

II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 724/2010

of 12 August 2010

laying down detailed rules for the implementation of real-time closures of certain fisheries in the North Sea and Skagerrak

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 ⁽¹⁾, and in particular 51(3) thereof,

Whereas:

(1) Articles 51, 52 and 53 of Regulation (EC) No 1224/2009 establish rules and procedures regarding the adoption of real-time closures by Member States. According to those provisions, Member States shall temporarily close the fishery in a certain area if a trigger catch level of a particular species, or group of species, has been reached.

(2) The Agreed Record of the Conclusions between the European Union and Norway of 3 July 2009 lays down the procedures and sampling methodology for the adoption of real-time closures in the North Sea and Skagerrak. Those provisions were transposed into Union law by way of Council Regulation (EC) No 753/2009 ⁽²⁾, amending Regulation (EC) No 43/2009 and fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks.

(3) Those provisions thus introduced in Regulation (EC) No 43/2009 applied to cod, haddock, saithe and whiting caught by any fishing gear other than pelagic trawls, purse seines, driftnets and jiggers targeting herring, mackerel and horse mackerel, and pots, scallop dredges and gillnets. In addition, they specified, *inter alia*, the obligations of the coastal Member States regarding the decisions on real-time closures and the information to be provided to other Member States and/or third countries concerned and the Commission.

(4) Considering that the concerned provisions ceased to apply as from 1 January 2010, it is necessary to provide for the transposition of the Agreed Record by way of detailed rules implementing Articles 51, 52 and 53 of Regulation (EC) No 1224/2009 in the North Sea and Skagerrak.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes detailed rules for the implementation of real-time closures of certain fisheries in the North Sea and Skagerrak in accordance with Articles 51, 52 and 53 of Regulation (EC) No 1224/2009.

Article 2

Scope

This Regulation shall apply to cod, haddock, saithe and whiting caught in the North Sea and Skagerrak by any fishing gear other than:

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ OJ L 214, 19.8.2009, p. 1.

- (a) pelagic trawls, purse seines, driftnets and jiggers targeting herring, mackerel, and horse mackerel;
- (b) pots;
- (c) scallop dredges;
- (d) gillnets.

Article 3

Definitions

For the purpose of this Regulation, the following definitions shall apply:

- (a) ICES (International Council for the Exploration of the Sea) zones means zones as defined in Council Regulation (EEC) No 3880/91 ⁽¹⁾;
- (b) 'Skagerrak' means the area bounded on the west by a line drawn from the Hanstholm lighthouse to the Lindesnes lighthouse and on the south by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse and from this point to the nearest point on the Swedish coast;
- (c) 'North Sea' means ICES zone IV;
- (d) 'haul' means the act between the deployment and retrieval of a net.

Article 4

Catch trigger level

1. The catch level which shall trigger real-time closures of fisheries, as referred to in Article 51 of Regulation (EC) No 1224/2009, shall be 15 % by weight of juveniles as compared to the total of the four species referred to in Article 2, in a haul.
2. However, if the quantity of cod in the sample exceeds 75 % as compared to the total of the four species in a haul, the catch trigger level shall be 10 % by weight of juveniles as compared to the total of the four species in a haul.

Article 5

Definition of juveniles

For the purpose of this Regulation, 'juveniles' means:

- specimens of cod smaller than 35 cm,
- specimens of haddock smaller than 30 cm,
- specimens of saithe smaller than 35 cm,
- specimens of whiting smaller than 27 cm.

Article 6

Calculation of the catch level of juveniles

1. For the purpose of calculating the catch level of juveniles in accordance with Article 51(2) of Regulation (EC) No

1224/2009, the coastal Member State and/or the Member State participating in a joint operation under a Joint Deployment Plan shall identify areas where there is a risk of reaching the trigger level.

2. In the areas identified in accordance with paragraph 1, the coastal Member State and/or the Member State participating in a joint operation under a Joint Deployment Plan shall carry out inspections to measure whether the percentage of juveniles reaches the trigger level, including through Joint Deployment Plans.

3. When carrying out the inspections referred to in paragraph 2, the coastal Member State and/or the Member State participating in a joint operation under a Joint Deployment Plan shall:

- (a) take and measure samples of cod, haddock, saithe and whiting from a haul in accordance with provisions in Annex I;
- (b) document each sampling by completing a sampling report as set out in Annex II and send it to the coastal State.

4. Member States may invite other countries undertaking inspections in the area concerned to carry out samples on their behalf.

5. The coastal Member State concerned shall publish without delay on its website the position at which the sample referred to in paragraph 3(a) was taken, the time it was taken and the quantity of juveniles as a percentage of the total catch of cod, haddock, saithe and whiting in weight. The percentage shall be published both by species and as a total of the four species.

