

annual quota is subdivided into two equal semiannual quotas of 1,468.8 mt dw: one for June 1 through November 30, and the other for December 1 through May 31 of the following year.

(B) A swordfish from the North Atlantic swordfish stock landed by a vessel for which an incidental catch permit for swordfish or an HMS Angling or Charter/Headboat permit has been issued, or caught after the effective date of a closure of the directed fishery from a vessel for which a directed fishery permit or a handgear permit for swordfish has been issued, is counted against the incidental catch quota.

(C) A dead discard allowance of 60.2 mt dw is established for North Atlantic swordfish in 2003, but the allowance is reduced to zero in 2004 and beyond. All swordfish discarded dead from U.S. fishing vessels in 2004 and beyond, regardless of whether such vessels are permitted under this part, shall be counted against the annual directed fishing quota.

(D) A portion of the total allowable catch of North Atlantic swordfish shall be held in reserve for inseason adjustments to fishing categories, to compensate for projected or actual overharvest in any category, for fishery independent research, or for other purposes consistent with management objectives.

(E) In the event of an overharvest of South Atlantic swordfish, up to 150.4 mt dw of swordfish landed between 5 degrees North and 5 degrees South latitude may be applied against the North Atlantic swordfish quota. Otherwise, swordfish landed from this area shall be applied against the South Atlantic swordfish quota. For example, if the South Atlantic swordfish quota were 100 mt dw, and 50 mt dw were landed between 5 degrees North and 5 degrees South latitude, and 75 mt dw were caught south of 5 degrees South latitude, then 25 mt dw of the swordfish caught between 5 degrees North and 5 degrees South latitude would be applied against the North Atlantic swordfish quota. If only 25 mt dw of swordfish were caught between 5 degrees North and 5 degrees South latitude, and 150 mt dw of swordfish were caught south of 5 degrees South latitude, 25 mt dw would be applied against the North Atlantic swordfish quota. The remaining 50 mt dw overharvest would be counted against the following year's South Atlantic swordfish quota.

(ii) *South Atlantic swordfish.* From June 1, 2003, to May 31, 2006, the annual directed fishery quota for the South Atlantic swordfish stock is 75.2 mt dw. Beginning June 1, 2006, the annual directed fishery quota for the

South Atlantic swordfish stock is 90.2 mt dw. The entire quota for the South Atlantic swordfish stock is reserved for vessels with pelagic longline gear onboard and for which a directed fishery permit for swordfish has been issued; retention of swordfish caught incidental to other fishing activities or with other fishing gear is prohibited in the Atlantic Ocean south of 5 degrees North latitude.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[I.D. 111804A]

#### Atlantic Highly Migratory Species; Bluefin Tuna Fisheries

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

**ACTION:** Closure.

**SUMMARY:** NMFS has determined that the Atlantic bluefin tuna (BFT) General category and Angling category fisheries will close in all areas. This action is being taken to ensure that U.S. BFT harvest is consistent with recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), pursuant to the Atlantic Tunas Convention Act (ATCA), to meet domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks (HMS FMP), and to prevent overharvest of the 2002 ICCAT recommended quota.

**DATES:** Effective 11:30 p.m., local time November 19, 2004, through 11:30 p.m., local time May 31, 2005.

**FOR FURTHER INFORMATION CONTACT:** Highly Migratory Species (HMS) Management Division at 978-281-9260.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the ATCA (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by ICCAT among the various domestic fishing categories, and

together with General category effort controls are specified annually under 50 CFR 635.23(a) and 635.27(a). The proposed initial 2004 BFT Quota and General category effort controls will be published in the **Federal Register** in the near future.

#### General and Angling Category Closure

Based on anticipated quotas and concern over potential overharvest, the most recent General category and Angling category BFT landing estimates, previous fishing years landing estimates, availability of BFT on the fishing grounds, physical oceanographic conditions, and social and economic aspects of these two fishing categories, NMFS has determined that a closure in both the General and Angling quota categories is warranted at this time. Therefore, fishing for, retaining, possessing, or landing BFT by persons aboard vessels permitted in the Atlantic tunas General, HMS Angling, and HMS Charter/Headboat categories, must cease at 11:30 p.m. local time November 19, 2004, in all areas. The intent of these closures is to ensure that the overall U.S. BFT harvest is consistent with ICCAT recommendations.

When more precise quota and landings estimates are available these fisheries may be reopened to provide Angling, General and Charter/Headboat category fishermen fishing opportunities off south Atlantic states during the December/January time frame when BFT are expected to be available as in recent prior years. NMFS will announce any re-openings and/or quota transfers in separate **Federal Register** notices. Atlantic tunas General, HMS Angling, and HMS Charter/Headboat category permit holders may tag and release BFT of all sizes while the General and Angling quota categories are closed, subject to the requirements of the tag-and-release program at § 635.26.

