary is considered, for the purposes of quota monitoring and setting of quotas, to be within the Gulf of Mexico region.

During the closure, retention of non-sandbar LCS sharks in the Gulf of Mexico region is prohibited for persons fishing aboard vessels issued a commercial shark limited access permit under 50 CFR 635.4, unless the vessel is permitted to operate as a charter vessel or headboat for HMS and is engaged in a for-hire trip, in which case the recreational retention limits for sharks and no sale provisions apply (50 CFR 635.22(a) and (c)), or if the vessel

possesses a valid shark research permit under § 635.32 and an NMFS-approved observer is onboard. A shark dealer, issued a permit pursuant to § 635.4, may not purchase or receive non-sandbar LCS in the Gulf of Mexico region from a vessel issued an Atlantic Shark LAP, except that a permitted shark dealer or processor may possess non-sandbar LCS that were harvested, off-loaded, and sold, traded, or bartered, prior to the effective date of the closure and were held in storage. However, a permitted shark dealer or processor may possess non-sandbar LCS that were harvested by a vessel issued a valid shark research fishery permit (per § 635.32) with a NMFS-approved observer onboard during the trip the sharks were taken as long as the non-sandbar shark research fishery remains open. Under this closure, a shark dealer, issued a permit pursuant to § 635.4 may, in accordance with state regulations, purchase or receive a non-sandbar LCS in the Gulf of Mexico region if the sharks were harvested, off-loaded, and sold, traded, or bartered from a vessel that fishes only in state waters and that has not been issued a Shark LAP, HMS Angling permit, or HMS Charter/Headboat permit pursuant to § 635.4.

#### Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing for prior notice and public comment for this action is impracticable and contrary to the public interest because the fishery is currently underway, and any delay in this action would cause overharvest of the quota and be inconsistent with management requirements and objectives. Similarly, affording prior notice and opportunity for public comment on this action is contrary to the public interest because if the quota is exceeded, the affected public is likely to experience reductions in the available quota and a lack of fishing opportunities in future seasons. Thus, for these reasons, the AA also finds good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553 (d)(3). This action is required under § 635.28(b)(2) and is exempt from review under Executive Order 12866.

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

Dated: May 29, 2009.

**Kristen C. Koch,**

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

[FR Doc. E9-13072 Filed 6-1-09; 4:15 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0910091344-9056-02]

RIN 0648-XP57

#### Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Catcher Processor Rockfish Cooperatives in the Gulf of Alaska

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by catcher processor rockfish cooperatives subject to sideboard limits established under the Central Gulf of Alaska (GOA) Rockfish Program in the GOA. This action is necessary because the 2009 Pacific halibut prohibited species catch (PSC) sideboard limit specified for the deep-water species fishery by catcher processor rockfish cooperatives subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is insufficient to support directed fishing for the deep-water species fisheries.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), July 1, 2009, through 1200 hrs, A.l.t., July 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2009 Pacific halibut PSC sideboard limit specified for the deep-water species fishery by catcher processor rockfish cooperatives subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is 8 metric tons as established by § 679.82(d), the final 2009 and 2010 harvest specifications for groundfish of the GOA (74 FR 7333, February 17, 2009), and as posted as the Catcher Processor Sideboards at [http://](http://www.fakr.noaa.gov/sustainablefisheries/goarat/default.htm)

[www.fakr.noaa.gov/sustainablefisheries/goarat/default.htm](http://www.fakr.noaa.gov/sustainablefisheries/goarat/default.htm).

In accordance with § 679.82(d)(9)(i)(B), the Administrator, Alaska Region, NMFS, has determined that the 2009 Pacific halibut PSC sideboard limit specified for the deep-water species fishery by catcher processor rockfish cooperatives subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is insufficient to support directed fishing for the deep-water species fisheries. Consequently, in accordance with § 679.82(d)(9)(ii)(B), NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by catcher processor rockfish cooperatives subject to sideboard limits established under the Central GOA Rockfish Program in the GOA. The species and species groups that comprise the deep-water species fishery for the sideboard limit include deep-water flatfish, rex sole, and arrowtooth flounder.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. Notice and comment is unnecessary because there is insufficient halibut PSC sideboard limit to support a directed fishery and therefore the Regional Administrator has no discretion for any action other than to prohibit directed fishing.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and § 679.82 and is exempt from review under Executive Order 12866.

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

Dated: May 29, 2009.

**Kristen C. Koch,**

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

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