

doing business as EtherGuide Systems, filed a partial Opposition to the MSTV/NAB Petition. *See* Opposition to Petitions for Reconsideration filed by Harris Corporation (Harris), Association for Maximum Service Television (MSTV) and National Association of Broadcasters (NAB), and Cohen, Dippell and Everist, P.C. (CDE) and Clarification of the Association for Maximum Service Television, Inc. and the National Association of Broadcasters, filed March 10, 2008. Mr. Willkie disputed MSTV's and Harris Corporation's contention that PSIP automation equipment is not currently available and other issues raised in the Petitions for Reconsideration filed by MSTV/NAB, Harris and CDE. Willkie acknowledged that the Third DTV Periodic did not require automation systems to comply with the PSIP requirements but opined that use of automation systems would, as a practical matter, facilitate compliance. *Id.* at 1–3. He also advocated Commission waivers for stations that were unable to obtain automation equipment. *Id.* at 6. While we encourage stations to update the EIT as rapidly as possible when overages or other circumstances result in changes to scheduled programs, our rules and policies do not require that updates be accomplished in real-time. The rule adopted in the Third DTV Periodic incorporates by reference the ATSC PSIP Standard A/65C which does not require real-time updates. *See Third DTV Periodic Report and Order*, 23 FCC Rcd at 3079, ¶ 185; 47 CFR 73.682(d). Because real-time updates are not required, there is no need to address the alternative request in MSTV/NAB's petition for reconsideration for an extension of the effective date for compliance with the rule. *See* MSTV/NAB Petition at 2–3. *See also* Harris Corporation, Petition for Reconsideration, filed February 29, 2008 (requesting one year extension of time). The adoption of the revised PSIP standard will become effective 120 days following **Federal Register** publication of the *Third DTV Periodic Report and Order*, subject to OMB approval by that date. *See Third DTV Periodic Report and Order*, 23 FCC Rcd at 3088–3089, ¶ 210. The *Third DTV Periodic Report and Order* was published in the **Federal Register** on January 30, 2008. *See* 75 FR 5634, January 30, 2008. OMB approved the PSIP information collection on March 4, 2008 (OMB control number 3060–1104). Thus, the new PSIP rule will become effective May 29, 2008. If and when the ATSC PSIP Standard A/65C mandates real-time updates to the EIT, we may revisit this issue.

4. Accordingly, *It is ordered* that, pursuant to sections 1, 4(i), 4(j), 7, 301, 303 and 405 of the Communications Act, 47 U.S.C. 151, 154(i) and (j), 157, 301, 303, and 305, and §§ 1.2 and 1.106 of the Commission's rules, 47 CFR 1.2 and 1.106, this Order on Clarification is adopted.

5. The Commission will not send a copy of this Report & Order pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the Report and Order is simply clarifying rules that were previously adopted in the Third Periodic Review of the Commission's rules and Policies Affection the Conversion to Digital Television, FCC 07–228.

#### List of Subjects in 47 CFR Part 73 Television.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. E8–15763 Filed 7–9–08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 071004577–8124–02]

RIN 0648–XI94

#### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Adjustment to the Total Allowable Catch of Georges Bank Yellowtail Flounder from the United States/Canada Management Area for Fishing Year 2008

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

**ACTION:** Inseason action; temporary rule adjusting specifications.

**SUMMARY:** NMFS announces that the Total Allowable Catch (TAC) in the U.S./Canada Management Area for Georges Bank (GB) yellowtail flounder was exceeded for fishing year (FY) 2007, requiring an adjustment of the GB yellowtail flounder TAC for FY 2008. This action complies with the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) and is intended to continue the rebuilding program for yellowtail flounder in the FMP by taking into account previous overages of the yellowtail flounder quota.

**DATES:** Effective August 11, 2008, through April 30, 2009.

**FOR FURTHER INFORMATION CONTACT:** Douglas Potts, Fishery Policy Analyst, (978) 281–9341.

**SUPPLEMENTARY INFORMATION:** A temporary rule specifying the TACs for Eastern GB cod, Eastern GB haddock, and GB yellowtail flounder in the U.S./Canada Management Area was published in the **Federal Register** on March 28, 2008 (73 FR 16571). That action established the FY 2008 TACs of GB cod, haddock, and yellowtail flounder at 667 mt, 8,050 mt, and 1,950 mt, respectively, and specified that, should an analysis of the catch by U.S. vessels indicate that an overage occurred during FY 2007, the pertinent TAC would be adjusted downward in order to be consistent with the FMP and the U.S./Canada Management Understanding. The regulations state, at § 648.85(a)(2)(ii), that: “Any overages of the GB cod, haddock, or yellowtail flounder TACs that occur in a given fishing year will be subtracted from the respective TAC in the following fishing year.” The March 28, 2008, temporary rule also specified that the public would be notified of such an adjustment through publication in the **Federal Register** and through a letter to permit holders.

Based upon vessel reports, dealer reports, and other information available as of June 6, 2008, the total estimated catch of GB yellowtail flounder in the U.S./Canada Management Area during FY 2007 was 981.3 mt. This exceeds the FY 2007 GB yellowtail flounder TAC of 900 mt by 81.3 mt. Therefore, an overage of 81.3 mt of GB yellowtail flounder is being deducted from the FY 2008 U.S./Canada GB yellowtail flounder TAC through this action. This results in an adjusted TAC of 1,868.7 mt for FY 2008.

The Eastern GB cod and haddock TACs were not exceeded in FY 2007. Therefore, these TACs are not adjusted. The TACs for Eastern GB cod and Eastern GB haddock remain 667 mt and 8,050 mt, respectively.

#### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator finds good cause to waive prior notice and opportunity for public comment, as notice and comment would be unnecessary. The regulations under § 648.85(a)(2)(ii), which were subject to prior public comment, require any overage of the TAC for GB yellowtail

flounder be deducted from the TAC in the following fishing year. Accordingly, the action being taken by this temporary rule is non-discretionary. Since this is a non-discretionary action, based on numerous records solely in the possession of NMFS, public comment would not serve to inform the agency calculation of the overage and its deduction from the appropriate TAC.

The rate of harvest of GB yellowtail flounder by groundfish vessels and scallop vessels fishing in the Scallop Access Areas in the U.S./Canada Management Area as reported from Vessel Monitoring Systems is updated weekly on the internet at <http://www.nero.noaa.gov>. Accordingly, the public is able to obtain information that would provide at least some advanced notice of a potential action as a result of a GB yellowtail flounder TAC being exceeded during FY 2007. Further, the potential that one or more of the FY 2007 TACs for the U.S./Canada stocks could be exceeded was considered and open to public comment during the proposed rule stage of the temporary rule setting the U.S./Canada TACs for FY 2008. Therefore, any negative effect the waiving of public comment may have on the public is mitigated by these factors.

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

Dated: July 3, 2008.

**Emily H. Menashes,**

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

[FR Doc. E8-15717 Filed 7-9-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

**RIN 0648-XI87**

**[Docket No. 080408542-8615-01]**

#### **Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Suspension of the Primary Pacific Whiting Season for the Shore-based Sector South of 42° North Latitude**

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

**ACTION:** Fishing restrictions; request for comments.

**SUMMARY:** NMFS announces the suspension of the primary season for Pacific whiting (whiting) fishery for the shore-based sector south of 42° N.

lat. at noon local time (l.t.) May 21, 2008. "Per trip" limits for whiting were reinstated until 0001 hours June 15, 2008, at which time the primary season for the shore-based sector opened coastwide. 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. This action is intended to keep the harvest of whiting at the 2008 allocation levels.

**DATES:** Effective from noon l.t. May 21, 2008, until 0001 hours June 15, 2008. Comments will be accepted through August 8, 2008.

**ADDRESSES:** You may submit comments, identified by RIN 0648-XI87 by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- 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:** The regulations at 50 CFR 660.323(a) established separate allocations for the catcher/processor, mothership, and shore-based sectors of the whiting fishery. The 2008 commercial Optimum Yield (OY) for Pacific whiting is 232,545 mt. This is calculated by deducting the 35,000-mt tribal allocation and 2,000-mt for research catch and bycatch in non-groundfish fisheries from the 269,545 mt total catch OY. Each sector receives a portion of the commercial OY, with the catcher/processors getting 34 percent (79,065 mt), motherships getting 24 percent (55,810 mt), and the shore-based sector getting 42 percent (97,669 mt). The regulations further divide the shore-based allocation so that no more than 5 percent (4,883 mt) of the shore-based allocation may be taken in waters off the State of California before the primary season begins north of 42° N. lat.

The primary season for the shore-based sector is the period or periods when the large-scale target fishery is conducted, and when "per trip" limits are not in effect. Because whiting migrate from south to north during the fishing year, the shore-based primary whiting season begins earlier south of 42° N. lat. than north. For 2008: the primary season for the shore-based sector between 42°-40°30' N. lat. began

on April 1; south of 40°30' N. lat., the primary season began on April 15; and the fishery north of 42° N. lat. is scheduled to begin June 15.

Because the 4,883 mt allocation for the early season fishery off California was estimated to be reached, NMFS is announcing the suspension of the primary whiting season south of 42° N. lat. Regulations at 50 CFR 660.323 (b)(4) allow this action to be taken. The 20,000-lb (9,072 kg) trip limit that was in place before the start of the southern primary season was reinstated remained in effect until the primary June 15. A trip limit of 10,000 lb (4,536 kg) of whiting is in effect year-round (unless landings of whiting are prohibited) for vessels that fish in the Eureka area shoreward of the 100-fm(183-m) contour at any time during a fishing trip. This smaller limit is intended to minimize incidental catch of Chinook salmon, which are more likely to be caught shallower than 100 fm (183 m) in the Eureka area.

To prevent an allocation from being exceeded, regulations at 50 CFR 660.323 (e) allow closure of the commercial whiting fisheries by actual notice to the fishery participants. Actual notice includes e-mail, internet, phone, fax, letter or press release. NMFS provided actual notice by e-mail, internet, and fax on May 20, 2008.

#### **NMFS Action**

This action announces achievement of the shore-based sector allocation specified at 50 CFR 660.323(a) for the fishery south of 42° N. lat. The best available information on May 20, 2008, indicated that 4,521 metric tons (mt) of whiting was taken through May 19, 2008 and that the 4,883 mt shore-based allocation for the early season fishery south of 42° N. lat would be reached by noon May 21, 2008. For the reasons stated here and in accordance with the regulations at 50 CFR 660.323(b)(4), NMFS herein announces: Effective noon l.t. May 21, 2008 until 0001 l.t., June 15, 2008, the primary whiting season south of 42° N. lat is suspended. No more than 20,000-lb (9,072 kg) of whiting may be taken and retained, possessed or landed by a catcher vessel participating in the shore-based sector of the whiting fishery. If a vessel fishes 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.

#### **Classification**

This action is authorized by the regulations implementing the groundfish FMP. The determination to take these actions is based on the most