

the Under Secretary for Oceans and Atmosphere has delegated authority to sign material for publication in the **Federal Register** to the AA.

Classification

This interim final rule is published under the authority of the ATCA, 16 U.S.C. 971 *et seq.* The AA has determined that these regulations are necessary to implement the recommendations of ICCAT and are necessary for management of the Atlantic tuna fisheries.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves a collection of information requirement subject to the PRA and approved by OMB under Control Number 0648-0327.

This interim final rule has been determined to be not significant for purposes of E.O. 12866.

NMFS has determined that, under 5 U.S.C. 553(b)(B), there is good cause to waive the requirement for prior notice and an opportunity for public comment on this rule as such procedures would be contrary to the public interest. NMFS has underway rulemakings on this, and other, tuna fishery management issues. Specifically, NMFS published a proposed rule on March 4, 1997 seeking public comment on a variety of tuna issues. Additionally, NMFS published proposed quota specifications on April 21, 1997 seeking public comment on fishing category allocations. However, while the process for these actions remains ongoing, NMFS has received comment that a postponement for 1997 in the deadline to choose a permit category is necessary to allow the public an opportunity to assess the impacts of the pending final rules. As such, given the public interest in affording vessel owners to make a reasoned decision as to fishing category and the fact that NMFS has already received public comment on the subject matter of this rule, further delay in the implementation of this action to provide an opportunity for additional comment is contrary to the public interest.

Further, under 5 U.S.C. 553(d)(1), because this rule relieves a restriction, it is not subject to a 30-day delay in effective date. NMFS has the ability to rapidly communicate the extension of the deadline to fishery participants

through its FAX network and HMS Information Line.

List of Subjects in 50 CFR Part 285

Fisheries, Fishing, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: May 14, 1997.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 285, is amended as follows:

PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for part 285 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*

2. In § 285.21, paragraph (b)(7) is added to read as follows:

§ 285.21 Vessel permits.

* * * * *

(b) * * *

(7) Except for purse seine vessels for which a permit has been issued under this section, an owner may change the category of the vessel's Atlantic tunas permit to another category a maximum of once per calendar year by application on the appropriate form to NMFS before the specified deadline. After the deadline, the vessel's permit category may not be changed to another category for the remainder of the calendar year, regardless of any change in the vessel's ownership. In years after 1997, the deadline for category changes is May 15.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 970403076-7114-02; I.D. 030397B]

RIN 0648-A180

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Whiting Allocation Among Nontribal Sectors

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

ACTION: Final rule.

SUMMARY: This rule implements: Allocation of the commercial harvest

guideline of Pacific whiting (whiting) among nontribal sectors of the Pacific groundfish fishery; a framework procedure for annually choosing the starting dates of the primary whiting seasons for the nontribal sectors; and allowing the processing of fish waste at sea when at-sea processing of whiting is otherwise prohibited. This rule also implements starting dates for the 1997 primary seasons under the framework. These actions are intended to provide equitable allocation of the whiting resource and to provide flexibility in harvesting and processing opportunities.

DATES: Effective May 14, 1997.

ADDRESSES: Comments on the information collection requirements imposed by this rule should be sent to William Stelle, Jr., Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115, and to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Washington DC, 20503.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140.

SUPPLEMENTARY INFORMATION: NMFS is issuing this rule to allocate whiting, establish a framework for setting season dates, and to provide for at-sea processing of whiting waste under the authority of the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). These actions were recommended by the Pacific Fishery Management Council (Council) at its October 1996 meeting in San Francisco, CA and at meetings of its ad hoc whiting allocation subcommittee that were held in 1996. At the same time, NMFS is announcing the starting dates for the primary whiting seasons in 1997 and addressing several housekeeping measures. These actions were proposed in the **Federal Register** at 62 FR 18572, April 16, 1996. No comments were received during the 20-day public comment period which ended April 30, 1997. This final rule is substantively the same as proposed; the minor changes are explained in this preamble.

The background for these actions appears in the proposed rule and in the environmental assessment/regulatory impact review prepared by the Council for this action. The actions taken are summarized below.

Background

Whiting allocation

The most recent allocation of whiting among nontribal sectors in the whiting

fishery was in effect from 1994–96. Its expiration left no allocation in place for 1997 and beyond. The 1994–96 allocation was based on an industry agreement to provide 40 percent of the whiting harvest guideline to catcher vessels delivering to shore-based processors, plus any additional whiting taken while all sectors competed for the first 60 percent.

The allocations for 1997 and beyond also were derived by industry agreement in a series of public meetings sponsored by the Council. The allocations, which are within a few percent of the proportions actually harvested in 1994–96, are: 42 percent for the shoreside sector (catcher vessels delivering to shoreside processors), 24 percent for the mothership sector (motherships and catcher vessels delivering to motherships), and 34 percent for the catcher/processor sector (catcher/processor vessels). When applied to the 1997 commercial harvest guideline of 207,000 metric tons (mt), these percentages result in whiting allocations of 86,900 mt for the shoreside sector, 49,700 mt for the mothership sector, and 70,400 mt for the catcher/processor sector. Surplus whiting from one sector may be reallocated (via notice in the **Federal Register**) to the other sectors, in proportion to their initial allocations, near September 15. As in 1994–96, only the framework process for calculating the allocations is codified. The allocations will be calculated and announced annually, generally with the annual cycle for announcing specifications and management measures for the groundfish fishery in January each year. Because the shoreside fishery in California (which is south of 42° N. lat.) may start earlier than in Washington and Oregon, a 5-percent cap (4,345 mt in 1997) is placed on the amount of the shoreside allocation that may be taken south of 42° N. lat. before the start of the shoreside primary season north of 42° N. lat. This cap will discourage effort shifts into California early in the year and is not expected or intended to constrain traditional operations. If the 5-percent cap is reached, the routine trip limit under § 660.323(b) is resumed until the northern season begins, at which time the southern primary season also would resume.

Additional constraints were agreed to by the industry to assure that each sector has the opportunity to take its allocation and is not preempted by the high-capacity catcher/processors participating in more than one sector in a given year.

1. Within the same calendar year, a catcher/processor may not also act as a

catcher vessel that delivers shoreside or to another at-sea processor.

2. A catcher/processor may operate solely as a mothership for that calendar year, but only if this has been requested and so designated on renewal of its limited entry permit for the Pacific coast groundfish fishery (Office of Management and Budget (OMB) #0648–0203). NMFS has made a slight change to the final rule at § 660.323 regarding rescission of a declaration to act as a mothership for the entire calendar year. The modification clarifies that any rescission of that declaration can only be made before the vessel has harvested or received any unprocessed whiting during that calendar year.

3. A catcher/processor (that has not declared itself as a mothership for the year) may receive codends over-the-side from a catcher vessel, but any such catch would be counted toward the catcher/processor allocation and would end when the catcher/processor allocation is taken. Catcher vessels that do not process may deliver to any or all of the processing sectors as long as the season for that sector is open.

The Council intends this allocation to remain in effect for at least 5 years, at which time it will be reevaluated.

Seasons

A framework is established for annually setting separate starting dates for each sector's primary season, and the starting dates for 1997 also are announced. The primary seasons for the whiting fishery are: For the shore-based sector, the period(s) when the large-scale target fishery is conducted (when trip limits under § 660.323(b) are not in effect); for catcher/processors, the period(s) when at-sea processing is allowed and the fishery is open for the catcher/processor sector; and for vessels delivering to motherships, the period(s) when at-sea processing is allowed and the fishery is open for the mothership sector. The framework provides for setting separate starting dates for each sector to accommodate operational needs. However, other factors also must be considered during the Council's two-meeting process, which generally would coincide with the setting of the annual management measures in the fall.

These factors are: The size of the harvest guidelines for whiting and bycatch species; status of whiting and bycatch stocks; age/size structure of the whiting population; expected harvest of bycatch and prohibited species; availability and stock status of prohibited species; expected participation by catchers and processors; environmental conditions; timing of alternate or competing

fisheries; industry agreement; fishing or processing rates; and other relevant information.

The starting dates also are constrained by the incidental take statement dated May 14, 1996, issued pursuant to section 7 (b)(4) of the Endangered Species Act (ESA) to protect threatened or endangered species of salmon. The incidental take statement requires that the fishery north of 42° N. lat. not begin before May 15. This constraint remains in effect unless changed in a subsequent incidental take statement.

