

*270C2 at Olathe are 38–36–18 North Latitude and 107–58–54 West Longitude. At the request of Calvary Chapel of Montrose, the Audio Division grants a petition requesting to reserve vacant Channel 293C at Olathe, Colorado for noncommercial educational use. The reference coordinates for Channel *293C at Olathe are 38–37–3 North Latitude and 107–58–33 West Longitude. At the request of Living Proof, Inc., the Audio Division grants a petition requesting to reserve vacant Channel 234C3 at Horseshoe Beach, Florida for noncommercial educational use. The reference coordinates for Channel *234C3 at Horseshoe Beach are 29–26–28 North Latitude and 83–17–15 West Longitude. At the request of Starboard Media Foundation, Inc., the Audio Division grants a petition requesting to reserve vacant Channel 259A at Live Oak, Florida for noncommercial educational use. The reference coordinates for Channel *259A at Live Oak are 30–13–12 North Latitude and 82–54–0 West Longitude. At the request of American Family Association and Starboard Media Foundation, Inc., the Audio Division grants petitions requesting to reserve vacant Channel 238A at Asbury, Iowa for noncommercial educational use. The reference coordinates for Channel *238A at Asbury are 42–30–18 North Latitude and 90–40–46 West Longitude. At the request of University of Iowa and Starboard Media Foundation, Inc., the Audio Division grants petitions requesting to reserve vacant Channel 271C3 at Keosauqua, Iowa for noncommercial educational use. The reference coordinates for Channel *271C3 at Keosauqua are 40–43–48 North Latitude and 91–57–48 West Longitude. At the request of Starboard Media Foundation, Inc., the Audio Division grants a petition requesting to reserve vacant Channel 246A at Merville, Iowa for noncommercial educational use. The reference coordinates for Channel *246A at Merville are 42–29–11 North Latitude and 96–0–36 West Longitude. At the request of American Family Association, the Audio Division grants a petition requesting to reserve vacant Channel 268A at Rudd, Iowa for noncommercial educational use. The reference coordinates for Channel *268A at Rudd are 43–7–34 North Latitude and 92–54–20 West Longitude. At the request of Boise Community Radio Project, Inc., the Audio Division grants a petition requesting to reserve vacant Channel 280C1 at Weiser, Idaho for noncommercial educational use. The reference coordinates for Channel

*280C1 at Weiser are 44–20–39 North Latitude and 117–7–14 West Longitude.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by adding Channel *261C3 and by removing Channel 261C3 at Anniston.

■ 3. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Channel *260C3 and by removing Channel 260C3 at Somerton.

■ 4. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel *298A and by removing Channel 298A at Sutter Creek; and by adding Channel *238A and by removing Channel 238A at Westley.

■ 5. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Channel *270C2 and by removing Channel 270C2 at Olathe; and by adding Channel *293C and by removing Channel 293C at Olathe.

■ 6. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Channel *234C3 and by removing Channel 234C3 at Horseshoe Beach; and by adding Channel *259A and by removing Channel 259A at Live Oak.

■ 7. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by adding Channel *280C1 and by removing Channel 280C1 at Weiser.

■ 8. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Channel *238A and by removing Channel 238A at Asbury; by adding Channel *271C3 and by removing Channel 271C3 at Keosauqua; by adding Channel *246A and by removing Channel 246A at Merville; and by adding Channel *268A and by removing Channel 268A at Rudd.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 04–17545 Filed 8–2–04; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 040726215–4215–01; I.D. 071604D]

[RIN 0648–AS48]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Pacific Whiting; Routine Management Measure; Closure Authority

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

ACTION: Emergency rule; request for comments.

SUMMARY: This emergency rule establishes routine management measure authority, under the Pacific Coast Groundfish Fishery Management Plan (Pacific Coast Groundfish FMP), to close the Pacific whiting (whiting) primary season fisheries by sector before the sector's whiting allocation is reached in order to minimize impacts on overfished species. This action is necessary to establish a mechanism that can be used to quickly close the commercial whiting primary season fisheries if NMFS estimates that the incidental catch of an overfished species is too high.

