

§ 327.48 Proof of amount claimed for loss of, or damage to, property.

The following evidence should be presented when appropriate:

(a) For each particular lost item, evidence of its value such as a bill of sale and a written appraisal, or two written appraisals, from separate disinterested dealers or brokers, market quotations, commercial catalogs, or other evidence of the price at which like property can be obtained in the community. The Maritime

Administration may waive these requirements when circumstances warrant. The reasonable cost of any appraisal may be included as an element of damage if not deductible from any bill submitted to claimant.

(b) For each particular damaged item which can be economically repaired, evidence of cost of repairs such as a receipted bill and one estimate, or two estimates, from separate disinterested repairmen. The Maritime Administration may waive these requirements when circumstances warrant. The reasonable cost of any estimate may be included as an element of damage if not deductible from any repair bill submitted to claimant.

(c) For any claim which may result in payment in excess of \$20,000.00, a survey or appraisal shall be performed as soon as practicable after the damage accrues, and, unless waived in writing, shall be performed jointly with a government representative.

(d) If the item is so severely damaged that it cannot be economically repaired or used, it shall be treated as a lost item.

(e) If a claim includes loss of earnings or use during repairs to the damaged property, the following must also be furnished and supported by competent evidence:

- (1) The date the property was damaged;
- (2) The name and location of the repair facility;
- (3) The beginning and ending dates of repairs and an explanation of any delay between the date of damage and the beginning date;

(4) A complete description of all repairs performed, segregating any work performed for the owner's account and not attributable to the incident involved, and the costs thereof;

(5) The date and place the property was returned to service after completion of repairs, and an explanation, if applicable, of any delay;

(6) Whether or not a substitute for the damaged property was available. If a substitute was used by the claimant during the time of repair, an explanation of the necessity of using the substitute, how it was used, and for how long, and

the costs involved. Any costs incurred that would have been similarly incurred by the claimant in using the damaged property must be identified;

(7) Whether or not during the course of undergoing repairs the property would have been used, and an explanation submitted showing the identity of the person who offered that use, the terms of the offer, time of prospective service, and rate of compensation; and

(8) If at the time of damage the property was under charter or hire, or was otherwise employed, or would have been employed, the claimant shall submit a statement of operating expenses that were, or would have been, incurred. This statement shall include wages and all bonuses which would have been paid, the value of fuel and the value of consumable stores, separately stated, which would have been consumed, and all other costs of operation which would have been incurred including, but not limited to, license and parking fees, personnel expenses, harbor fees, wharfage, dockage, shedding, stevedoring, towage, pilotage, inspection, tolls, lockage, anchorage and moorage, grain elevation, storage, and customs fees.

(f) For each item which is lost, actual or constructive, proof of ownership.

§ 327.49 Effect of other payments to claimant.

The total amount to which the claimant may be entitled is normally computed as follows:

(a) The total amount of the loss, damage, or personal injury suffered for which the United States is liable, less any payment the claimant has received from the following sources:

- (1) The military member or civilian employee who caused the incident;
- (2) The military member's or civilian employee's insurer; and
- (3) Any joint tort-feasor or insurer.

(b) No deduction is generally made for any payment the claimant has received by way of voluntary contributions, such as donations of charitable organizations.

§ 327.50 Statute of limitations for other admiralty claims and claim requirements.

A civil suit must be filed within the statute of limitations of the specific admiralty claim. The start date for such statute of limitations determinations shall be the Accrual Date.

§ 327.51 Statute of limitations not tolled by administrative consideration of claims.

The statute of limitations for filing a civil action under 46 U.S.C. 30101(b) is not tolled by the Maritime Administration's administrative consideration of a claim.

§ 327.52 Notice of claim acceptance or denial.

The Maritime Administration shall give prompt notice in writing of the acceptance or denial of each claim in whole or in part, by mail to the last known address of, or by personal delivery to, the claimant or the claimant's legal representative. In the case of denial, such notice shall contain a brief statement of the reason for such a denial.

