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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 160126053-6398-02]

RIN 0648-XF230

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast

**Groundfish Fishery; 2016 Tribal Fishery Allocations for Pacific Whiting; Reapportionment
Between Tribal and Non-tribal Sectors**

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

ACTION: Reapportionment of tribal Pacific whiting allocation.

SUMMARY: This document announces the reapportionment of 34,000 metric tons (mt) of Pacific whiting from the tribal allocation to the non-tribal commercial fishery sectors via automatic action on September 15, 2016, in order to allow full utilization of the Pacific whiting resource.

DATES: The reapportionment of Pacific whiting was applicable from 12 noon local time, September 15, 2016, until December 31, 2016. Comments will be accepted through [*insert date 15 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2016-0009 by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal at www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0009, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- Mail: Barry A. Thom., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070, Attn: Miako Ushio.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Miako Ushio (West Coast Region, NMFS), phone: 206-526-4644 or e-mail: miako.ushio@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This document is accessible via the Internet at the Office of the Federal Register's Website at <http://www.gpo.gov/fdsys/search/home.action>. Background information and documents are available at the Pacific Fishery Management Council's website at <http://www.pcouncil.org/>.

Background

Pacific Whiting

Pacific whiting (*Merluccius productus*) is a very productive species with highly variable recruitment (the biomass of fish that mature and enter the fishery each year) and a relatively short life span when compared to other groundfish species. Pacific whiting has the largest (by volume) annual allowable harvest levels of the more than 90 groundfish species managed under the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. The coastwide Pacific whiting stock is managed jointly by the United States (U.S.) and Canada, and mature Pacific whiting are commonly available to vessels operating in U.S. waters from April through December. Background on the stock assessment for and the establishment of the 2016 Total Allowable Catch (TAC) for Pacific whiting is provided in the final rule for the 2016 Pacific whiting harvest specifications, published May 16, 2016 (81 FR 30203). Pacific whiting is allocated to the Pacific Coast treaty tribes (tribal fishery), and to three non-tribal commercial sectors: the catcher/processor cooperative (C/P Coop), the mothership cooperative (MS Coop), and the Shorebased Individual Fishery Quota (IFQ) Program.

This document announces the reapportionment of 34,000 mt of Pacific whiting from the tribal allocation to the non-tribal commercial sectors, which was applicable on September 15, 2016. Regulations at §660.131(h) contain provisions that allow the Regional Administrator to reapportion Pacific whiting from the tribal allocation, specified at § 660.50, that will not be harvested by the end of the fishing year to other sectors.

Pacific Whiting Reapportionment

For 2016, the Pacific Coast treaty tribes were allocated 64,322 mt of Pacific whiting.

The best available information at the time, indicated that there had been no harvest by the tribes to date, and at least 34,000 mt of the tribal allocation would not be harvested by December 31, 2016. To allow for full utilization of the resource, NMFS reapportioned 34,000 mt to the Shorebased IFQ Program, C/P Coop and MS Coop in proportion to each sector’s original allocation on that date. Reapportioning this amount was expected to allow for greater attainment of the TAC while not limiting tribal harvest opportunities for the remainder of the year. On September 15, 2016, emails sent directly to fishing businesses and individuals, and postings on the West Coast Region’s internet site were used to provide actual notice to the affected fishers. Reapportionment was effective the same day as the notice. NMFS waited to publish this **Federal Register** notice until the 2016 fishing year had ended, and there was no longer the possibility of a second reapportionment.

Amounts of Pacific whiting available for 2016 before and after the reapportionment

were:

Sector	Initial 2016 Allocation (mt)	Final 2016 Allocation (mt)
Tribal	64,322	30,322
C/P Coop	102,589	114,149
MS Coop	72,415	80,575
Shorebased IFQ Program	126,727	141,007

Classification

The Assistant Administrator for Fisheries, NOAA (AA), found that good cause exists for

reapportionment of whiting without affording prior notice and opportunity for public comment pursuant to 5 U.S.C. 553(b)(B) because such notification would be impracticable and contrary to the public interest. NMFS had insufficient time to provide prior notice and the opportunity for public comment between the time the information about the progress of the fishery needed to make this determination became available and the time at which fishery modifications had to be implemented in order to allow fishers access to the available fish during the remainder of the fishing season. For the same reasons, the AA also found good cause to waive the 30-day delay in effectiveness for these actions, required under 5 U.S.C. 553(d)(3).

These actions are authorized by §§660.55(i), 660.60(d) and 660.131(h) and are exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq* and 16 U.S.C. 7001 *et seq*.

Dated: March 3, 2017.

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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