

Populations” (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

**VII. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 8, 2009.  
**Lois Rossi,**  
*Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.  
 ■ 2. Section 180.478 is amended in paragraph (a) by revising the introductory text, by revising the entries for Corn, field, forage and Corn, field, stover, and by alphabetically adding entries for Grain, aspirated fractions; Soybean, forage; Soybean, hay; Soybean, hulls; and Soybean, seed to the table to read as follows:

**§ 180.478 Rimsulfuron; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the herbicide rimsulfuron, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only rimsulfuron, N-((4,6-dimethoxypyrimidin-2-yl)aminocarbonyl)-3-(ethylsulfonyl)-2-pyridinesulfonamide, in or on the commodities.

Commodity	Parts per million
* * * Corn, field, forage	* * 0.4
* * * Corn, field, stover	* * 2.5
* * * Grain, aspirated fractions	* * 4.5
* * * Soybean, forage	* * 0.25
Soybean, hay	1.2
Soybean, hulls	0.04
Soybean, seed	0.01
* * *	* *

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 [FR Doc. E9–30045 Filed 12–17–09; 8:45 am]  
**BILLING CODE 6560–50–S**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

[Docket No. 090428799–9802–01]

RIN 0648–XT30

**Magnuson-Stevens Act Provisions; Fisheries Off West The Coast States; Pacific Coast Groundfish Fishery; Pacific Whiting Allocation; Pacific Whiting Seasons**

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

**ACTION:** Temporary rule; reapportionment of surplus Pacific whiting allocation; request for comments.

**SUMMARY:** This document announces the reapportionment of 1,325 mt of Pacific whiting from the shore-based sector to the catcher/processor sector.

**DATES:** The reapportionment of whiting is effective from 1200 local time (l.t.) December 7, 2009, until December 31, 2009, unless modified, superseded or rescinded. Comments will be accepted through January 4, 2010.

**ADDRESSES:** You may submit comments, identified by 0648–XT30 and submitted by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- Fax: 206–526–6737, Attn: Becky Renko
- Mail: Barry A. Thom, Acting Administrator, Northwest Region, NMFS, Attn: Becky Renko, 7600 Sand Point Way NE, Seattle, WA 98115–0070.

**FOR FURTHER INFORMATION CONTACT:** Becky Renko, Northwest Region, NMFS, at 206 526 6110.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

This notice is accessible via the Internet at the Office of the **Federal Register’s** Website at <http://www.gpoaccess.gov/fr/index.html>.

**Background**

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.

Regulations at 50 CFR 660.323(a)(2) divide the commercial Pacific whiting OY into separate allocations for the catcher/processor, mothership, and shore-based sectors. Each commercial sector receives a portion of the commercial OY. Regulations at 50 CFR 660.323 (c) provide for the reapportionment of Pacific whiting that the Regional Administrator determines will not be used during the year.

The shore-based sector was closed on July 7, 2009 (July 28, 2008; 74 FR 37176). The best available information on July 6, 2009 indicated that the 42,063 mt allocation for the shore-based sector would be reached by 10:00 a.m. on July 7, 2009. Data received after the closure indicated that the fishing rates slowed considerably in the last few days of the fishery, resulting in 1,382 mt of unharvested shore-based allocation.

This document announces the reapportionment of 1,325 mt of shore-based allocation to the catcher/processor sector resulting in the following commercial allocations for 2009: catcher/processor 35,376 mt, mothership 24,034 mt, and shore-based 40,738 mt. Facsimiles directly to fishing businesses and postings on the Northwest Regions internet site were used to provide actual notice to the affected fishers.

#### Classifications

The determinations to take these actions were based on the most recent data available. The aggregate data upon which the determinations were based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours.

