

in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via a Local Broadcast Notice to Mariners. If the COTP determines that the regulated area need not be enforced for the full duration stated in this notice, he may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: August 24, 2010.

**J.C. McGuinness,**

*Captain, U.S. Coast Guard, Captain of the Port, Sault Sainte Marie.*

[FR Doc. 2010-21896 Filed 9-1-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 0906221072-91425-02]

RIN 0648-XY56

#### Atlantic Highly Migratory Species; Inseason Action To Close the Commercial Porbeagle Shark Fishery

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

**ACTION:** Notice; fishery closure.

**SUMMARY:** NMFS is closing the commercial fishery for porbeagle sharks. This action is necessary because landings for the 2010 fishing season has reached at least 80 percent of the available quota.

**DATES:** The commercial porbeagle shark fishery is closed effective 11:30 p.m. local time September 4, 2010 until, and if, NMFS announces, via a notice in the **Federal Register** that additional quota is available and the season is reopened.

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

**SUPPLEMENTARY INFORMATION:** The Atlantic shark fisheries are managed under the 2006 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 to NMFS all sharks landed every two weeks. Dealer reports

for fish received between the 1st and 15th of any month must be received by NMFS by the 25th of that month. Dealer reports for fish received between the 16th and the end of any month must be received by NMFS by the 10th of the following month. Under § 635.28(b)(2), when NMFS projects that fishing season landings for a species group 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 species group is closed, even across fishing years.

On January 5, 2010 (75 FR 250), NMFS announced that the porbeagle shark fishery for the 2010 fishing year was open and the available porbeagle shark quota was 1.5 metric tons (mt) dressed weight (dw) (3,307 lb dw). Dealer reports through the July 31, 2010, reporting period indicate that 1.3 mt dw or 85 percent of the available quota for porbeagle sharks has been landed. Dealer reports received to date indicate that 14 percent of the quota was landed from the opening of the fishery on January 5, 2010, through January 31, 2010; 3 percent of the quota was landed in March; 12 percent was landed in April; 5 percent was landed in May; and 13 percent of the quota was landed in June. Preliminary numbers indicate that 38 percent of the quota was landed in July. The fishery has reached 85 percent of the quota, which exceeds the 80 percent limit specified in the regulations. Accordingly, NMFS is closing the commercial porbeagle shark fishery as of 11:30 p.m. local time September 7, 2010. This closure does not affect any other shark fishery.

During the closure, retention of porbeagle sharks is prohibited for persons fishing aboard vessels issued a commercial shark limited access permit under 50 CFR 635.4, unless the vessel is properly 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)). A shark dealer issued a permit pursuant to § 635.4 may not purchase or receive porbeagle sharks from a vessel issued an Atlantic shark limited access permit (LAP), except that a permitted shark dealer or processor may possess porbeagle sharks that were harvested, off-loaded, and sold, traded, or bartered,

prior to the effective date of the closure and were held in storage. Under this closure, a shark dealer issued a permit pursuant to § 635.4 may, in accordance with state regulations, purchase or receive a porbeagle sharks 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 an Atlantic 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. 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. 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: August 30, 2010.

**Carrie Selberg,**

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

[FR Doc. 2010-21961 Filed 8-30-10; 4:15 pm]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 0910051338-0151-02]

RIN 0648-XY20

#### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Modification of the Common Pool Day-at-Sea Accounting and Possession Prohibition for Witch Flounder

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

**ACTION:** Temporary rule; request for comments.

**SUMMARY:** This action implements a differential Days-at-Sea (DAS) counting

factor of 2.0 to Category A DAS for Northeast (NE) multispecies vessels fishing under common pool regulations for the 2010 fishing year (FY) when fishing in the Inshore Gulf of Maine (GOM) Differential DAS Area, the Offshore GOM Differential DAS Area, the Inshore Georges Bank (GB) Differential Area, and the Offshore GB Differential Area. Vessels may transit the GOM and GB Differential DAS Areas without being charged the differential DAS rate, provided their gear is properly stowed according to the regulations. This action also implements a zero possession limit for witch flounder. The purpose is to decrease the likelihood that catch (landings and discards) of white hake and GOM cod will exceed the subcomponent of the annual catch limit (ACL) allocated to the common pool during FY 2010 (May 1, 2010 through April 30, 2011). Because witch flounder has already exceeded its sub-ACL, this action attempts to minimize additional overharvest by reducing the possession limit to zero. This action is taken under the authority of the regulations implementing Amendment 16 and Framework Adjustment 44 (FW 44) to the NE Multispecies Fishery Management Plan (FMP) and authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

**DATES:** Effective September 2, 2010, through April 30, 2011. Comments must be received no later than October 4, 2010.

**FOR FURTHER INFORMATION CONTACT:** Tom Warren, Fishery Policy Analyst, (978) 281-9347, fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:** The NE Multispecies FMP regulations governing the fishing effort control program for NE multispecies limited access vessels and the possession limits for all NE multispecies vessels include measures designed to prevent the ACLs specified for the common pool fishery from being exceeded (or under-harvested). Such measures authorize the Administrator of the Northeast Region NMFS (Regional Administrator) to make inseason adjustments to trip limits and/or inseason adjustments to differential DAS counting (§§ 648.86(o) and 648.82(o), respectively). Specifically, the Regional Administrator must project the catch of regulated species and ocean pout and determine whether the catch will exceed any of the sub-ACLs specified for common pool vessels. Based on such projections, if the catch will exceed or underharvest the common pool sub-ACLs, the Regional Administrator may, at any time during

the FY, implement a differential DAS counting factor to all Category A DAS within the pertinent stock area(s), and/or adjust trip limits.

