

Dated: August 11, 2004.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for 50 CFR part 635 continues to read as follows:

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

■ 2. In § 635.69, paragraphs (a)(2) and (a)(3) are revised to read as follows:

§ 635.69 Vessel monitoring systems.

(a) * * *

(2) As of January 1, 2005, whenever a vessel issued a directed shark LAP, is away from port with bottom longline gear on board, is located between 33°00' N. lat. and 36°30' N. lat., and the mid-Atlantic shark closed area is closed as specified in § 635.21(d)(1); or

(3) As of November 15, 2004, whenever a vessel, issued a directed shark LAP, is away from port with a gillnet on board during the right whale calving season specified in the Atlantic Large Whale Take Reduction Plan in § 229.32(f) of this title.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 031216314-4118-03; I.D. 081104I]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Pacific Whiting Primary Season for the Shore-based Sector and the Resumption of Trip Limits

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces the end of the 2004 primary season for the Pacific whiting (whiting) shore-based sector at 1600 local time (l.t.) August 14, 2004, because the allocation is projected to be reached. This action is intended to keep the harvest of whiting at the 2004 allocation levels.

DATES: Effective from 1600 l.t. August 14, 2004, until the effective date of the 2005-2006 specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the **Federal Register**, unless modified, superseded or rescinded. Comments will be accepted through September 1, 2004.

ADDRESSES: You may submit comments, identified by 031216314-4118-03, by any of the following methods:

- E-mail:

WhitingSBclosure.nwr@noaa.gov

Include 031216314-4118-03 in the subject line of the message.

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

- Fax: 206-526-6736, Attn: Becky Renko.

- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070, Attn: Becky Renko.

FOR FURTHER INFORMATION CONTACT:

Becky Renko at 206-526-6110.

SUPPLEMENTARY INFORMATION: This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California.

The 2004 non-tribal commercial optimum yield (OY) for whiting is 215,500 mt (this is calculated by deducting the 32,500 mt tribal allocation and 2,000 mt for research catch and bycatch in non-groundfish fisheries from the 250,000 mt total catch OY). Regulations at 50 CFR 660.323(a) divide the commercial whiting OY into separate allocations for the catcher-processor, mothership, and shore-based sectors. The catcher-processor sector is composed of vessels that harvest and process whiting. The mothership sector is composed of motherships and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting. The shore-based sector is composed of vessels that harvest whiting for delivery to land-based processors. Each commercial sector receives a portion of the commercial OY. For 2004 the catcher-processors received 34 percent (73,270 mt), motherships received 24 percent (51,720 mt), and the shore-based sector received 42 percent (90,510 mt).

Regulations at 50 CFR 660.373(b) describe the primary season for each sector. The primary season for the shore-based sector is the period(s) when the large-scale target fishery is conducted, and when "per trip" limits

are not in effect. Before and after the primary season, per-trip limits are in effect for whiting.

The best available information on August 11, 2004, indicates that 79,399 mt had been taken through August 8, 2004, and that the 90,510-mt shore-based allocation would be reached by 1600 l.t. August 14, 2004. This **Federal Register** document announces that the primary season for the shore-based sector ends on August 14, 2004, and a 10,000-lb (4,536 kg) trip limit is imposed as of August 14, 2004. Per-trip limits are intended to accommodate small bait and fresh fish markets, and bycatch in other fisheries. To minimize incidental catch of chinook salmon by vessels fishing shoreward of the 100-fm (183-m) contour in the Eureka area, at any time during a fishing trip, a limit of 10,000 lb (4,536 kg) of whiting is in effect year-round, except when landings of whiting are prohibited.

NMFS Action

For the reasons stated above, and in accordance with the regulations at 50 CFR 660.323(b), NMFS herein announces: Effective 1600 l.t. August 14, 2004, no more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed or landed by any vessel participating in the shore-based sector of the whiting fishery, unless otherwise announced in the **Federal Register**. If a vessel fishes shoreward of the 100 fm (183 m) contour in the Eureka area (43° - 40°30' N. lat.) at any time during a fishing trip, the 10,000-lb (4,536-kg) trip limit applies, as announced in the annual management measures at paragraph IV, B (3)(c)(ii), except when the whiting fishery is closed.

Classification

This action is authorized by the regulations implementing the FMP. The determination to take this action is based on the most recent data available. The Assistant Administrator for fisheries, NMFS, finds good cause to waive the requirement to provide prior notice and opportunity for comment on this action pursuant to 5 U.S.C. 553(b)(B), because providing prior notice and opportunity would be impracticable. It would be impracticable because if this closure were delayed in order to provide notice and comment, the fishery would be expected to greatly exceed the sector allocation. This would either result in the entire whiting optimum yield being exceeded, or in the allocations for the other sectors being

reduced. Therefore, good cause also exists to waive the 30-day delay in effectiveness requirement of 5 U.S.C. 553(d)(3). The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours.

This action is taken under the authority of 50 CFR 660.323(a)(4)(iii)(A) and is exempt from review under Executive Order 12866.

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

Dated: August 12, 2004.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 04-18797 Filed 8-12-04; 3:37 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031124287-4060-02; I.D. 081004E]

Fisheries of the Exclusive Economic Zone Off Alaska; Rock Sole in the Bering Sea and Aleutian Islands

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

ACTION: Prohibition of retention.

SUMMARY: NMFS is prohibiting retention of rock sole in the Bering Sea and Aleutian Islands management area (BSAI). NMFS is requiring that catch of rock sole in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the 2004 total allowable catch (TAC) of rock sole in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 14, 2004, until 2400 hrs, A.l.t., December 31, 2004.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (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 2004 TAC of rock sole in the BSAI was established as 37,925 metric tons by the final 2004 harvest specifications for groundfish in the BSAI (69 FR 9242, February 27, 2004) and by the apportionment of the unspecified reserve for rock sole (69 FR 29670, May 25, 2004).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the rock sole TAC in the BSAI has been reached. Therefore, NMFS is requiring that further catches of rock sole in the BSAI be treated as a prohibited species in accordance with § 679.21(b).

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 a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the prohibition of retention of rock sole in the BSAI.

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 is exempt from review under Executive Order 12866.

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

Dated: August 11, 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. 031124287-4060-02; I.D. 081004F]

Fisheries of the Exclusive Economic Zone Off Alaska; "Other Flatfish" in the Bering Sea and Aleutian Islands

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

ACTION: Prohibition of retention.

SUMMARY: NMFS is prohibiting retention of "other flatfish" in the Bering Sea and Aleutian Islands management area (BSAI). NMFS is requiring that catch of "other flatfish" in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the 2004 total allowable catch (TAC) of "other flatfish" in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 14, 2004, until 2400 hrs, A.l.t., December 31, 2004.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (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 2004 TAC of "other flatfish" in the BSAI was established as 2,775 metric tons by the final 2004 harvest specifications for groundfish in the BSAI (69 FR 9242, February 27, 2004).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the "other flatfish" TAC in the BSAI has been reached. Therefore, NMFS is requiring that further catches of "other flatfish" in the BSAI be treated as a prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA,