

granted for less than 12 months in a year to count as one year against the 3-year cap. In order to extend an emergency medical exemption for a succeeding year, the permit owner must submit a new request and provide documentation from a certified medical practitioner detailing why the permit owner is still unable to be onboard a fishing vessel. An emergency exemption will be conveyed in a letter from NMFS to the permit owner and is required to be on the vessel during fishing operations.

(c) *Limited entry and open access daily trip limit fisheries both north and south of 36° N. lat.* (1) Before the start of the primary season, all sablefish landings made by a vessel authorized under paragraph (a) of this section to participate in the primary season will be subject to the restrictions and limits of the limited entry daily and/or weekly trip limit fishery for sablefish, which is governed by routine management measures imposed under § 660.370(c).

(2) Following the start of the primary season, all landings made by a vessel authorized under paragraph (a) of this section to participate in the primary season will count against the primary season cumulative limit(s) associated with the permit(s) registered for use with that vessel. A vessel that is eligible to participate in the primary sablefish season may participate in the daily trip limit fishery for sablefish once that vessel's primary season sablefish limit(s) have been taken, or after the end of the primary season, whichever occurs earlier. Any subsequent sablefish landings by that vessel will be subject to the restrictions and limits of the limited entry daily and/or trip limit fishery for sablefish for the remainder of the calendar year.

(3) No vessel may land sablefish against both its primary season cumulative sablefish limits and against the daily and/or weekly trip limit fishery limits within the same 24 hour period of 0001 hours l.t. to 2400 hours l.t. If a vessel has taken all of its tier limit except for an amount that is smaller than the daily trip limit amount, that vessel's subsequent sablefish landings are automatically subject to daily and/or weekly trip limits.

(4) Vessels registered for use with a limited entry, fixed gear permit that does not have a sablefish endorsement may participate in the limited entry, daily and/or weekly trip limit fishery for as long as that fishery is open during the year, subject to routine management measures imposed under § 660.370(c). Daily and/or weekly trip limits for the limited entry fishery north and south of 36° N. lat. are provided in Tables 4 (North) and 4 (South) of this subpart.

(5) Open access vessels may participate in the open access, daily trip limit fishery for as long as that fishery is open during the year, subject to the routine management measures imposed under § 660.370(c). Daily and/or weekly trip limits for the open access fishery north and south of 36° N. lat. are provided in Tables 5 (North) and 5 (South) of this subpart.

(d) *Trip limits.* Trip and/or frequency limits may be imposed in the limited entry fishery on vessels that are not participating in the primary season under § 660.370(c). Trip and/or size limits to protect juvenile sablefish in the limited entry or open-access fisheries also may be imposed at any time under § 660.370(c). Trip limits may be imposed in the open-access fishery at any time under § 660.370(c).

[69 FR 42352, July 15, 2004, as amended at 69 FR 77032, Dec. 23, 2004; 70 FR 16149, Mar. 30, 2005; 70 FR 23045, May 4, 2005; 71 FR 10624, Mar. 2, 2006; 71 FR 24604, Apr. 26, 2006; 71 FR 78656, Dec. 29, 2006]

**§ 660.373 Pacific whiting (whiting) fishery management.**

(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 shore-based sector is composed of vessels that harvest whiting for delivery to shore-based processors.

(b) *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 § 660.370(c). The sectors are defined at § 660.370(a).

(1) *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.

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

(ii) *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.

(iii) *Primary whiting seasons.* After the start of a primary season for a sector of the whiting fishery, the season remains open for that sector until the quota is taken and the fishery season for that sector is closed by NMFS. The primary seasons for the whiting fishery are as follows:

- (A) Catcher/processor sector – May 15;
- (B) Mothership sector May 15;

(C) Shore-based sector June 15 north of 42° N. lat.; April 1 between 42° – 40°30' N. lat.

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

(3) *Trip limits in the whiting fishery.* The “per trip” limit for whiting before and after the regular (primary) season for the shore-based sector is announced in Table 3 of this subpart, and is a routine management measure under § 660.370(c). This trip limit includes any whiting caught shoreward of 100-fm (183-m) in the Eureka, CA area. The “per trip” limit for other groundfish species before, during, and after the regular (primary) season are announced in Table 3 (North) and Table 3 (South) of this subpart and apply as follows:

(i) During the groundfish cumulative limit periods both before and after the primary whiting season, vessels may use either small and/or large footrope gear, but are subject to the more restrictive trip limits for those entire cumulative periods.