DATES: This rule is effective August 3, 2004, through January 31, 2005. Comments must be received no later than 5 p.m., local time on September 2, 2004. Copies of the Record of Decision (ROD), final regulatory flexibility analysis (FRFA), and the Small Entity Compliance Guide for the annual harvest specifications for 2004 are available from D. Robert Lohn, Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way, NE, Seattle, WA 98115–0070.

ADDRESSES: You may submit comments on this emergency rule by I.D. 071604D, by any of the following methods:

- E-mail:

WhitingRoutineClosure.nwr@noaa.gov. Include the I.D. number in the subject line of the message.

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

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

- Fax: 206-526-6736

Copies of the Final Environmental Impact Statement (FEIS) for the harvest specifications and management measures for the 2004 groundfish fishery is available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503-820-2280.

FOR FURTHER INFORMATION CONTACT:

Becky Renko (Northwest Region, NMFS) 206-526-6150.

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the Internet at the Office of the **Federal Register's** website at: <http://www.gpoaccess.gov/fr/index.html>. Background information and documents are available at the NMFS Northwest Region website at <http://www.nwr.noaa.gov/1susufsh/gdfsh01.htm> and at the Council's website at <http://www.pcouncil.org>.

Regulations at § 660.323 (b) authorize the use of routine management measures in the groundfish fishery off Washington, Oregon, and California for the purpose of rebuilding and protecting overfished or depleted stocks. This action is consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) guidance on overfished species management.

Routine Management Measures

The regulatory measures available to manage the West Coast groundfish fisheries include, but are not limited to, harvest guidelines, quotas, landing limits, frequency limits, gear restrictions (escape panels or ports, codend mesh size, etc.), time/area closures, prohibited species, bag and size limits, permits, other forms of effort control, allocation, reporting requirements, and onboard observers. Routine management measures are those regulatory measures that the Council determines are likely to be adjusted on an annual or more frequent basis.

Routine management measures are necessary to meet the varied and interwoven mandates of the Magnuson-Stevens Act and the Pacific Coast Groundfish FMP. These mandates include: implementing the overfished species rebuilding plans, reducing bycatch, preventing overfishing, allowing the harvest of healthy stocks as much as possible while protecting and rebuilding overfished and depleted stocks, and distributing equitably the burden of rebuilding among the sectors. Routine management measures may be used to address a resource problem with an overfished species.

Measures are classified as routine through a rulemaking process. For a measure to be classified as routine, the Council will determine that the measure is appropriate to address a particular management issue. Once a measure is classified as routine, it may be modified thereafter by recommendation of the Council at a single Council meeting, providing it is used for the same intended purpose as the original measure. This allows for a swift adjustment of management measures to respond to updated information received during the fishing year.

Inseason Management of Overfished Species

NMFS made catch projections prior to the start of the fishing year for all West Coast groundfish fisheries to determine whether the Council's preferred management measures would keep harvests of overfished species within their 2004 OYs. These projections included incidental catch estimates of overfished species for the various commercial and recreational directed groundfish fisheries, the tribal fisheries, non-groundfish fisheries, and research activities. As the 2004 fishing year has progressed and new fisheries' data have become available, NMFS has modified and updated the estimates of overfished species total catch.

The Whiting Fishery

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)(4) 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 each sector. For catcher-processors, the

primary season is the period(s) when at-sea processing is allowed and the fishery is open for the catcher-processor sector. For motherships, the primary season is the period when at-sea processing is allowed and the fishery is open for the mothership sector. The primary season for the shore-based sector is the period when the large-scale target fishery is conducted (when trip limits under § 660.323(b) are not in effect). Before and after the primary seasons, per-trip limits are in effect for whiting. When a sector's allocation is reached, the primary season for that sector is ended.

In 2004, the primary seasons for the non-tribal mothership and catcher-processor sectors began May 15. The shore-based season in most of the Eureka area (between 42° and 40°30' N. lat.) began on April 1, and the fishery south of 40°30' N. lat. opened April 15. The shore-based fishery north of 42° N. lat. began on June 15.

