

the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30-day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means upon issuance of the rule by the AA, thereby providing approximately 3 additional days of notice while the Office of the **Federal Register** processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM

program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request **(ADDRESSES)**.

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

**Authority:** 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: November 9, 2006.

**Samuel D. Rauch III,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 051017270-5339-02; I.D. 083106D]

#### Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery; Quota Harvested for Maine Mahogany Quahog Fishery

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS announces that the annual quota for the Maine mahogany quahog fishery has been harvested. Commercial vessels operating under a limited access Maine mahogany quahog permit may not harvest Maine mahogany quahogs from the Maine mahogany quahog zone for the remainder of the fishing year (through December 31, 2006). Regulations

governing the Maine mahogany quahog fishery require publication of this notification to advise the public of this closure. This closure does not apply to vessels with a Maine mahogany quahog permit that are fishing under an ocean quahog individual transferable quota (ITQ).

**DATES:** Effective 0001 hrs local time, November 14, 2006, through 2400 hrs local time, December 31, 2006.

**FOR FURTHER INFORMATION CONTACT:** Tobey Curtis, 978-281-9273; fax 978-281-9135; email [Tobey.Curtis@Noaa.gov](mailto:Tobey.Curtis@Noaa.gov).

**SUPPLEMENTARY INFORMATION:** The regulations governing the Maine mahogany quahog fishery appear at 50 CFR part 648, subpart E. The annual quota for the harvest of mahogany quahogs within the Maine mahogany quahog zone for the 2006 fishing year was established at 100,000 Maine bu (35,150 hL), as stated in the final rule published on December 28, 2005 (70 FR 76715). The Maine mahogany quahog zone is defined as the area bounded on the east by the U.S.-Canada maritime boundary, on the south by a straight line at 43° 50' N. lat., and on the north and west by the shoreline of Maine.

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial Maine mahogany quahog quota for each fishing year using dealer and other available information to determine when the quota is projected to have been harvested. If the quota is projected to be reached, NMFS is required to publish notification in the Federal Register informing commercial vessel permit holders that, effective upon a specific date, the Maine mahogany quahog quota has been harvested and no commercial quota is available for harvesting mahogany quahogs by vessels possessing a limited access Maine mahogany quahog permit for the remainder of the year, from within the Maine mahogany quahog zone. This does not apply, however, to vessels with a Maine mahogany quahog permit that are fishing under an ocean quahog ITQ, and utilizing ITQ cage tags.

The Regional Administrator has determined, based upon dealer reports and other available information, that the 2006 Maine mahogany quahog quota has been harvested. Therefore, effective 0001 hrs local time, November 16, 2006, further landings of Maine mahogany quahogs harvested from within the Maine mahogany quahog zone by vessels possessing a limited access Maine mahogany quahog Federal fisheries permit are prohibited through December 31, 2006. The 2007 fishing

year for Maine mahogany quahog harvest will open on January 1, 2007.

### Classification

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

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

Dated: November 8, 2006.

**James P. Burgess,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 06-9228 Filed 11-13-06; 2:42 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 051014263-6028-03; I.D. 110706A]

#### Fisheries off West Coast States; Pacific Coast Groundfish Pacific Coast Groundfish Fishery; End of the Pacific Whiting Primary Season for the Catcher-processor Sector

**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 2006 Pacific Whiting (whiting) Primary Season for the catcher-processor sector at 4 pm local time (l.t.) November 3, 2006, because the allocation for the catcher-processor sector is projected to have been reached by that time. This action is intended to keep the harvest of whiting within the 2006 allocation levels.

**DATES:** Effective from 4 pm l.t. November 3, 2006, until the start of the 2007 primary season for the catcher-processor sector, unless modified, superseded or rescinded. Comments will be accepted through December 1, 2006.

**ADDRESSES:** You may submit comments, identified by [I.D. 110706A], by any of the following methods:

1. E-mail: [WhitingCPclosure.nwr@noaa.gov](mailto:WhitingCPclosure.nwr@noaa.gov) Include [I.D. 110706A] in the subject line of the message.
2. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
3. Fax: 206-526-6736, Attn: Becky Renko.
4. 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 regulations at 50 CFR 660.323(a) establish separate allocations for the catcher/processor, mothership, and shore-based sectors of the whiting fishery. For 2006, the 232,069-mt commercial harvest guideline for whiting is divided with the catcher/processor sector receiving 78,903 mt (34 percent); the mothership sector receiving 55,696 mt (24 percent); and the shore-based sector receiving 97,469 mt (42 percent).

Regulations at 50 CFR 660.373(b) describe the primary season for each sector. For catcher-processors, the primary season is the period when at-sea processing is allowed and the fishery is open for the catcher-processor sector. When each sector's allocation is reached, the primary season for that sector is ended.

To prevent an allocation from being exceeded, regulations at 50 CFR 660.323 (e) allow closure of the commercial whiting fisheries by actual notice to the fishery participants. Actual notice includes e-mail, internet, phone, fax, letter or press release. NMFS provided actual notice by fax to the catcher-processors on November 3, 2006.

#### NMFS Action

This action announces achievement of the allocation for the catcher-processor sector only. The best available information indicated that the catcher-

processor allocation would be reached by 4 pm November 3, 2006, at which time the primary season for the catcher processor sector ends.

For the reasons stated here and in accordance with the regulations at 50 CFR 660.323(b), NMFS herein announces that, effective 4 pm November 3, 2006, further receiving or at-sea processing of whiting by catcher-processors is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a catcher-processor may continue to process whiting that was on board before at-sea processing was prohibited.

### 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 (3)(b)(B), because providing prior notice and comment 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 catcher-processor sector allocation and the OY for whiting. A delay to provide a cooling off period also would be expected to cause the fishery to exceed its allocation and the whiting OY. 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 (b) and is exempt from review under Executive Order 12866.

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

Dated: November 09, 2006.

**Alan D. Risenhoover,**

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

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