

and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. Those regulations set the commercial quota for tilefishes in the Gulf of Mexico at 440,000 lb (200,000 kg) for the current fishing year, January 1 through December 31, 2009.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect with the Office of the **Federal Register**. Based on current statistics, NMFS has determined that the available commercial quota of 440,000 lb (200,000 kg) for tilefishes will be reached on or before May 15, 2009. Accordingly, NMFS is closing the commercial fishery for tilefishes in the Gulf of Mexico EEZ from 12:01 a.m., local time, on May 15, 2009, through December 31, 2009. The operator of a vessel with a valid commercial vessel permit for Gulf reef fish having tilefishes aboard must have landed and bartered, traded, or sold such tilefishes prior to 12:01 a.m., local time, May 15, 2009.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of tilefishes in or from the Gulf of Mexico EEZ, and the sale or purchase of tilefishes taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to sale or purchase of tilefishes that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, May 15, 2009, and were held in cold storage by a dealer or processor. Vessels with commercial quantities of other Gulf reef fish on board are prohibited from retaining a recreational bag limit of tilefishes.

#### 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 prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has already been subject to notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to

immediately implement this action to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: May 7, 2009

**Alan D. Risenhoover,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0910091344-9056-02]

RIN 0648-XN95

#### Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish and Pelagic Shelf Rockfish for Trawl Catcher Vessels Participating in the Entry Level Rockfish 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 northern rockfish and pelagic shelf rockfish (PSR) for trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2009 allocation of northern rockfish and PSR allocated to trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), May 8, 2009, through 1200 hrs, A.l.t., September 1, 2009.

**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 2009 allocations of northern rockfish and PSR for vessels participating in the entry level trawl fishery Central District of the GOA are 0 metric tons as established by the final 2009 and 2010 harvest specifications for groundfish in the GOA (74 FR 7333, February 17, 2009).

Consequently, in accordance with § 679.83(a)(3), the Administrator, Alaska Region, NMFS, deems it appropriate for conservation and management purposes to not open directed fishing for northern rockfish and PSR for trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the GOA, because there is no available allocation for a directed fishery.

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 no available fish for an allocation 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 § 679.83 and is exempt from review under Executive Order 12866.

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

Dated: May 8, 2009.

**Kristen C. Koch**

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

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