As in previous years, most shore-based whiting vessels were issued exempted fishing permits (EFPs) for landing unsorted whiting during the primary season. EFPs allow vessels delivering to shore-based harvesters to delay sorting the catch until offload. Delaying sorting until offload, allows state biologists and industry-hired monitors to collect information on the incidental catch of prohibited species at the processing facilities. Beginning in 2004, all EFP participants have been required to carry video cameras for monitoring full retention at sea. To provide total catch data for monitoring the at-sea processing sectors of the fishery, all at-sea processing vessels voluntarily carry two NMFS-trained observers while participating in the fishery. Total catch data from the whiting fisheries are available more swiftly for use in management decisions than data from many other West Coast groundfish fisheries.

Canary Rockfish Catch in the 2004 Whiting Fisheries

During the early season shore-based fishery off California and the first 2 weeks of the at-sea catcher-processor and mothership fisheries, the incidental catch of canary rockfish was relatively low. However, in early June a single tow taken from the Heceta Bank area, by a vessel in the mothership sector, was estimated to contain 3.9 mt of canary rockfish. This single haul exceeded the 0.9-mt total catch projection for the mothership sector. As of June 9, 2004, the total catch estimate for canary rockfish in the catcher-processor and non-tribal mothership sectors was 4.2 mt, as compared with the projected 2.2

mt. Through June 9, 2004, only 35 percent of the whiting allocation for catcher-processor and non-tribal mothership sectors had been taken. At this time, the primary season fisheries are open for all sectors of the whiting fishery.

In response to the elevated catches of canary rockfish in the whiting fishery, the Council requested that NMFS implement an emergency rule that allows appropriate sectors of the commercial whiting fishery to be closed if the canary rockfish impacts reach 7.3 mt. Therefore, NMFS is publishing this emergency rule to established routine management measure authority, under the Pacific Coast Groundfish FMP, in order to close the whiting primary season fisheries by sector before the sector's whiting allocation is reached and to minimize impacts on overfished species. After implementation of this emergency rule, NMFS plans to use this authority, if appropriate, to implement the new routine management measure recommended by the Council. That is, if NMFS estimates, using the best available data, that 7.3 mt of canary rockfish have been taken in the 2004 whiting fisheries, NMFS will take inseason action and publish a **Federal Register** document to close appropriate sectors of the commercial fisheries.

In addition to the Council's recommendation that NMFS establish routine management measure authority to close the whiting primary season fisheries in order to minimize the impacts on overfished species, the Council also recommended asking the whiting vessel owners to voluntarily avoid areas of known high canary rockfish bycatch. This recommendation applied to all sectors of the whiting fishery.

After the Council's June meeting, commercial whiting fishery data, NMFS trawl survey information, Washington State exempted fishing permit data findings, and other NMFS submersible research data were compiled in an effort to identify areas where high canary rockfish bycatch is likely to occur. On June 23, 2004, NMFS made these maps available to the participants in the whiting fishery to identify geographic locations that are known as areas of high canary rockfish bycatch, and that should be avoided.

Classification

This emergency rule establishes routine management measure authority to close the whiting primary season fisheries by sector before the attainment of the sector allocations in order to address bycatch concerns of overfished species. It is issued under the authority

of the Magnuson-Stevens Act and is consistent with the regulations implementing the Pacific Coast Groundfish FMP at 50 CFR part 660.

The Assistant Administrator for Fisheries (AA), NMFS, finds good cause to waive the requirement to provide prior notice and comment on this action pursuant to 5 U.S.C. 553(b)(3)(B) because providing prior notice and opportunity for public comment would be impracticable. The data upon which these recommendations were based were provided to the Council at its June 2004 meeting. There was insufficient time after the meeting to draft this document and to undergo a proposed and final rulemaking before this action needs to be in effect, as explained below. Prior notice and comment would be impracticable because affording prior notice and opportunity for public comment would take too long, thus impeding the Agency's function of managing fisheries to approach, without exceeding, OYs for federally managed species.

