

received by dealers from U.S. vessels, as defined under § 600.10 of this chapter, on the first through the 15th of each month, must be postmarked not later than the 25th of that month. Reports of such fish received on the 16th through the last day of each month must be postmarked not later than the 10th of the following month. If a dealer issued an Atlantic tunas, swordfish or sharks dealer permit under § 635.4 has not received any Atlantic HMS from U.S. vessels during a reporting period as specified in this section, he or she must still submit the report required under paragraph (b)(1)(i) of this section stating that no Atlantic HMS were received. This negative report must be postmarked for the applicable reporting period as specified in this section. This negative reporting requirement does not apply for bluefin tuna.

\* \* \* \* \*

(2) \* \* \*  
(i) \* \* \*

(B) *Bi-weekly reports.* Each dealer issued an Atlantic tunas permit under § 635.4 must submit a bi-weekly report on forms supplied by NMFS for BFT received from U.S. vessels. For BFT received from U.S. vessels on the first through the 15<sup>th</sup> of each month, the dealer must submit the bi-weekly report form to NMFS postmarked not later than the 25<sup>th</sup> of that month. Reports of BFT received on the 16<sup>th</sup> through the last day of each month must be postmarked not later than the 10<sup>th</sup> of the following month.

\* \* \* \* \*

■ 13. In § 635.20, paragraph (f)(2) is revised to read as follows:

**§ 635.20 Size limits.**

\* \* \* \* \*

(f) \* \* \*

(2) Except for a swordfish landed in a Pacific state and remaining in the state of landing, a swordfish, or part thereof, weighing less than 33 lb (15 kg) dressed weight will be deemed to be an Atlantic swordfish harvested by a vessel of the United States and to be in violation of the minimum size requirement of this section unless such swordfish, or part thereof, is accompanied by a swordfish statistical document attesting that the swordfish was lawfully imported. Refer to § 300.186 of this title for the requirements related to the swordfish statistical document.

\* \* \* \* \*

■ 14. In § 635.31 paragraphs (a)(3) and (a)(4)(ii) are revised to read as follows:

**§ 635.31 Restrictions on sale and purchase.**

\* \* \* \* \*

(a) \* \* \*

(3) Dealers or seafood processors may not purchase or sell a BFT smaller than the large medium size class unless it is lawfully imported and is accompanied by a bluefin tuna statistical document, as specified in § 300.185(a) of this title.

(4) \* \* \*

(ii) It is accompanied by a bluefin tuna statistical document, as specified in § 300.185(a) of this title.

\* \* \* \* \*

**§ 635.41 [Removed]**

■ 15. Section 635.41 is removed.

**§ 635.45 [Redesignated as § 635.41]**

■ 16. Section 635.45 is redesignated as § 635.41.

**§§ 635.42, 635.43, 635.44, 635.46, and 635.47 [Removed]**

■ 17. Sections 635.42, 635.43, 635.44, 635.46, and 635.47 are removed.

■ 18. In § 635.71, paragraphs (b)(2), (b)(25), (e)(10) and (e)(12) are removed and reserved and paragraphs (a)(24), (b)(26) and (e)(1) are revised to read as follows:

**§ 635.71 Prohibitions.**

\* \* \* \* \*

(a) \* \* \*

(24) Import, or attempt to import, any fish or fish products regulated under this part in a manner contrary to any import requirements or import restrictions specified at § 635.40 or § 635.41.

\* \* \* \* \*

(b) \* \* \*

(26) Import a bluefin tuna or bluefin tuna product into the United States from Belize, Panama, or Honduras other than as authorized in § 635.41.

\* \* \* \* \*

(e) \* \* \*

(1) Purchase, barter for, or trade for a swordfish from the north or south Atlantic swordfish stock without a dealer permit as specified in § 635.4(g).

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 021101264-3016-02; I.D. 111004D]

**Fisheries of the Northeastern United States; Atlantic Herring Fishery; Total Allowable Catch Harvested for Period 2 Management Area 1A**

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

**ACTION:** Closure of directed fishery for Management Area 1A.

**SUMMARY:** NMFS announces that 95 percent of the Atlantic herring total allowable catch (TAC) allocated to Management Area 1A (Area 1A) for 2004 is projected to be harvested by November 19, 2004. Therefore, effective 0001 hours, 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 until January 1, 2005, when the 2005 period TAC becomes available, except for transiting purposes as described in this notice. Regulations governing the Atlantic herring fishery require publication of this notification to advise vessel and dealer permit holders that no TAC is available for the directed fishery for Atlantic herring harvested from Area 1A.

**DATES:** Effective 0001 hrs local time, November 19, 2004, through 2400 hrs local time, December 31, 2004.

**FOR FURTHER INFORMATION CONTACT:** Don Frei, Fisheries Management Specialist, at (978) 281-9221.

**SUPPLEMENTARY INFORMATION:** Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of optimum yield, domestic and foreign fishing, domestic and joint venture processing, and management area TACs. The 2004 TAC allocated to Area 1A (69 FR 17980, April 6, 2004) is 60,000 mt (132,277,621 lb).

The regulations at 50 CFR 648.202 require the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the Atlantic herring fishery in each of the four management areas designated in the Fishery Management Plan for the Atlantic Herring Fishery and, based upon dealer reports, state data, and other available information, to

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.*  
[FR Doc. 04-25505 Filed 11-12-04; 3:59 pm]

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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