

which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per trawl; and

4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portion of the Other Northeast Gillnet Waters that overlap with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per string;

4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining two weak links must be placed in the center of each of the up and down lines at the panel ends; and

5. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours May 2, 2004, through 2400 hours May 16, 2004, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon filing with the **Federal Register**.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a

take reduction plan to protect North Atlantic right whales.

This action falls within the scope of alternatives and impacts analyzed in the Final EAs prepared for the ALWTRP's DAM program. Further analysis under the National Environmental Policy Act is not required.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30-day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required

restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this notice in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means as soon as the AA approves it, thereby providing approximately 3 additional days of notice while the Office of the **Federal Register** processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, DOC, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (ADDRESSES).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: April 27, 2004.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 04-9843 Filed 4-27-04; 2:55 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040112010-4114-02; I.D. 122203A]

RIN 0648-AN17

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Amendment 13; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final rule implementing Amendment 13 to the NE Multispecies Fishery Management Plan (FMP) published on April 27, 2004. Because publication of the Amendment 13 final rule followed publication of the Electronic Dealer Reporting (EDR) final rule, § 648.7 of Amendment 13 unintentionally superseded § 648.7 of the EDR final rule, creating confusion as to which set of regulatory changes were, in fact, being implemented. Therefore, this document corrects the error contained in the Amendment 13 final rule as it relates to § 648.7.

DATES: Effective May 1, 2004.

FOR FURTHER INFORMATION CONTACT:

Thomas Warren, Fishery Policy Analyst, 978-281-9347, fax 978-281-9135; email thomas.warren@noaa.gov. Michael Pentony, Senior Fishery Policy Analyst, 978-281-9283, fax 978-281-9135, email michael.pentony@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS recently published two final rules, EDR (69 FR 13482, March 23, 2004) and Amendment 13 (69 FR 22906, April 27, 2004), both of which implement revised regulatory text for § 648.7. Amendment 13 was under development by the New England Fishery Management Council, in cooperation with NMFS, for several years. It was originally anticipated that publication of the Amendment 13 final rule would precede publication of the implementing regulations for the EDR final rule. The preamble to the Amendment 13 final rule clearly indicates that NMFS would be issuing electronic dealer reporting requirements in a separate, future rulemaking (i.e., the EDR Rule). The Amendment 13 revision to § 648.7 was intended initially only as a place-holder until such time that the

EDR final rule was implemented. However, in order to ensure that the EDR final rule became effective by May 1, 2004, and to accommodate the 30-day delay in effectiveness pursuant to the Administrative Procedure Act, NMFS published the EDR final rule first, on March 23, 2004. NMFS inadvertently failed to remove the place-holder language in the Amendment 13 final rule to reflect the new requirements contained in the EDR final rule at § 648.7. Because of this oversight, and unless corrected, the Amendment 13 implementing regulations will supersede the EDR § 648.7 revised text. Therefore, NMFS corrects the final rule implementing Amendment 13 by removing all reference to § 648.7. This section will be implemented as published in the EDR final rule that published on March 23, 2004 (69 FR 13482).

Correction**PART 648—[CORRECTED]**

■ The publication on April 27, 2004, at 69 FR 22906, FR Doc. 04-8884 is corrected as follows:

§ 648.7 [Corrected]

■ On page 22946, in the second column, first complete paragraph, remove the entire instruction 4, including the amendatory text in instruction 4 and the corresponding regulatory text, and renumber the remaining instructions accordingly.

Dated: April 27, 2004.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 04-9845 Filed 4-27-04; 2:54 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 031216314-4118-03; I.D. 112803A]

RIN 0648-AR54

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications; Pacific Whiting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; 2004 groundfish fishery specifications; request for comments.

SUMMARY: This final rule establishes the 2004 fishery specifications for whiting in the U.S. exclusive economic zone (EEZ) and state waters off the coasts of Washington, Oregon, and California as authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP). This **Federal Register** document also serves to announce that the whiting resource is estimated to be above the target rebuilding biomass and will no longer have an overfished species status, and amends the final rule implementing the specifications and management measures for the 2004 fishing year, which were published March 9, 2004. These specifications include the allowable biological catch (ABC), optimum yield (OY), tribal allocation, and allocations for the non-tribal commercial sectors. The intended effect of this action is to establish allowable harvest levels of whiting based on the best available scientific information. NMFS is specifically seeking comments on changes to the ABC in this final rule. These changes are described below in the section of the preamble titled ABC/OY Recommendations.

DATES: Effective April 27, 2004, through December 31, 2004. Comments on the 2004 whiting ABC must be received by June 1, 2004.

ADDRESSES: You may submit comments, identified by [031216314-01 and/or 0648-AR54], by any of the following methods:

- *E-mail:*

GWhiting2004ABC.nwr@noaa.gov; identified by [031216314-01 and/or 0648-AR54] in the subject line of the message.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>.

Follow the instructions for submitting comments.

- *Fax:* 206-526-6736.

- *Mail:* D. Robert Lohn,

Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way, NE., Seattle, WA 98115-0070; Robert Lohn, Administrator.

Copies of the final environmental impact statement (FEIS) for this action are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503-820-2280. These documents are also available online at