NMFS is required, under § 635.28(a)(1), to file with the Office of the **Federal Register** for publication, notification of closure when a BFT quota is reached, or is projected to be reached. On and after the effective date and time of such closure notification, for the remainder of the fishing year, or for a specified period as indicated in the notification, fishing for, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period, or until such date as specified in the notification.

#### Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that it is impracticable and contrary to the public

interest to provide prior notice of, and an opportunity for public comment on, this action. Based on anticipated BFT quotas, recent landings reports, availability of BFT on the fishing grounds, and current fishing effort, these closures are necessary to ensure sufficient quota remains available to ensure overall 2004 fishing year landings are consistent with ICCAT recommendations and the HMS FMP. NMFS provides notification of closures by publishing the closure notice in the **Federal Register**, faxing notification to individuals on the HMS FAX Network and know fishery representatives, announcing the notice on the Atlantic Tunas Information Lines, and posting the closure notice on the internet at <http://www.nmfspermits.com>.

These fisheries are currently underway and delaying this action would be contrary to the public interest as it could result in excessive BFT landings that would preclude planned recreational and commercial fishing opportunities off south Atlantic states later in the season. To provide sufficient quota for this late season fishery and to remain within ICCAT recommended quotas, NMFS must close these fisheries before additional landings accumulate. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the delay in effectiveness of this action.

This action is being taken under 50 CFR 635.23(a)(4) and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: November 18, 2004.

**Alan D. Risenhoover,**

*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 679

[Docket No. 040106005-4316-02; I.D. 121603C]

RIN 0648 AP73

#### Fisheries of the Exclusive Economic Zone Off Alaska; Full Retention of Demersal Shelf Rockfish in the Southeast Outside District of the Gulf of Alaska

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule that requires the operator of a federally permitted catcher vessel using hook-and-line or jig gear in the Southeast Outside District (SEO) of the Gulf of Alaska (GOA) to retain and land all demersal shelf rockfish (DSR) caught while fishing for groundfish or for Pacific halibut under the Individual Fishing Quota (IFQ) program. This action is necessary to improve estimates of fishing mortality of DSR. This final rule is intended to further the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

**DATES:** Effective December 23, 2004.

**ADDRESSES:** Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) and the Final Regulatory Flexibility Analysis (FRFA) prepared for this action may be obtained from the Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Durall, by calling the Alaska Region, NMFS, at 907-586-7228, or from the Alaska Region, NMFS website at [www.fakr.noaa.gov](http://www.fakr.noaa.gov).

Send comments on collection-of-information requirements to NMFS, Alaska Region, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington D.C. 20503 (Attn: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Tom Pearson, 907-481-1780 or [tom.pearson@noaa.gov](mailto:tom.pearson@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The groundfish fisheries in the exclusive economic zone (EEZ) of the GOA are

managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

#### Background

One of the species groups managed under the FMP is DSR, an assemblage of seven rockfish species: Canary rockfish (*Sebastes pinniger*), China rockfish (*S. nebulosus*), copper rockfish (*S. caurinus*), quillback rockfish (*S. maliger*), rosethorn rockfish (*S. helvomaculatus*), tiger rockfish (*S. nigrocinctus*), and yelloweye rockfish (*S. ruberrimus*).

The State of Alaska (State) manages all fisheries occurring within State waters, i.e., within three nautical miles of Alaska's coastline. The FMP defers to the State some management responsibility for the DSR fishery in the SEO, subject to Council and Federal oversight. The State management regime must be consistent with the goals of the FMP. Commercial harvests of DSR are managed within the total allowable catch (TAC) specified annually by NMFS in consultation with the Council. NMFS published the DSR TAC for 2004 in the **Federal Register** on February 27, 2004 (69 FR 9261).

Existing State regulations for DSR establish fishing seasons (5 AAC 28.111(a)) and gear restrictions (5 AAC 28.130), set harvest guidelines for directed DSR fishing based on the TAC (5 AAC 28.160), and limit the amount of DSR that can be retained as bait (5 AAC 28.190). Also, the State has a full retention requirement for DSR caught in State waters (5 AAC 28.171). The Council and NMFS establish the annual TAC for DSR (see 50 CFR 679.20), regulate the catch of prohibited species in the DSR directed fishery (see 50 CFR 679.21), set recordkeeping and reporting requirements (see 50 CFR 679.5), and impose a maximum retention requirement for DSR caught incidentally in Federal fisheries (see 50 CFR 679.20(d)-(e); Table 10 to part 679).

#### Need for Action

The existing management background and explanation of the need for this action were described in the preamble to the proposed rule published in the **Federal Register** on January 21, 2004 (69 FR 2875). The Council and NMFS have designed this action to achieve the following four objectives:

1. Improve data collection on the incidental catch of DSR in the halibut and groundfish hook-and-line fisheries