

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 080408542-8615-01]

RIN 0648-XK03

Fisheries off West Coast States; Pacific Coast Groundfish Fishery; End of the Pacific Whiting Primary Season for the Catcher-processor, Mothership and Shore-based Sectors

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: To minimize impacts on canary rockfish, NMFS announces the end of the 2008 Pacific whiting primary season for the catcher-processor, mothership and shore-based sectors at noon local time (l.t.) August 19, 2008. This action is intended to keep the harvest of canary rockfish, an overfished species, within its 2008 optimum yield (OY).

DATES: Effective from noon l.t. August 19, 2008, until the start of the 2009 primary seasons, unless modified, superseded or rescinded.

FOR FURTHER INFORMATION CONTACT: Becky Renko, Office of Sustainable Fisheries, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115 0070; tel: 206-526-6110; fax: 206-526-6736; or, e-mail: becky.renko@noaa.gov.

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 2008 non-tribal commercial OY for whiting is 232,545 mt. 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 catcher vessels that harvest whiting and mothership 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 is allocated a portion of the commercial OY. For 2008 the catcher-processors received 34 percent (79,065 mt), motherships received 24 percent (55,811 mt), and the shore-based sector received 42 percent (97,669 mt) (73 FR 26325; May 9, 2008).

Overfished Species

The limited availability of overfished species that can be taken as incidental catch in the whiting fisheries, particularly canary, darkblotched and widow rockfish, led NMFS to implement bycatch limits for those species. With bycatch limits, the industry has the opportunity to harvest a larger whiting OY, providing the incidental catch of overfished species does not exceed the adopted bycatch limits. If a bycatch limit is reached, all non-tribal sectors of the whiting fishery are closed for the remainder of the year. For 2008, the following bycatch limits were specified for the non-tribal whiting sectors: 4.7 mt for canary rockfish, 40 mt for darkblotched rockfish, and 275 mt for widow rockfish.

The best available information as of August 18, 2008, indicated that the canary rockfish bycatch limit was reached. Accordingly, the primary seasons for the catcher-processors sector, mothership sector and the shore-based sectors was ended at noon l.t. August 19, 2008, through actual notice to the fishery participants. Actual notice was provided by facsimile on August 18th. The closure announcement was also posted on the NWR internet site for the Pacific whiting fishery.

NMFS Action

This notice announces that the primary seasons for the catcher-processor sector, mothership sector and the shore-based sectors of the whiting fishery, were ended on August 19, 2008 because the best available information indicated that 4.7 mt of canary rockfish had been taken in the non-tribal whiting fisheries. For the reasons stated here and in accordance with the regulations at 50 CFR 660.373(b) and 50 CFR 660.232(b), NMFS herein announces that effective noon l.t. August 19, 2008: (1) further taking and retaining, receiving or at-sea processing of whiting by a catcher-processor is prohibited; (2) Further receiving or at-sea processing of whiting by a mothership is prohibited and no additional unprocessed whiting

may be brought on board after at-sea processing is prohibited, and (3) no more than 10,000-lb (4,536 kg) per trip of whiting may be taken and retained, possessed or landed by any vessel participating in the shore-based sector of the whiting fishery, unless otherwise announced in the Federal Register. For vessels in the at-sea processing sectors, no additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a catcher-processor or mothership may continue to process whiting that was on board before at-sea processing was prohibited. For vessels in the shore-based sector fishing shoreward of the 100 fm (183 m) contour in the Eureka area (43°-40°30' N. lat.) at any time during a fishing trip, the 10,000-lb (4,536 kg) trip limit applies, as announced in the management measures in § 660.373 (d).

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 opportunity would be impracticable. It would be impracticable because if this closure were delayed in order to provide notice and comment, the catch of canary rockfish would be expected to result in the rebuilding-based OY being exceeded. The delay needed to provide a cooling off period also would be expected to result in the rebuilding-based OY for canary rockfish being exceeded. 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 Sustainable Fisheries during business hours. This action is taken under the authority of 50 CFR 660.373 (b) and 50 CFR 660.232(b) and is exempt from review under E.O. 12866.

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

Dated: September 9, 2008.

James P. Burgess,

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