

of Pacific whiting had been taken through July 3, 2009 and that the shore-based allocation would be reached by 10 a.m. on July 7, 2009. For the reasons stated here and in accordance with the regulations at 50 CFR 660.323(b)(4), NMFS herein announces: Effective 10 a.m. July 7, 2009 the Pacific whiting shoreside fishery was closed.

#### Classification

This action is authorized by the regulations implementing the groundfish FMP. The determination to take this action was based on the most recent data available. The aggregate data upon which the determinations were based are available for public inspection at the office of the Regional Administrator (see **ADDRESSES**) during business hours.

The Assistant Administrator for Fisheries (AA), 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 opportunity would be impracticable. It would be impracticable because if this restriction were delayed in order to provide notice and comment, it would allow the allocation for the shore-based sector to be exceeded, which would either reduce the amount available to the catcher/processor sector or cause the OY to be exceeded.

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).

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

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

Dated: July 22, 2009.

#### James P. Burgess,

*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. 080226308-9700-02]

RIN 0648-AW50

#### Fisheries Off West Coast States; Highly Migratory Species Fisheries

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to initiate collection of a permit fee for vessel owners participating in commercial and charter recreational fishing for highly migratory species (HMS) in the Exclusive Economic Zone (EEZ) off the West Coast of California, Oregon, and Washington. The HMS permits are issued under implementing regulations for the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP). **DATES:** This final rule is effective August 27, 2009.

**ADDRESSES:** Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802 4213. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to the Southwest Region and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** Chris Fanning, Permits Coordinator, Sustainable Fisheries Division, NMFS, 562-980-4198.

**SUPPLEMENTARY INFORMATION:** On April 7, 2004, NMFS published a final rule to implement the HMS FMP (69 FR 18444) that included mandatory permit requirements at 50 CFR 660.707. The HMS FMP permit requirements included authority to collect permit fees which NMFS opted not to exercise at that time. NMFS is now exercising the option to charge an administrative fee for the recovery of HMS permit processing and issuance expenses as authorized under Section 303(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1853(b)(1). Section 304(d) of the MSA specifies that such fees may not exceed the administrative costs of issuing the permits. This final

rule specifies that an application for an HMS permit, including the renewal of an existing permit, must include a fee payable by the vessel owner. The amount of the fee will be determined in accordance with the NOAA Finance Handbook available at (<http://www.corporateservices.noaa.gov/~finance/FinanceHandbook.htm>) and specified on the application form. At this time, the fee amount is expected to be approximately \$30. The proposed rule to require a permit fee was published in the **Federal Register** on December 19, 2008 (73 FR 77589), soliciting public comment through January 20, 2009.

#### Comments and Responses

NMFS did not receive any public comment on the proposed rule.

#### Classification

The Administrator, Southwest Region, NMFS, determined that this regulation is necessary for the conservation and management of the U.S. West Coast Fisheries for Highly Migratory Species and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to be significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) which has been approved by OMB as an amendment to OMB Control No. 0648-0204. Public reporting burden for the payment of HMS permit fees is estimated to average 5 minutes or less per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to (202) 395-7285. Notwithstanding any

other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

**List of Subjects in 50 CFR Part 660**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 23, 2009.

**James W. Balsiger,**

*Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

**PART 660—FISHERIES OFF THE WEST COAST STATES**

■ 1. The authority citation for part 660 continues to read as follows:

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

■ 2. A new paragraph (e) is added to § 660.707 to read as follows:

**§ 660.707 Permits.**

\* \* \* \* \*

(e) *Fees.* An application for a permit, or renewal of an existing permit under paragraph (b)(1) of this section will include a fee for each vessel. The fee amount required will be calculated in accordance with the NOAA Finance Handbook and specified on the application form.

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