

Area I Access Area, one trip in the Nantucket Lightship Access Area, and three trips in the Elephant Trunk Access Area.

(C) *Part-time scallop vessels.* In the 2007 fishing year, a part-time scallop vessel may take one trip in the Closed Area I Access Area and one trip in the Nantucket Lightship Access Area; or one trip in the Closed Area I Access Area and one trip in the Elephant Trunk Access Area; or one trip in the Nantucket Lightship Access Area and one trip in the Elephant Trunk Access Area; or two trips in the Elephant Trunk Access Area.

(D) *Occasional scallop vessels.* An occasional scallop vessel may take one trip in the 2007 fishing year into any of the Access Areas described in § 648.59 that is open during the specified fishing years.

(E) *Hudson Canyon Access Area trips.* In addition to the number of trips specified in paragraphs (a)(3)(i) (B) and (C) of this section, vessels may fish remaining Hudson Canyon Access Area trips allocated for the 2005 fishing year in the Hudson Canyon Access Area in the 2006 and/or 2007 fishing year, as specified in § 648.59(a)(3). The maximum number of trips that a vessel could take in the Hudson Canyon Access Area in the 2005 fishing year was three trips, unless a vessel acquired additional trips through an authorized one-for-one exchange as specified in paragraph (a)(3)(ii) of this section. Full-time scallop vessels were allocated three trips into the Hudson Canyon Access Area. Part-time vessels were allocated two trips that could be distributed among Closed Area I, Closed Area II, and the Hudson Canyon Access Areas, not to exceed one trip in the Closed Area I or Closed Area II Access Areas. Occasional vessels were allocated one trip that could be taken in any Access Area that was open in the 2005 fishing year.

(ii) \* \* \*

(B) Limited access scallop vessels involved in an exchange of Closed Area II and/or Nantucket Lightship Closed Area Access Area trips for the 2006 fishing year, and Elephant Trunk Access Area trips for the 2007 fishing year shall be subject to a reduction of the vessels' allocated trips so that the total number of allocated Elephant Trunk Access Area trips between two vessels that were involved in such an exchange shall be six for full-time vessels and four for part-time vessels in the 2007 fishing year. Reductions will be applied equally to both vessels' resulting Elephant Trunk Access Area allocation for the 2007 fishing year after the exchange is taken into account, unless the vessel

giving Elephant Trunk Access Area trips to another vessel has one or zero Elephant Trunk Access Area trips remaining after the exchange. In such a case, the vessel that received the Elephant Trunk Access Area trips will be subject to a reduction of up to four Elephant Trunk Access Area trips.

\* \* \* \* \*

(5) \* \* \*

(i) *Scallop possession limits.* Unless authorized by the Regional Administrator, as specified in paragraphs (c) and (d) of this section, after declaring a trip into a Sea Scallop Access Area, a vessel owner or operator of a limited access scallop vessel may fish for, possess, and land, per trip, scallops, up to the maximum amounts specified in paragraphs (a)(5)(i)(A) and (B) of this section. No vessel declared into the Elephant Trunk Access Area as described in § 648.59(e) may possess more than 50 bu (17.62 hL) of in-shell scallops outside of the Elephant Trunk Access Area described in § 648.59(e).

(A) Up to 18,000 lb (8,165 kg) of shucked scallops for full-time and part-time scallop vessels.

(B) Up to 7,500 lb (3,402 kg) of shucked scallops for occasional scallop vessels.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(v) *Elephant Trunk Access Area.* From March 1, 2007, through February 29, 2008, the observer set-aside for the Elephant Trunk Access Area is 173,100 lb (78.5 mt).

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(v) *Elephant Trunk Access Area.* From March 1, 2007, through February 29, 2008, the research set-aside for the Elephant Trunk Access Area is 346,200 lb (157 mt).

\* \* \* \* \*

(g) \* \* \*

(3) \* \* \*

(v) *Elephant Trunk Access Area.* 346,000 lb (157 mt) in 2007.

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No.060824226-6322-02]

RIN 0648-XE38

#### Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Pacific Whiting Allocation

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

**ACTION:** Reapportionment of surplus Pacific whiting allocation; request for comments.

**SUMMARY:** NMFS has determined that 6,000 metric tons (mt) of the 87,398 mt shore-based sectors allocation would not be used by December 31, 2007. Therefore, automatic action was taken to reapportion the surplus whiting.

**DATES:** Effective from noon l.t. November 28, 2007, until the start of the 2008 primary seasons, unless modified, superseded or rescinded. Comments will be accepted through January 7, 2008.

**ADDRESSES:** You may submit comments, identified by the RIN number 0648-XE38, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>
- Fax: 206-526-6736, Attn: Becky Renko
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070, Attn: Becky Renko

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Becky Renko at 206-526-6110

**SUPPLEMENTARY INFORMATION:** 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.

The 2007 non-tribal commercial OY for whiting is 208,091 mt. Regulations at 50 CFR 660.323(a)(4) divide the commercial whiting optimum yield (OY) into separate allocations for the catcher/processor, mothership, and shore-based sectors. The catcher/processor sector is composed of vessels that harvest and process whiting. The mothership sector is composed of catcher vessels that harvest whiting and mothership vessels that process, but do not harvest whiting. The shore-based sector is composed of vessels that harvest whiting for delivery to land-based processors. Each commercial sector receives a portion of the commercial OY. For 2007 the catcher/processors received 34 percent (70,751 mt), motherships received 24 percent (49,942 mt), and the shore-based sector received 42 percent (87,398 mt).

The best available information on November 28, 2007, indicated that 6,000 metric tons (mt) of the 87,398 mt shore-based sector's allocation would not be used by December 31, 2007. Therefore, automatic action was taken to reapportion the surplus whiting. Such reapportionments are generally disbursed to the other sectors in the same proportion as each sector's allotted

portion of the commercial OY. However, the mothership sector did not express an interest in harvesting reapportioned whiting in 2007. Therefore, all surplus whiting from the shore-based sector was reallocated to the catcher/processor sector. Facsimiles directly to fishing businesses and postings on the Northwest Regions internet site were used to provide actual notice to the affected fishers.

#### **NMFS Action**

This action announces the reapportionment of 6,000 mt of whiting from the shore-based sector to the catcher/processor sector at noon local time November 28, 2007. The revised Pacific whiting allocations by sector for 2007 are: catcher/processor, 76,751 mt; mothership, 49,942 mt; and shore-based, 81,398 mt.

#### **Classification**

The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is 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 determination to take this action is based on the most recent data available. The Assistant Administrator for Fisheries, NMFS, finds good cause to

waive the requirement to provide prior notice and opportunity for comment on this action 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 whiting unharvested. Unlike the catcher/processors, the smaller shore-based and mothership sectors are comprised of smaller catcher vessels that are less likely to operate in inclement fall and winter weather. The agency believes this constitutes good cause to waive the 30-day delay in effectiveness. In addition, the catcher/processors need an immediate reallocation if they are to keep their workers employed. This action is taken under the authority of 50 CFR 660.323(a)(2), and are exempt from review under Executive Order 12866. Actual notice of the reapportionment was provided to the affected fishers.

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

Dated: December 17, 2007.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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