For FY 2010, the common pool sub-ACLs for all stocks, including witch flounder, and GOM cod, were specified by the final rule implementing Framework Adjustment (FW) 44 (75 FR 18356, April 9, 2010) to the FMP, and modified by a subsequent rule (75 FR 29459, May 26, 2010).

Since the start of FY 2010 (May 1, 2010), NMFS has monitored the common pool catch closely, and the Regional Administrator authority has been utilized several times to make inseason adjustments as necessary to reduce catch rates in order to prevent catch from exceeding sub-ACLs. Specifically, NMFS reduced the trip limits applicable to the common pool for GOM winter flounder, GOM haddock, GB haddock, GB winter flounder, and GB yellowtail flounder on May 27, 2010 (75 FR 29678; May 27, 2010). On July 30, 2010, a reduction in trip limits for GOM cod and a gear restriction for vessels fishing in the U.S./Canada Management Area were implemented in order to prevent the catch of GOM cod and GB yellowtail flounder by common pool vessels from exceeding their sub-ACLs (75 FR 44924; July 30, 2010). On August 6, 2010 (75 FR 48613; August 11, 2010), NMFS implemented a trip limit for witch flounder, removed the trip limit for pollock, and corrected the GOM cod trip limit applicable to vessels with a Handgear A permit in order to optimize catch for those stocks.

On August 19, 2010, NMFS determined that the catch of witch flounder, GOM cod, and white hake were 101 percent, 87 percent, and 47 percent of their respective sub-ACLs. Prior to this most recent catch report, NMFS conducted catch projections completed on August 11, 2010. These projections indicated that, by the end of FY 2010 (April 30, 2011), the catch of witch flounder, GOM cod, and white hake will be approximately 177 percent, 196 percent, and 205 percent of their respective sub-ACLs, if no action is taken to slow catch rates.

Because the catches of multiple stocks are projected to exceed their sub-ACLs, and inseason trip limits for GOM cod, GOM winter flounder, and witch flounder have already been implemented, this action implements DAS adjustments to further reduce catch rates so that sub-ACLs will not be exceeded. Additionally, because witch flounder has already exceeded its sub-ACL, this action implements a zero

possession limit for the remainder of the FY for that stock.

Current catch estimates indicate that a relatively high percentage of the sub-ACLs have been caught during the first quarter of the fishing year, with only a fraction of the available DAS allocations used (approximately 30 percent). Considerable additional fishing effort is possible during the remainder of the FY which could result in exceeding the sub-ACLs, without these actions being taken.

The Magnuson-Stevens Act and the NE Multispecies FMP require that catch levels not be exceeded. Given the high catches early in the FY, as well as the difficulty in predicting future fishing behavior under Amendment 16 measures, effort reductions are necessary in specific areas at this time to ensure the sub-ACLs are not exceeded. Furthermore, overharvest of a sub-ACL would result in the implementation of accountability measures at the start of FY 2011. NMFS will continue to closely monitor the fishery and further adjust (increase or decrease) trip limits and DAS counting rates if available data and projections indicate that the sub-ACLs will be underharvested or overharvested.

This action implements a differential DAS counting rate of 2.0 to the Inshore GOM Differential DAS Area, Offshore GOM Differential DAS Area, Inshore GB Differential DAS Area, and Offshore GB Differential DAS Area. These areas were selected from among the five possible Differential DAS Areas defined in Amendment 16, to reflect both the location of the catch of the stocks targeted by this action, as defined in the regulations, as well as the location of the recent catches. The regulations implementing Amendment 16 state that the Offshore GOM, Inshore GB, and Offshore GB Differential DAS Areas are the pertinent areas with respect to DAS adjustments designed to affect witch flounder. The Inshore GOM Differential DAS Area is the pertinent area for GOM cod; the Inshore and Offshore GOM Differential Areas, and the Inshore GB Differential DAS Area, are pertinent for white hake.

With respect to the differential DAS counting factor necessary to reduce catch, the regulations state that it will be based on the projected portion of the sub-ACL caught, rounded to the nearest tenth. Further, if it is projected that catch will simultaneously exceed the sub-ACLs for several regulated species stocks within a particular area, the Regional Administrator may implement the most restrictive differential DAS counting factor derived for the sub-ACLs exceeded within that area.