By Order of the Maritime Administrator.

Dated: October 16, 2012.

Christine S. Gurland,

Acting Secretary, Maritime Administration.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 100804324-1265-02]

RIN 0648-XC302

Magnuson-Stevens Act Provisions; Fisheries Off the West Coast States; Pacific Coast Groundfish Fishery; Pacific Whiting and Non-Whiting Allocations; Pacific Whiting Seasons

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

ACTION: Reapportionment of tribal whiting allocation.

SUMMARY: This document announces the reapportionment of 28,000 mt of Pacific whiting from the tribal allocation to the non-tribal commercial fishery allocations to ensure full utilization of the resource.

DATES: The reapportionment of whiting is effective from 1200 local time, October 4, 2012, until December 31, 2012, unless modified, superseded or rescinded. Comments will be accepted through November 14, 2012.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2012-0041 by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, enter NOAA-NMFS-2012-0041 in the search box. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on the right of that line.

• Fax: 206-526-6736, Attn: Kevin C. Duffy.

• Email comments directly to NMFS, Northwest Region at:

Whitingreapportionment@noaa.gov

• Mail: William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070, Attn: Kevin C. Duffy.

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 (if submitting comments via the Federal Rulemaking portal, enter "N/A" in the relevant required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT:

Kevin C. Duffy (Northwest Region, NMFS), phone: 206-526-4743, fax: 206-526-6736 and email: kevin.duffy@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

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

Background

This document announces the reapportionment of 28,000 mt of Pacific whiting from the tribal allocation to the non-tribal commercial sectors on October 4, 2012. 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 660.131(h) contain provisions that allow the Regional Administrator to make Pacific whiting tribal allocation specified at § 660.50 that will not be harvested by the tribal fisheries available for harvest to other sectors of the trawl fishery. For 2012 the Washington Coast treaty tribes were allocated 48,556 mt of Pacific whiting. The best available information through

October 2, 2012 indicated that less than 1,000 mt of the tribal allocation had been harvested. Approximately 28,000 mt of the 2012 tribal allocation are projected to go unharvested. Therefore, to ensure full utilization of the resource, NMFS reapportioned 28,000 mt to the shorebased IFQ, catcher/processor and mothership sectors in proportion to each sector's original allocation on October 4, 2012. Reapportioning this amount is not expected to limit tribal harvest opportunities for the remainder of the year.

The revised Pacific whiting allocations for 2012 are: Tribal 20,556 mt, catcher/processor 55,584 mt; mothership 39,235 mt; and shorebased IFQ 68,662 mt. Emails sent directly to fishing businesses and postings on the Northwest Region's internet site were used to provide actual notice to the affected fishers.

Classification

The Assistant Administrator for Fisheries, NOAA (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, actual notice of the reapportionment was provided to fishers. Prior notice and opportunity for public comment was impracticable because 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. Reapportioning as quickly as possible was necessary to allow fishers access to the available fish prior to the onset of weather conditions that would make fishing unsafe. For the same reasons, the AA also finds good cause to waive the 30-day delay in effectiveness required under 5 U.S.C. 553(d)(3).

These actions are authorized by 50 CFR sections 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.*

Dated: October 25, 2012.

James P. Burgess,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111207737-2141-02]

RIN 0648-XC323

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific cod by vessels using pot gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to fully use the 2012 Pacific cod total allowable catch (TAC) apportioned to vessels using pot gear in the Central Regulatory Area of the GOA. **DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 29, 2012, through 2400 hrs, A.l.t., December 31, 2012. Comments must be received at the following address no later than 4:30 p.m., A.l.t., November 13, 2012.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2012-0216, by any one of the following methods:

• **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov. To submit comments via the e-Rulemaking Portal, first click the "submit a comment" icon, then enter NOAA-NMFS-2012-0216 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on that line.

• **Mail:** Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

• **Fax:** Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907-586-7557.

• **Hand delivery to the Federal Building:** Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to