Article 7

Closure of fisheries

1. When a sample referred to in Article 6(3)(a) shows a percentage of juveniles that reaches the trigger level, the coastal Member State concerned shall prohibit fishing in the area concerned with any fishing gear other than:

- (a) pelagic trawls, purse seines, driftnets and jiggers targeting herring, mackerel, and horse mackerel;
- (b) pots;
- (c) scallop dredges; and
- (d) gillnets,

in accordance with Article 53 of Regulation (EC) No 1224/2009.

2. The area to be closed in accordance with paragraph 1 shall be defined on the basis of the following criteria:

⁽¹⁾ OJ L 365, 31.12.1991, p. 1.

- (a) the area shall have 4, 5 or 6 joining points;
- (b) the midpoint of the fishing operation or operations with samples above the trigger level shall equal the midpoint of the closed area;
- (c) when the closed area is based on one sample and lies outside the waters up to 12 miles from the baseline of the coastal Member State, it shall be 50 square miles.

3. The real-time closure referred to in paragraph 1 shall:

- (a) enter into force 12 hours following the decision by the concerned Member State; and
- (b) apply for 21 days after which it shall automatically cease to apply at midnight UTC.

4. If the area to be closed includes zones under the jurisdiction or sovereignty of neighbouring third countries, the coastal Member State concerned shall without delay inform those third countries.

Article 8

Information

1. For the purpose of Article 53(5) of Regulation (EC) No 1224/2009, the coastal Member State shall without delay make the details of the real-time closure decided in accordance with

Article 7 available on its website and inform of the real-time closure:

- (a) the vessels in the vicinity of the area to the extent possible;
- (b) the Commission;
- (c) the Fisheries Monitoring Centres ('FMCs'), as referred to in Article 3 of Commission Regulation (EC) No 2244/2003 ⁽¹⁾; and
- (d) the other Member States and third countries whose fishing vessels are authorised to operate in the area concerned.

2. Member States shall take the necessary measures to ensure that their FMCs inform the vessels flying their flag that are affected by the real-time closure.

3. For the purpose of Article 53(6) of Regulation (EC) No 1224/2009, upon request, the coastal Member State concerned shall provide the Commission with the detailed sampling reports and justifications underlying the real-time closure decided in accordance with Article 7.

Article 9

Entry into force

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 12 August 2010.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 333, 20.12.2003, p. 17.

ANNEX I

Sampling Methodology

Samples shall be taken and measured in accordance with following provisions.

1. Whenever possible, samples shall be taken and measured in close cooperation with the master of fishing vessel and his crew. The master of fishing vessel and his crew shall be encouraged to participate in the process. They shall also be encouraged to share any information that could be relevant with respect to the delimitation of a closed area.
 2. The total catch in the haul shall be estimated.
 3. A sample shall be taken when it is estimated that at least 300 kg of cod, haddock, saithe and whiting are present in one haul.
 - (a) The minimum size of the sample shall be 200 kg of cod, haddock, saithe and whiting.
 - (b) The sample must be taken in such a way that it reflects the catch composition with respect to the four species.
 - (c) When appropriate due to the size of the catch the sample shall be taken in the beginning, the middle and the end of the catch.
 4. The quantity of juveniles shall be calculated as a percentage by species and as a total of all four species.
 5. The sampling report shall be duly completed immediately after the sample has been measured. The report shall then be sent to the coastal State.
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ANNEX II

REAL-TIME CLOSURES – SAMPLING REPORT TO COASTAL STATE								
JUVENILES OF COD, HADDOCK, SAITHE AND WHITING								
Inspection/ observation details	Inspection platform	Inspector/observer name	Inspector/observer name	Date and time ⁽¹⁾ of inspection/observation	Position ⁽²⁾ of inspection/observation			
Fishing vessel details	Name	Call sign	Registration number	Flag state	Type of gear	Mesh size mm		
Fishing vessel details (Pair trawler)	Name	Call sign	Registration number	Flag state	Type of gear	Mesh size mm		
Fishing operation details	Start	Date and time ⁽¹⁾	Position ⁽²⁾		Duration of fishing operation ⁽³⁾	Midpoint of fishing operation ⁽²⁾		
	Stop	Date and time ⁽¹⁾	Position ⁽²⁾					
Catch details (in weight)	Estimated total catch in the haul (kg)							
	Size of sample (kg of cod, haddock saithe and whiting in the haul)							
	Cod		Haddock		Saithe		Whiting	
	Total		Total		Total		Total	
	Juveniles		Juveniles		Juveniles		Juveniles	
	%		%		%		%	
	All four species total							
	All four species juveniles							
All four species %								
Observations and additional information	Observations made by the inspector/observer during the inspection including non-mandatory use of selective gears. Additional information from other sources, e.g. received from master. If relevant, advice with respect to the delimiting of a closed area (min. 4, max. 6 joining points).							
Inspector Signature	Not required if completed electronically and transmitted to coastal State by e-mail.							
⁽¹⁾ dd/mm/yy hh mm (local time 24 hours). ⁽²⁾ e.g. 56°24' N 01°30' E. ⁽³⁾ hh mm.								