In 1997, the starting dates are May 15 for the catcher/processor and mothership sectors and June 15 for the shore-based sector north of 42° N. lat. The shore-based fleet operating in California between 42° and 40° 30' N. lat. began fishing in April 1997, but will be able to use the framework to set the starting date for 1998. **The season south of 40° 30' N. lat. remains unchanged at April 15 as stated at § 660.323(a)(3)(i), and is not subject to the framework provisions for changing the starting date primarily due to concerns over potential salmon bycatch and harvest of juvenile whiting.** However, the whiting fishery in California is subject to the 5-percent cap in 1997, as discussed above.

A slight change was made to § 660.323(a)(3)(i) to clarify that the routine trip limit before and after the primary season potentially could apply to all sectors, as currently is the case, not just the shore-based sector as stated in the proposed rule. The trip limits before and after the primary season currently are designated routine to accommodate small bait and fresh fish markets and bycatch in non-whiting fisheries.

NMFS Action—Starting Dates for the 1997 Primary Whiting Seasons: The primary season for each sector begins at 0001 hours (local time) on the following dates: (1) Catcher/processor sector—May 15, 1997; (2) mothership sector—May 15, 1997; (3) shore-based sector north of 42° N. lat.—June 15, 1997.

Processing Waste Products At Sea

This rule also allows processing fish waste at sea by a "waste processing vessel," even at times when at-sea processing of whiting by catcher/processors or motherships is prohibited. To be considered a "waste-processing vessel," the vessel must make only meal, oil, or minced product and cannot make or have on board surimi, fillet, or headed and gutted fish. The following restrictions assure that no fishing or receipt of whole fish is occurring while at-sea processing of whiting is prohibited:

(1) The vessel must be incapable of fishing for whiting; i.e., trawl nets and doors must be stowed and made inoperable; (2) receipt of codends containing any species of fish would be prohibited; (3) the amount of whole whiting on board must be less than any trip limit for whiting authorized under 50 CFR 660.323(b); and (4) the vessel could not operate as a waste-processing vessel within 48 hours immediately before and after any primary season in which it operates as a catcher/processor or mothership.

Housekeeping

A current prohibition is revised to enable a mothership to carry trawl gear while operating in the whiting fishery as long as trawl gear, clarified to mean trawl nets and doors in this final rule, is stowed and rendered inoperable. Similarly, the requirement for a waste-processing vessel to stow trawl gear also is clarified to indicate that trawl gear means trawl nets and doors.

A regulation issued on June 6, 1996, (61 FR 28786, authorized under old § 663.24) provided for whiting not needed in the tribal fishery to be made available to other users. This provision was inadvertently deleted when the regulations governing the Pacific Coast groundfish fisheries were consolidated at 61 FR 34570, July 2, 1996, with all other regulations governing the fisheries off the west coast states and in the Western Pacific, and therefore is included in this rule. Also in the consolidation, an error was made in paragraph (b) of § 660.306 regarding the citation for the definition of prohibited species and a typo exists in paragraph (r) of § 660.306. The corrections are included in this rule.

As part of the 1996 reorganization of NMFS, Regional Directors were retitled as Regional Administrators; however, the term Regional Director is still used in codified text until a universal change is made to 50 CFR 660.

Paragraphs (s) and (t) in § 660.306 are "reserved" for implementation of Amendment 9 to the PCGFMP which was approved by NMFS on May 8, 1997. Proposed regulations to implement Amendment 9 were published on March 21, 1997 (62 FR 13583).

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary for management of the Pacific Coast groundfish fishery and that it is consistent with the Magnuson-Stevens Act and other applicable law.

Without the final rule being in place by May 15, the season north of 42° N.

lat. will open on May 15 (50 CFR 660.323(a)(3)) without any allocation between competing sectors. A derby fishery would ensue and a substantial portion of the harvest guideline could be taken before the final rule was made effective, thereby disrupting 1997 allocations that would be implemented by the final rule. For these reasons, good cause is found under 5 U.S.C. 553(d)(3) for making the rule effective without a 30-day delay.

