

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Office of Fisheries

Southern Flounder Commercial Harvest Closure

(Editor's Note: The following Emergency Rule, appearing on pages 694-695 of the August, 1996 Louisiana Register is being republished to correct typographical errors in the effective dates.)

In accordance with the emergency provisions of R.S. 49:953(B) the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:325.4 which provides that the secretary of the department must declare a closed season when it is determined that the spawning potential ratio of southern flounder (*Paralichthys lethostigma*) is below 30 percent, and R.S. 56:317, which allows the secretary to close a fishing season or restrict fishing in the closed season in any manner deemed advisable, upon securing evidence that the fish in state waters have been depleted through overfishing or that fishing is detrimental to the interest of the state; the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

Effective 12:01 a.m., August 28, 1996, the commercial harvest of southern flounder (*Paralichthys lethostigma*) in Louisiana waters will close and remain closed until 12:01 a.m., May 1, 1997.

Effective with the closure, no vessel possessing any commercial fishing gear including, but not limited to, any pompano strike net, shall have southern flounder (*Paralichthys lethostigma*) aboard the vessel, whether caught within or without the territorial waters of the state.

Effective with the closure, the sale, barter, or exchange of, and the commercial possession of southern flounder (*Paralichthys lethostigma*) shall be prohibited.

Act 1316 of the 1995 Louisiana Regular Legislative Session, the Louisiana Marine Resources Conservation Act of 1995, enacts §325.4 of Title 56, L.R.S., providing that the Wildlife and Fisheries Commission shall make an annual peer reviewed and evaluated report to the Legislature no later than March 1 containing the following information on southern flounder (*Paralichthys lethostigma*):

- (a) the spawning potential ratio (SPR);
- (b) a biological condition and profile of the species and stock assessment.

The Act also provides that if the SPR is below 30 percent, the department shall close the season within two weeks for the period of at least one year.

The department has reviewed the information on the SPR of southern flounder (*Paralichthys lethostigma*), and has determined that the SPR is probably between 16 percent and 44 percent. The most conservative of these estimates is below the 30 percent criterion established by the Legislature. The secretary has determined that a limited closure of the commercial harvest of flounder using pompano strike nets would be ineffective and unenforceable. The secretary therefore has determined that it is in the best interest of the state and most appropriate that the commercial season for southern flounder (*Paralichthys lethostigma*) in Louisiana waters be completely closed, and remain closed for one year. In order to simplify temporal changes in regulations for fishermen, the closure is placed as May 1, 1996 until May 1, 1997.

James H. Jenkins, Jr.
Secretary