(ii) During the primary whiting season for a sector of the fishery, then the midwater trip limits apply and are additive to the trip limits for other groundfish species for that fishing period (i.e., vessels are not constrained by the lower midwater limits and can harvest up to a footrope-specific trawl limit plus the midwater trawl limit per species or species group for that cumulative limit period).

(4) *Bycatch limits in the whiting fishery.* The bycatch limits for the whiting fishery may be used in season to close a sector or sectors of the whiting fishery to achieve the rebuilding of an overfished or depleted stock, under routine management measure authority at § 660.370(c)(1)(ii). These limits are routine management measures under § 660.370(c) and, as such, may be adjusted inseason or may have new species added to the list of those with bycatch limits. The whiting fishery bycatch limits for the sectors identified in § 660.323(a) are: 4.7 mt of canary rockfish; 220 mt of widow rockfish; and 25 mt of darkblotched rockfish.

(c) *Closed areas.* Pacific whiting may not be taken and retained in the following portions of the fishery management area:

(1) *Klamath River Salmon Conservation Zone.* The ocean area surrounding the Klamath River mouth bounded on the north by 41°38.80' N. lat. (approximately 6 nm north of the Klamath River mouth), on the west by 124°23' W. long. (approximately 12 nm from shore), and on the south by 41°26.80' N. lat. (approximately 6 nm south of the Klamath River mouth).

(2) *Columbia River Salmon Conservation Zone.* The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nm due west from North Head along 46°18' N. lat. to 124°13.30' W. long., then southerly along a line of 167 True to 46°11.10' N. lat. and 124°11' W. long. (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty.

(3) *Ocean Salmon Conservation Zone.* All waters shoreward of a boundary line approximating the 100 fm (183 m) depth contour. Latitude and longitude coordinates defining the boundary line approximating the 100 fm (183 m) depth contour are provided at § 660.393(a). This closure will be implemented through automatic action, defined at 660.370(d), when NMFS projects the Pacific whiting fishery may take in excess of 11,000 Chinook within a calendar year.

(d) *Eureka area trip limits.* Trip landing or frequency limits may be established, modified, or removed under § 660.370 or § 660.373, specifying the amount of Pacific whiting that may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fathom (183 m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka area (from 43 00' to 40 30' N. lat.). Unless otherwise specified, no more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fm (183 m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka management area (defined at § 660.302).

(e) *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 (i) of this section.

(f) *Time of day.* Pacific whiting may not be taken and retained by any vessel in the fishery management area south of 42°00' N. lat. between 0001 hours to one-half hour after official sunrise (local time). During this time south of 42°00' N. lat., trawl doors must be on board any vessel used to fish for whiting and the trawl must be attached to the trawl doors. Official sunrise is determined, to the nearest 5° lat., in The Nautical Almanac issued annually by the Nautical Almanac Office, U.S. Naval Observatory, and available from the U.S. Government Printing Office.

(g) *Bycatch reduction and full utilization program for at-sea processors (optional).* If a catcher/processor or mothership in the whiting fishery carries more than one NMFS-approved observer for at least 90 percent of the fishing days during a cumulative trip limit period, then groundfish trip limits may be exceeded without penalty for that cumulative trip limit period, if the conditions in paragraph (g)(1) of this section are met. For purposes of this program, "fishing day" means a 24-hour period, from 0001 hours through 2400 hours, local time, in which fishing gear is retrieved or catch is received by the vessel, and will be determined from the vessel's observer data, if available. Changes to the number of observers required for a vessel to participate in the program will be announced prior to the start of the fishery, generally concurrent with the harvest specifications and management measures. Groundfish consumed on board the vessel must be within any applicable trip limit and recorded as retained catch in any applicable logbook or report. [Note: For a mothership, non-whiting groundfish landings are limited by the cumulative landings limits of the catcher vessels delivering to that mothership.]

(1) *Conditions.* Conditions for participating in the voluntary full utilization program are as follows:

(i) All catch must be made available to the observers for sampling before it is sorted by the crew.

(ii) Any retained catch in excess of cumulative trip limits must either be: Converted to meal, mince, or oil products, which may then be sold; or donated to a bona fide tax-exempt hunger relief organization (including food banks, food bank networks or food bank distributors), and the vessel operator must be able to provide a receipt for the donation of groundfish landed under this program from a tax-exempt hunger relief organization immediately upon the request of an authorized officer.

(iii) No processor or catcher vessel may receive compensation or otherwise benefit from any amount in excess of a cumulative trip limit unless the overage is converted to meal, mince, or oil products. Amounts of fish in excess of cumulative trip limits may only be sold as meal, mince, or oil products.