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration, when this rule was proposed, that it would not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared. No comments were received regarding this certification.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid control number.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the OMB, OMB Control Number 0648-0203. Public reporting burden is estimated to be negligible due to this action, as it involves, concurrent with renewal of a limited entry permit, checking a box to indicate if a catcher/processor will operate entirely as a mothership in the whiting fishery during the year covered by the permit. Fewer than 15 catcher/processors operate in this fishery, and even fewer are expected to exercise this option. Send comments regarding burden estimates, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see ADDRESSES).

A formal section 7 consultation under the ESA was concluded for the PCGFMP. In a biological opinion dated August 28, 1993, and subsequent reinitiations of consultation dated September 27, 1993, and May 15, 1996, the Assistant Administrator determined that fishing activities conducted under the PCGFMP and its implementing regulations are not likely to jeopardize the continued existence of any endangered or threatened species under

the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. This rule is within the scope of those consultations. In addition, coho salmon south of Cape Blanco, Oregon, recently have been listed as threatened (Northern California/Southern Oregon) and endangered (Central California) under the ESA. This action will not affect coho salmon.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 14, 1997.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended 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 § 660.306, in paragraph (b), the reference to "§ 660.302" is changed to "§ 660.323(c)", paragraphs (j), (k), (m), (q), and (r) are revised, paragraphs (s) and (t) are reserved, and paragraphs (u), (v), and (w) are added, to read as follows:

§ 660.306 Prohibitions.

* * * * *

(j) Process whiting in the fishery management area during times or in areas where at-sea processing is prohibited for the sector in which the vessel participates, unless:

(1) The fish are received from a member of a Pacific Coast treaty Indian tribe fishing under § 660.324;

(2) The fish are processed by a waste-processing vessel according to § 660.323(a)(4)(vii); or

(3) The vessel is completing processing of whiting taken on board during that vessel's primary season.

(k) Take and retain or receive, except as cargo or fish waste, whiting on a vessel in the fishery management area that already possesses processed whiting on board, during times or in areas where at-sea processing is prohibited for the sector in which the vessel participates, unless the fish are received from a member of a Pacific Coast treaty Indian tribe fishing under § 660.324.

* * * * *

(m) Fish with groundfish trawl gear, or carry groundfish trawl gear on board

a vessel that also has groundfish on board, without having a limited entry permit valid for that vessel affixed with a gear endorsement for trawl gear, with the following exception. A vessel with groundfish on board may carry groundfish trawl gear if:

(1) The vessel is in continuous transit from outside the fishery management area to a port in Washington, Oregon, or California; or

(2) The vessel is a mothership, in which case trawl nets and doors must be stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.

* * * * *

(q) Carry on board a vessel, or deploy, limited entry gear when the limited entry fishery for that gear is closed, except a vessel may carry on board limited entry gear as provided in paragraph (m) of this section.

(r) Refuse to submit fishing gear or fish subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.

(s) [Reserved.]

(t) [Reserved.]

(u) Participate in the mothership or shoreside sector as a catcher vessel that does not process fish, if that vessel operates in the same calendar year as a catcher/processor in the whiting fishery, according to § 660.323(a)(4)(ii)(B).

(v) Operate as a waste-processing vessel within 48 hours of a primary season for whiting in which that vessel operates as a catcher/processor or mothership, according to § 660.323(a)(4)(vii).

(w) Fail to keep the trawl doors on board the vessel and attached to the trawls on a vessel used to fish for whiting, when taking and retention is prohibited under § 660.323(a)(3)(v).

3. In § 660.323, paragraphs (a)(3)(i), (a)(3)(iv), and (a)(4) are revised to read as follows:

§ 660.323 Catch restrictions.

* * * * *

(a) * * *

(3) *Pacific whiting (whiting)*—(i) *Seasons.* The primary seasons for the whiting fishery are: For the shore-based sector, the period(s) when the large-scale target fishery is conducted (when trip limits under paragraph (b) of this section are not in effect); for catcher/processors, the period(s) when at-sea processing is allowed and the fishery is open for the catcher/processor sector; and for vessels delivering to motherships, the period(s) when at-sea processing is allowed and the fishery is open for the mothership sector. Before

and after the primary seasons, trip landing or frequency limits may be imposed under paragraph (b) of this section. The sectors are defined at paragraph (a)(4) of this section.