This action is authorized by the regulations implementing the FMP. The Assistant Administrator for Fisheries, NMFS, finds good cause to waive the requirement to provide prior notice and opportunity for comment on these actions pursuant to 5 U.S.C. 553 (3)(b)(B), because providing prior notice and opportunity would be impracticable. It would be impracticable because of the need for immediate action. NMFS has determined that providing an opportunity for prior notice and comment would be impractical and contrary to public interest. Delay of this action would leave Pacific whiting unharvested. In addition, the catcher/processors needed an immediate reallocation if they were to keep their workers employed. For these same reasons the agency finds good cause to waive the 30-day delay in effectiveness. These actions are taken

under the authority of 50 CFR 660.323(c), and are exempt from review under Executive Order 12866. Actual notice of the reapportionments was provided to the affected fishers.

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

Dated: December 15, 2009.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. E9-30175 Filed 12-17-09; 8:45 am]  
**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0912011420-91423-01]

RIN 0648-AY39

#### Fisheries of the Exclusive Economic Zone Off Alaska, Steller Sea Lions; Correction

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

**ACTION:** Correcting amendments.

**SUMMARY:** This action makes a correction to regulations at 50 CFR part 679. It corrects a final rule that erroneously removed regulations in 50 CFR part 679 concerning the harvest limit area for Atka mackerel in the Aleutian Islands. NMFS intended this final rule to modify regulations detailing management of Atka mackerel total allowable catch. However, due to incorrect instructions in the regulatory text, NMFS inadvertently removed the regulations governing Atka mackerel management in the harvest limitation area. This correcting amendment reinstates those regulations.

**DATES:** Effective December 18, 2009.

**FOR FURTHER INFORMATION CONTACT:** Glenn Merrill, 907-586-7228.

#### SUPPLEMENTARY INFORMATION:

##### Background

Groundfish fisheries in the Bering Sea and Aleutian Islands management area (BSAI) are managed under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Area (FMP). The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Regulations implementing the FMP appear at 50 CFR part 679. General

regulations governing U.S. fisheries also appear at 50 CFR part 600.

NMFS has determined that an error exists in the regulations at § 679.20(a)(8)(ii). This final rule will correct an error that resulted when NMFS inadvertently removed regulations that govern the maximum amount of Atka mackerel total allowable catch (TAC) that may be taken from the harvest limitation area (HLA) in the BSAI. NMFS published a final rule implementing HLA regulations on January 2, 2003 (68 FR 204), to ensure that fishery management of Atka mackerel in the BSAI is not likely to jeopardize the continued existence or adversely modify or destroy designated critical habitat for the Endangered Species Act (ESA)-listed western distinct population segment of Steller sea lions (*Eumetopias jubatus*). These regulations primarily focused on spatial and temporal harvest restrictions on Steller sea lion prey species, including Atka mackerel.

On September 14, 2007, NMFS published a final rule that attempted to modify regulations at 50 CFR 679.20(a)(8)(ii) to clarify the allocation of Atka mackerel between non-American Fisheries Act trawl catcher/processors, commonly known as the Amendment 80 sector, and other trawl vessels, commonly known as the BSAI trawl limited access sector (72 FR 52668). It was NMFS's intent to modify only regulations in the introductory text at § 679.20(a)(8)(ii) to address the allocation of Atka mackerel between the Amendment 80 sector and the BSAI trawl limited access sector, and not regulations in § 679.20(a)(8)(ii)(A) through (C) that established spatial and temporal harvest restrictions. However, the instructional text in the final rule published on September 14, 2007, inadvertently removed regulations in § 679.20(a)(8)(ii)(A) through (C) (72 FR 52719). NMFS's intent to keep regulations in § 679.20(a)(8)(ii)(A) through (C) intact was indicated in the preamble to the September 14, 2007, final rule in response to a public comment. NMFS stated that "NMFS did not propose regulations that would have modified existing regulations concerning management of Atka mackerel in the HLA as part of the [September 14, 2007 final rule]. NMFS will manage the HLA fisheries in compliance with existing regulations." (72 FR 52705). This correcting amendment corrects the inadvertent removal of regulations in § 679.20(a)(8)(ii)(A) through (C), and reinstates them.