The projections conducted for witch flounder, GOM cod, and white hake indicate 177 percent, 196 percent, and 205 percent of their respective sub-ACLs will be caught by the end of the fishing year without action being taken to slow catch rates. Based upon the regulations that prescribe the accounting methodology, the defined differential DAS areas, and the recent location of catch, a differential DAS counting factor of 2.0 applies to all Category A DAS used by common pool vessels within the Inshore and Offshore GOM Differential DAS Areas and the Inshore and Offshore GB Differential DAS Areas. This 2:1 DAS counting ratio is calculated to be sufficient to ensure that sub-ACLs for white hake and GOM cod will not be exceeded. Because vessels are currently charged a full 24 hr for any day that is less than 24 hr, time fished will be first rounded up to account for a 24 hr day, to ensure the differential rate is effective in reducing effort sufficiently. For example, if a vessel fished for 13 hr in the GOM, the vessel would be charged 48 hr (i.e., 13 hr is rounded up to 24 hr, and multiplied by 2.0). If a vessel fished for 25 hr in the GOM, the vessel would be charged 96 hr (i.e., 25 hr is rounded up to 48 hr, and multiplied by 2.0). This differential DAS counting will be applied when fishing in the Inshore and Offshore GOM Differential DAS Areas and the Inshore and Offshore GM Differential Areas, based upon the first VMS position into the area, and the first VMS position outside of the area. For trips that fish both inside and outside of the areas covered by the differential DAS rate (i.e., within one of the differential DAS areas covered by the increased rate as described above, and also in the Southern New England (SNE) Differential DAS Area), the time spent fishing outside the differential areas will be counted as real time fished (time will not be rounded up to 24 hr nor will differential DAS accrue). For example, a vessel that fished for 20 hr in the GOM and 5 hr in SNE would be charged 53 hr (i.e., 20 hr (GOM) rounded up to 24 hr X 2.0 = 48; plus 5 hr (SNE) = 53 hr).

This action also allows for an exemption to the 2.0 differential DAS rate for vessels that merely transit the differential DAS areas. Thus, vessels may transit the GOM and GB Differential DAS Areas without being charged the 2.0 differential DAS rate, provided their gear is properly stowed according to the regulations at § 648.23(b). For example, if a vessel transits through the Inshore GB Differential DAS Area without fishing, and only fishes in the Offshore GB

Differential DAS Area, the differential rate of 2:1 will only apply to time spent in the Offshore GB Differential DAS Area. Transiting time to and from Offshore GB Differential DAS Area would only be charged 1:1, provided all gear is stowed properly. However, should the vessel decide to fish in the Inshore GB Differential DAS Area, all time spent in the area would then be charged the 2:1 rate. This transiting provision avoids unnecessary restrictions on vessels that cannot reach fishing grounds to fish for stocks not affected by this action. Vessels must still declare all broad stocks areas (BSA) it intends to fish in prior to leaving port.

#### Classification

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

Pursuant to 5 U.S.C. 553(b)(3)(B) and (d)(3), there is good cause to waive prior notice and opportunity for public comment, as well as the delayed effectiveness for this action, because notice, comment, and a delayed effectiveness would be impracticable and contrary to the public interest. The regulations at §§ 648.82(o) and 648.86(o) grant the Regional Administrator the authority to implement adjustments to NE multispecies differential DAS counting and modifications to trip limits respectively, to prevent over-harvesting or under-harvesting the common pool sub-ACLs. This action will implement a more restrictive DAS counting rate in the GOM and GB in order to ensure that the common pool sub-ACLs for GOM cod and white hake are not overharvested, and the biological and economic objectives of the FMP are met. Differential DAS, as well as a zero possession limit for witch flounder, help to prevent the sub-ACL for this stock from being further exceeded.

It is important to take this action immediately because, based on current data and projections, continuation of the status quo will result in exceeding at least some of the common pool sub-ACLs prior to the end of the fishing year. Attainment of any of the common pool sub-ACLs in FY 2010 would trigger accountability measures for the common pool in FY 2011. These future restrictions could result in the loss of yield of other valuable species caught by vessels in the common pool.

The updated catch information that is the basis for this action only recently became available. The time necessary to provide for prior notice and comment, and delayed effectiveness for this action, would prevent NMFS from implementing necessary restrictions in a timely manner. A resulting delay in the

curtailment of catch rate of these stocks could result in less revenue for the fishing industry and be counter to the objective of achieving optimum yield.

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

Dated: August 30, 2010.

**Carrie Selberg,**

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

[FR Doc. 2010-21986 Filed 8-30-10; 4:15 pm]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0910131362-0087-02]

RIN 0648-XY70

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch for Vessels Participating in the Rockfish Entry Level Fishery in the Central Regulatory Area of 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 Pacific ocean perch for vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2010 total allowable catch (TAC) of Pacific ocean perch allocated to vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), September 1, 2010, through 2400 hrs, A.l.t., December 31, 2010.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, 907-586-7269.

**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 2010 TAC of Pacific ocean perch allocated to vessels participating in the entry level rockfish fishery in the