

determine when the harvest of Atlantic herring is projected to reach 95 percent of the TAC allocated. When such a determination is made, NMFS is required to publish notification in the **Federal Register** notifying vessel and dealer permit holders that, effective upon a specific date, vessels may not fish for, catch, possess, transfer or land more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from the specified management area for the remainder of the closure period.

The Regional Administrator has determined, based upon dealer reports and other available information, that 95 percent of the total Atlantic herring TAC allocated to Area 1A for the 2004 fishing year is projected to be harvested by November 19, 2004. Therefore, effective 0001 hrs local time, November 19, 2004, federally permitted vessels may not fish for, catch, possess, transfer or land more than 2,000 lb (907.2 kg) of Atlantic herring in or from Area 1A per trip or calendar day through December 31, 2004; except a vessel may transit, or land herring in Area 1A with more than 2,000 lb (907.2 kg) of herring on board, provided such herring were not caught in Area 1A, and provided all fishing gear is stowed and not available for immediate use as required by § 648.23(b). Effective November 19, 2004, federally permitted dealers are also advised that they may not purchase Atlantic herring from federally permitted Atlantic herring vessels that harvest more than 2,000 lb (907.2 kg) of Atlantic herring from Area 1A through December 31, 2004, 2400 hrs local time.

Classification

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

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

Dated: November 12, 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 660

[Docket No. 031216314-4118-03; I.D. 111004E]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Whiting Closure 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 closure of the 2004 catcher-processor fishery for Pacific whiting (whiting) at 0001 local time (l.t.) November 11, 2004, because the allocation for the catcher-processor sector will be reached by that time. This action is intended to keep the harvest of whiting within the 2004 allocation levels.

DATES: Effective from 0001 l.t. November 11, 2004, until the effective date of the 2005 primary season for the catcher-processor sector, which will be published in the **Federal Register**. Comments will be accepted through December 2, 2004.

ADDRESSES: You may submit comments, by any of the following methods:

- E-mail:

WhitingCPClosure.nwr@noaa.gov; identified by [I.D. 111004E] 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 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 660.323(a)(3)(i) describe the primary season for catcher-processors as the period(s) 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.

NMFS Action

This action announces achievement of the allocation for the catcher-processor sector only. The best available information on November 10, 2004, indicated that the catcher-processor allocation would be reached by 0001 l.t. November 11, 2004, 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)(1) and (e), NMFS herein announces: Effective 0001 l.t. November 11, 2004, further taking and retaining, receiving or at-sea processing of whiting by a catcher-processor 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, NOAA, 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 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. A delay to provide a cooling off period also would be expected to cause the fishery to exceed its allocation. 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)(1) and (e) and is exempt from review under Executive Order 12866.

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

Dated: November 10, 2004.

Bruce C. Morehead,

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

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