Canary rockfish was declared overfished on January 4, 2000 (65 FR 221). A rebuilding plan was adopted into regulation in early 2004 (April 13, 2004, 69 FR 19347). In accordance with the newly adopted rebuilding plan, the coastwide OY for canary rockfish was set very low for 2004. The total projected catch of canary rockfish for the 2004 primary whiting fishery is 7.3 mt. In response to the elevated catches of canary rockfish during early June and concerns that the OY may be exceeded, the Council requested that NMFS develop this emergency rule to allow appropriate sectors of the primary whiting fishery to be closed if the canary rockfish impacts reach 7.3 mt.

Under the Pacific Coast Groundfish FMP and implementing regulations where protection of an overfished stock is required, closed areas or seasons may be used in any commercial fisheries and for any gear type. This action provides a mechanism to close the whiting fisheries before the attainment of the whiting allocations to keep the harvest of an overfished species within their OYs. The whiting fisheries are generally very fast paced and vessels tend to incidentally catch overfished species at sporadic and unpredictable rates. As of July 27, 2004, inseason whiting fisheries data indicates that 5.46 mt of the 7.3 mt of canary rockfish available to the whiting fisheries has been taken. Inseason data also indicates that the shore-based sector of the fishery may attain its whiting allocation and need to be closed as soon as August 17, 2004. If this emergency rule were delayed for a public notice and comment period, the

7.3 mt of canary rockfish available to the fisheries could easily be taken before the completion of the public comment period. Therefore, delaying this rule could result in unexpectedly high bycatch of canary rockfish such that the annual OY, established for rebuilding is exceeded, or that many other portions of the groundfish fishery would have to be closed to make up for bycatch in the whiting fishery.

For the reasons described above, pursuant to 5 U.S.C. 553(d)(3), the AA also finds good cause to waive the 30-day delay in effectiveness, so that this rule may become effective as soon as possible to enable the whiting fishery to close when the 7.3 mt canary rockfish bycatch amount is reached.

This emergency rule has been determined to be not significant for purposes of Executive Order 12866.

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment.

This emergency rule is consistent with the requirements of Executive Order 13175 because it was developed after meaningful consultation with the tribal representative on the Council.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: July 28, 2004.

William T. Hogarth,

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

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

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

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

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

■ 2. In § 660.323, paragraph (b)(1)(i) is added to read as follows and paragraph (b)(1)(ii) is added and reserved:

§ 660.323 Pacific whiting allocations, allocation attainment, and inseason allocation reapportionment.

* * * * *

(b) * * *

(1) * * *

(i) *Differential trip landing limits and frequency limits based on gear type, closed seasons. Trip landing and frequency limits that differ by gear type and closed seasons may be imposed or*

adjusted on a biannual or more frequent basis for the purpose of rebuilding and protecting overfished or depleted stocks. To achieve the rebuilding of an overfished or depleted stock, the Pacific whiting primary seasons described at § 660.323(3)(i) may be closed for any or all of the fishery sectors identified at § 660.323(4)(i)(A) before the sector allocation is reached.

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BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031124287-4060-02; I.D. 072804E]

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

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

ACTION: Prohibition of Retention.

SUMMARY: NMFS is prohibiting retention of Community Development Quota (CDQ) reserve amount of "other species" in the Bering Sea and Aleutian

Islands management area (BSAI). This action is necessary to prevent exceeding the 2004 CDQ reserve amount of "other species" in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 31, 2004, through 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 CDQ reserve amount specified for "other species" in the BSAI is 2,040 metric tons (mt) as established by the 2004 harvest specifications for groundfish of the BSAI (69 FR 9242, February 27, 2004).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the 2004 CDQ reserve amount of "other species" in the BSAI has been reached. Therefore, NMFS is requiring that further catches of the CDQ reserve amount of "other species" 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 CDQ reserve amount of "other species" 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: July 28, 2004.

Alan D. Risenhoover,

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

[FR Doc. 04-17643 Filed 7-29-04; 2:02 pm]

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