(iv) The vessel operator must contact the NMFS enforcement office nearest to the place of landing at least 24 hours before landing groundfish in excess of cumulative trip limits for distribution to a hunger relief agency. Cumulative trip limits and a list of NMFS enforcement offices are found on the NMFS, Northwest Region homepage at [www.nwr.noaa.gov](http://www.nwr.noaa.gov).

(v) If the meal plant on board the whiting processing vessel breaks down, then no further overages may be retained for the rest of the cumulative trip limit period unless the overage is donated to a hunger relief organization.

(vi) Prohibited species may not be retained.

(vii) Donation of fish to a hunger relief organization must be noted in the transfer log (Product Transfer/Offloading Log (PTOL)), in the column for total value, by entering a value of “0” or “donation,” followed by the name of the hunger relief organization receiving the fish. Any fish or fish product that is retained in excess of trip limits under this rule, whether donated to a hunger relief organization or converted to meal, must be entered separately on the PTOL so that it is distinguishable from fish or fish products that are retained under trip limits. The information on the Mate’s Receipt for any fish or fish product in excess of trip limits must be consistent with the informa-

tion on the PTOL. The Mate’s Receipt is an official document that states who takes possession of offloaded fish, and may be a Bill of Lading, Warehouse Receipt, or other official document that tracks the transfer of offloaded fish or fish product. The Mate’s Receipt and PTOL must be made available for inspection upon request of an authorized officer throughout the cumulative limit period during which such landings occurred and for 15 days thereafter.

(h) *Additional restrictions on catcher/processors.* (1) 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 (h)(3) of this section.

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

(3) When renewing its limited entry permit each year under §660.335, 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 Administrator before any unprocessed whiting has been taken on board the vessel that calendar year.

(i) *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

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following conditions to qualify as a waste-processing vessel:

(1) 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).

(2) The amount of whole whiting on board does not exceed the trip limit (if any) allowed under §660.370(c).

(3) 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.

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

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

(j) *2007 Pacific whiting fishery.* (1) In general, a person may fish for or land whiting or process whiting at sea in a sector of the whiting fishery (as defined at §660.373(a)) between May 17, 2007 and November 13, 2007 only with a vessel that has history of participation in that sector of the whiting fishery in the period after December 31, 1996, and prior to January 1, 2007. Specifically:

(i) To harvest whiting in the shore-based sector between May 17, 2007 and November 13, 2007, a vessel must have harvested for delivery to a shore-based processor at least 4000 lbs (1.81 mt) of whiting in a single trip during the primary season (as defined at §660.373(b)) in the period after December 31, 1996, and prior to January 1, 2007. State fish ticket data collected by the states and maintained by Pacific States Marine Fisheries Commission's Pacific Fishery Information System is the sole evidence to demonstrate participation in this sector.

(ii) To harvest whiting in the mothership sector between May 17, 2007 and November 13, 2007, a vessel must have harvested whiting for delivery to motherships in the period after December 31, 1996, and prior to January 1, 2007. Observer data collected by the Northwest Fisheries Science Center and by North Pacific Groundfish Ob-

server Program as organized under the Alaska Fisheries Science Center's NORPAC database is the sole evidence to demonstrate participation in this sector.

(iii) To process whiting in the mothership sector between May 17, 2007 and November 13, 2007, a vessel must have processed at sea, but not harvested, whiting in the period after December 31, 1996, and prior to January 1, 2007. Observer data collected by the Northwest Fisheries Science Center and by North Pacific Groundfish Observer Program as organized under the Alaska Fisheries Science Center's NORPAC database is the sole evidence to demonstrate participation in this sector.

(iv) to harvest and process whiting in the catcher-processor sector between May 17, 2007 and November 13, 2007, a vessel must have harvested and processed whiting in the period after December 31, 1996, and prior to January 1, 2007. Observer data collected by Northwest Fisheries Science Center and by North Pacific Groundfish Observer Program as organized under the Alaska Fisheries Science Center's NORPAC database is the sole evidence to demonstrate participation in this sector.

(2) [Reserved]

[69 FR 42353, July 15, 2004, as amended at 69 FR 57882, Sept. 28, 2004; 69 FR 77033, Dec. 23, 2004; 70 FR 13119, Mar. 18, 2005; 70 FR 22812, May 3, 2005; 70 FR 58071, Oct. 5, 2005; 71 FR 29262, May 22, 2006; 71 FR 37844, July 3, 2006; 71 FR 58293, Oct. 3, 2006; 71 FR 66140, Nov. 13, 2006; 71 FR 78656, Dec. 29, 2006; 72 FR 13044, Mar. 20, 2007; 72 FR 19398, Apr. 18, 2007; 72 FR 53167, Sept. 18, 2007]

EFFECTIVE DATE NOTE: At 72 FR 27765, May 17, 2007, §660.373 was amended by adding paragraph (j), effective May 14, 2007, through November 13, 2007.