(A) *North of 40°30' N. lat.* Different starting dates may be established for the catcher/processor sector, the mothership sector, catcher vessels delivering to shoreside processors north of 42° N. lat., and catcher vessels delivering to shoreside processors between 42°–40°30' N. lat.

(1) *Procedures.* The primary seasons for the whiting fishery north of 40°30' N. lat. generally will be established according to the procedures in the PCGFMP for developing and implementing annual specifications and apportionments. The season opening dates remain in effect unless changed, but will be announced annually, generally with the annual specifications and management measures.

(2) *Criteria.* The start of a primary season may be changed based on a recommendation from the Council and consideration of the following factors, if applicable: Size of the harvest guidelines for whiting and bycatch species; age/size structure of the whiting population; expected harvest of bycatch and prohibited species; availability and stock status of prohibited species; expected participation by catchers and processors; environmental conditions; timing of alternate or competing fisheries; industry agreement; fishing or processing rates; and other relevant information.

(B) *South of 40°30' N. lat.* The primary season starts on April 15 south of 40°30' N. lat.

* * * * *

(iv) *At-sea processing.* Whiting may not be processed at sea south of 42°00' N. lat. (Oregon-California border), unless by a waste-processing vessel as authorized under paragraph (a)(4)(vii) of this section.

* * * * *

(4) *Whiting—allocation*—(i) *Sectors and allocations.* The commercial harvest guideline for whiting is allocated among three sectors, as follows.

(A) *Sectors.* The catcher/processor sector is composed of catcher/processors, which are vessels that harvest and process whiting during a calendar year. 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 during a calendar year. The shoreside sector is composed of vessels that

harvest whiting for delivery to shore-based processors.

(B) *Allocations.* The allocations are: 34 percent for the catcher/processor sector; 24 percent for the mothership sector; and 42 percent for the shoreside sector. No more than 5 percent of the shoreside allocation may be taken and retained south of 42° N. lat. before the start of the primary season north of 42° N. lat. These allocations are harvest guidelines unless otherwise announced in the **Federal Register**.

(ii) *Additional restrictions on catcher/processors.*

(A) A catcher/processor may receive fish from a catcher vessel, but that catch is counted against the catcher/processor allocation unless the catcher/processor has been declared as a mothership under paragraph (a)(4)(ii)(C) of this section.

(B) A catcher/processor may not also act as a catcher vessel delivering unprocessed whiting to another processor in the same calendar year.

(C) When renewing its limited entry permit each year under § 660.333, the owner of a catcher/processor used to take and retain whiting must declare if the vessel will operate solely as a mothership in the whiting fishery during the calendar year to which its limited entry permit applies. Any such declaration is binding on the vessel for the calendar year, even if the permit is transferred during the year, unless it is rescinded in response to a written request from the permit holder. Any request to rescind a declaration must be made by the permit holder and granted in writing by the Regional Director before any unprocessed whiting has been taken on board the vessel that calendar year.

(iii) *Reaching an allocation.* If the whiting harvest guideline, commercial harvest guideline, or a sector's allocation is reached, or is projected to be reached, the following action(s) for the applicable sector(s) may be taken as provided under paragraph (a)(4)(vi) of this section and will remain in effect until additional amounts are made available the next fishing year or under paragraph (a)(4)(iv) of this section.

(A) *Catcher/processor sector.* 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.

(B) *Mothership sector.* (1) Further receiving or at-sea processing of whiting by a mothership is prohibited. No

additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a mothership may continue to process whiting that was on board before at-sea processing was prohibited.

(2) Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the mothership sector.

(C) *Shoreside sector.* Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the shoreside sector except as authorized under a trip limit specified under § 660.323(b).

(D) *Shoreside south of 42° N. lat.* If 5 percent of the shoreside allocation for whiting is taken and retained south of 42° N. lat. before the primary season for the shoreside sector begins north of 42° N. lat., then a trip limit specified under paragraph (b) of this section may be implemented south of 42° N. lat. until the northern primary season begins, at which time the southern primary season would resume.

