

the amended rule is now fully approvable, relief from sanctions should be provided as quickly as possible. Therefore, the EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). However, by this action, the EPA is providing the public with a chance to comment on the EPA's determination after the effective date, and the EPA will consider any comments received in determining whether to reverse such action.

The EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. The EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State has submitted a revision to the SIP that corrects deficiencies under part D of the Act that were the basis for the action that started the sanctions clocks. Therefore, it is not in the public interest to impose sanctions. The EPA believes that it is necessary to use the interim final rulemaking process to defer sanctions while the EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, the EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)).

### III. Statutory and Executive Order Reviews

This action defers sanctions and imposes no additional requirements. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive

Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on Tribal Governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." The EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

The State did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 2, 2024. Filing a petition for reconsideration by the EPA Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see CAA section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 19, 2023.

**Martha Guzman Aceves,**

*Regional Administrator, Region IX.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 230523-0136; RTID 0648-XD467]

#### **Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2023 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:** Inseason reapportionment of tribal Pacific whiting allocation.

**SUMMARY:** This document announces the reapportionment of 45,000 metric tons of Pacific whiting from the tribal allocation to the non-tribal commercial fishery sectors via automatic action on September 27, 2023. This

reapportionment is to allow full utilization of the Pacific whiting resource.

**DATES:** The reapportionment of Pacific whiting went into effect at 12 p.m. local time, September 27, 2023, and is effective through December 31, 2023. Comments will be accepted through November 17, 2023.

**ADDRESSES:** You may submit comments, identified by NOAA–NMFS–2023–0130 by the following method:

*Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2023–0130 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

*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.

#### Electronic Access

This notification is accessible online at the Office of the Federal Register’s website at <https://www.federalregister.gov>. Background information and documents are available at the NMFS West Coast Region website at <https://www.fisheries.noaa.gov/region/west-coast>.

**FOR FURTHER INFORMATION CONTACT:** Colin Sayre, West Coast Region, NMFS, (206) 526–4656, [Colin.Sayre@noaa.gov](mailto:Colin.Sayre@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### 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 compared to other groundfish species. Pacific whiting has the largest annual allowable harvest levels (by volume) 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 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, and the establishment of the 2023 Total Allowable Catch (TAC), for Pacific whiting was provided in the final rule for the 2023 Pacific whiting harvest specifications, published May 31, 2023 (88 FR 34783). 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 Co-op), the mothership cooperative (MS Co-op), and the Shorebased Individual Fishery Quota (IFQ) Program.

This notification announces the reapportionment of 45,000 metric tons (mt) of Pacific whiting from the tribal allocation to the non-tribal commercial sectors. This reapportionment was effective on September 27, 2023. Regulations at 50 CFR 660.131(h) contain provisions that allow the Regional Administrator to reapportion Pacific whiting from the tribal allocation, specified at 50 CFR 660.50, that will not be harvested by the end of the fishing year to other sectors.

##### *Pacific Whiting Reapportionment*

For 2023, the Pacific Coast treaty tribes were allocated 80,806 mt of Pacific whiting. The best available information on September 15, 2023, indicated that at least 45,000 mt of the tribal allocation would not be harvested by December 31, 2023. As required under the 2017 Endangered Species Act section 7(a)(2) biological opinion on the effects of the Pacific Coast Groundfish Fishery Management Plan on listed salmonids, NMFS considered the number and bycatch rate of Chinook salmon taken by the Pacific whiting fishery sectors prior to reapportionment. Based on the best available information in September 2023, NMFS determined

there is low risk that the reapportionment will cause the Pacific whiting sector fisheries to exceed both the guideline limit of 11,000 and reserve of 3,500 Chinook salmon under current regulations and practices. At the time of this notification, incidental take of Chinook salmon by the non-tribal sectors is 37 percent of the guideline limit. NMFS will continue to monitor Chinook salmon bycatch as part of inseason management.

To allow for increased utilization of the resource, on September 27, 2023, NMFS reapportioned 45,000 mt from the tribal allocation to the Shorebased IFQ Program, C/P Co-op, and MS Co-op in proportion to each sector’s original allocation. Reapportioning this amount is expected to allow for greater attainment of the TAC while not limiting tribal harvest opportunities for the remainder of the year. NMFS provided notice of the reapportionment on September 27, 2023, via emails sent directly to fishing businesses and individuals. Reapportionment was effective the same day as the notice.

The amounts of Pacific whiting available for 2023 before and after the reapportionment are described in Table 1 below.

TABLE 1—2023 PACIFIC WHITING ALLOCATIONS

Sector	Initial 2023 allocation (mt)	Final 2023 allocation (mt)
Tribal .....	80,806	35,806
C/P Coop ..	129,266	144,566
MS Coop ...	91,246	102,047
Shorebased IFQ Program .....	159,681	178,581

#### Classification

NOAA’s Assistant Administrator for Fisheries (AA) finds that good cause exists for this notification to be issued 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. As previously noted, NMFS provided actual notice of the reapportionment to fishery participants at the time of the action. Prior notice and opportunity for public comment on

this reapportionment was impracticable because NMFS had insufficient time to provide prior notice 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 fishery participants access to the available fish during the remainder of

the fishing season. For the same reasons, the AA also finds 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 50 CFR 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: October 30, 2023.

**Jennifer M. Wallace,**

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

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