EFFECTIVE DATE NOTE: At 72 FR 50911, Sept. 5, 2007, §660.373 was amended by redesignating paragraph (j) as (k), and a new paragraph (j) was added, effective Oct. 5, 2007. For the convenience of the user, the added text is set forth as follows:

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(j) *Additional requirements for participants in the Pacific Whiting Shoreside fishery*—(1) *Pacific whiting shoreside first receiver responsibilities*—(i) *Weights and measures*. All groundfish weights reported on fish tickets must be recorded from scales with appropriate weighing capacity that ensures accuracy for the amount of fish being weighed. For example: amounts of fish less than 1,000 lb (454 kg) should not be weighed on scales that have an accuracy range of 1,000 lb–7,000 lb (454 - 3,175 kg) and are therefore not capable of accurately weighing amounts less than 1,000 lb (454 kg).

(ii) *Electronic fish tickets*—(A) *Hardware and software requirements*. First receivers using the electronic fish ticket software provided by Pacific States Marine Fish Commission are required to meet the hardware and software requirements below. Those whiting first receivers who have NMFS-approved software compatible with the standards specified by Pacific States Marine Fish Commission for electronic fish tickets are not subject to any specific hardware or software requirements.

(1) A personal computer with Pentium 75-MHz or higher. Random Access Memory (RAM) must have sufficient megabyte (MB) space to run the operating system, plus an additional 8 MB for the software application and available hard disk space of 217 MB or greater. A CD-ROM drive with a Video Graphics Adapter(VGA) or higher resolution monitor (super VGA is recommended).

(2) Microsoft Windows 2000 (64 MB or greater RAM required), Windows XP (128 MB or greater RAM required) or later operating system.

(3) Microsoft Access 2003 or newer for:

(i) *NMFS Approved Software Standards and Internet Access*.

The Pacific whiting shoreside first receiver is responsible for obtaining, installing and updating electronic fish tickets software either provided by Pacific States Marine Fish Commission, or compatible with the data export specifications specified by Pacific States Marine Fish Commission and for maintaining internet access sufficient to transmit data files via email. Requests for data export specifications can be submitted to: Attn: Frank Lockhart, National Marine Fisheries Service, Northwest Region Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA 98115, or via email to [frank.lockhart@noaa.gov](mailto:frank.lockhart@noaa.gov).

(ii) *Maintenance*. The Pacific whiting shoreside first receiver is responsible for ensuring that all hardware and software required under this subsection are fully operational and functional whenever the Pacific whiting primary season deliveries are accepted.

(2) Pacific whiting shoreside first receivers and processors that receive groundfish species other than Pacific whiting in excess of trip limits from Pacific whiting shoreside

vessels fishing under an EFP issued by the Assistant Regional Administrator are authorized to possess the catch.

(3) Vessel owners and operators, first receivers, or shoreside processor owners, or managers may contact NMFS in writing to request assistance in improving data quality and resolving monitoring issues. Requests may be submitted to: Attn: Frank Lockhart, National Marine Fisheries Service, Northwest Region Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA 98115, or via email to [frank.lockhart@noaa.gov](mailto:frank.lockhart@noaa.gov).

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**§ 660.380 Groundfish harvest specifications.**

Fishery specifications include ABCs, the designation of OYs (which may be represented by harvest guidelines (HGs) or quotas for species that need individual management,) and the allocation of commercial OYs between the open access and limited entry segments of the fishery. These specifications include fish caught in state ocean waters (0–3 nm offshore) as well as fish caught in the EEZ (3–200 nm offshore). Specifications and management measures are provided as Tables 1a and 1b, and 2a and 2b of this subpart.

[69 FR 77033, Dec. 23, 2004]

**§ 660.381 Limited entry trawl fishery management measures.**

(a) *General*. Limited entry trawl vessels include those vessels registered to a limited entry permit with a trawl endorsement. Most species taken in limited entry trawl fisheries will be managed with cumulative trip limits (see trip limits in Tables 3 (North) and 3 (South) of this subpart), size limits (see § 660.370 (h)(5)), seasons (see Pacific whiting at § 660.373), gear restrictions (see paragraph (b) of this section) and closed areas (see paragraph (d) of this section and §§ 660.390 through 660.399). The trawl fishery has gear requirements and trip limits that differ by the type of trawl gear on board and the area fished. Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (d)(1) of this section and § 660.390). The trip limits in Table 3 (North) and Table 3 (South) of