(iv) *Reapportionments.* That portion of a sector's allocation that the Regional Director determines will not be used by the end of the fishing year shall be made available for harvest by the other sectors, if needed, in proportion to their initial allocations, on September 15 or as soon as practicable thereafter. NMFS may release whiting again at a later date to ensure full utilization of the resource. Whiting not needed in the fishery authorized under § 660.324 also may be made available.

(v) *Estimates.* Estimates of the amount of whiting harvested will be based on actual amounts harvested, projections of amounts that will be harvested, or a combination of the two. Estimates of the amount of whiting that will be used by shoreside processors by the end of the fishing year will be based on the best information available to the Regional Director from state catch and landings data, the survey of domestic processing capacity and intent, testimony received at Council meetings, and/or other relevant information.

(vi) *Announcements.* The Assistant Administrator will announce in the **Federal Register** when a harvest guideline, commercial harvest guideline, or an allocation of whiting is reached, or is projected to be reached, specifying the appropriate action being taken under paragraph (a)(4)(iii) of this section. The Regional Director will announce in the **Federal Register** any reapportionment of surplus whiting to other sectors on September 15, or as soon as practicable thereafter. In order to prevent exceeding the limits or to avoid underutilizing the resource,

prohibitions against further taking and retaining, receiving, or at-sea processing of whiting, or reapportionment of surplus whiting may be made effective immediately by actual notice to fishermen and processors, by phone, fax, Northwest Region computerized bulletin board (contact 206-526-6128), letter, press release, and/or U.S. Coast Guard Notice to Mariners (monitor channel 16 VHF), followed by publication in the **Federal Register**, in which instance public comment will be sought for a reasonable period of time thereafter. If insufficient time exists to consult with the Council, the Regional Director will inform the Council in writing of actions taken.

(vii) *Processing fish waste at sea.* A vessel that processes only fish waste (a "waste-processing vessel") is not considered a whiting processor and therefore is not subject to the allocations, seasons, or restrictions for catcher/processors or motherships while it operates as a waste-processing vessel. However, no vessel may operate as a waste-processing vessel 48 hours immediately before and after a primary season for whiting in which the vessel operates as a catcher/processor or mothership. A vessel must meet the following conditions to qualify as a waste-processing vessel:

(A) The vessel makes meal (ground dried fish), oil, or minced (ground flesh) product, but does not make, and does not have on board, surimi (fish paste with additives), fillets (meat from the side of the fish, behind the head and in front of the tail), or headed and gutted fish (head and viscera removed).

(B) The amount of whole whiting on board does not exceed the trip limit (if any) allowed under paragraph (b) of this section.

(C) Any trawl net and doors on board are stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.

(D) The vessel does not receive codends containing fish.

(E) The vessel's operations are consistent with applicable state and Federal law, including those governing disposal of fish waste at sea.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 960614176-7112-03; I.D. 041797B]

RIN 0648-A119

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Technical Amendment

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

ACTION: Final rule.

SUMMARY: NMFS announces a final rule to correct regulations implementing the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP) to clarify what records must be made available by first-level buyers upon request by an authorized officer.

EFFECTIVE DATE: May 20, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Katekaru, NMFS, (808) 973-2985 or Mr. Svein Fougner, NMFS, (562) 980-4034.

SUPPLEMENTARY INFORMATION: Upon request, a first-level buyer must allow an authorized officer to access, inspect, and copy all records relating to the harvest, sale, or transfer of management unit species taken by vessels in the fishery. The original FMP regulations at 50 CFR part 681.11 stated this explicitly.

On July 2, 1996, the regulations at 50 CFR part 681 were consolidated with regulations for fisheries off west coast states and in the western Pacific; the regulations were codified at 50 CFR part 660 (61 FR 34570). In part 660, paragraph 660.14(f)(2) was not transferred correctly from § 681.11 (i.e., text was inadvertently left out). This rule corrects that paragraph to include: The name of the vessel involved in each transaction and the owner or operator of the vessel; the amount, number, and size of each management unit species involved in each transaction; and prices paid by the buyer and proceeds to the seller in each transaction.

Classification

This final rule is issued under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C 1801 *et seq.*

In that this rule merely clarifies an existing requirement without creating