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PACIFIC COAST GROUND FISH FISHERY **Pacific Whiting Utilization in the At-Sea Sectors** **Compliance Guide**

On Month December 16, 2022, NOAA Fisheries published a final rule in the Federal Register (87 FR 77000) implementing changes to the Pacific Coast Groundfish Trawl Rationalization Program that operate in the non-tribal Pacific Whiting fishery. This final rule will provide greater operational flexibility in the Pacific whiting fishery and increase the mothership (MS) sector's ability to utilize its Pacific whiting allocation. Additionally, this final rule will move the season start date to May 1 (previously May 15) in order to help participants access previously unrealized Pacific whiting allocation, while maintaining fair and equitable access to Pacific whiting by all sectors of the program.

Regulations contained in this rule are effective January 17, 2023. The full rule can be found at:
<https://www.federalregister.gov/documents/2022/12/16/2022-27117/magnuson-stevens-act-provisions-fisheries-off-west-coast-states-pacific-whiting-utilization-in-the>

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This document serves as a Small Entity Compliance Guide, complying with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996.

December 16, 2022

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Background

The non-tribal Pacific whiting fishery is a mid-water trawl fishery that is managed by NOAA Fisheries under the Pacific Coast Groundfish Trawl Rationalization Program, which is under the Pacific Coast Groundfish Fishery Management Plan (FMP). There are three sectors that participate in the program: shoreside (SS), catcher-processor (CP), and mothership (MS).

In recent years, there have been historically high Pacific whiting total allowable catches (TACs) for Pacific whiting, yet, the MS sector has been experiencing lower than average attainment compared to the CP and SS sectors. Causes of under-attainment may include limited availability of motherships for delivery of catch due to seasonal overlap with the Alaska pollock fishery. In addition, existing regulations have been identified as hindering some catcher vessels' opportunity to deliver fish to MS processors by limiting the ability for available processors to accept fish from catcher vessels. In some cases, catcher vessels have been stranded without a mothership processor to deliver to. These obstacles in the MS sector have led to social and economic losses for participants. The Pacific Fisheries Management Council (Council) considered this action over a number of meetings and made its final recommendation in March 2022.

The federal rule (XX FR XXXXX) establishes the following changes in order to increase the MS sector's Pacific whiting utilization while simultaneously maintaining fair and equitable access to the resource:

1. Move the season start date for the primary whiting season start date north of 40° 30'N. Latitude (Lat.) from May 15th to May 1st. Move all administrative deadlines associated with the season start date to 45 days prior to May 1.
2. Remove the MS processor obligation deadline from regulation.
3. Remove the MS processor cap from regulation.
4. Allow a vessel to be registered to a MS and CP endorsed permit in the same year, with unlimited transfers.

Season Start Date Change

This final rule changes the season start date for the Pacific whiting fishery north of 40° 30'N. Lat. from May 15 to **May 1**. This final rule provides vessels with an additional 15 days to participate in the Pacific whiting fishery, providing up to a month of Pacific whiting harvest opportunities between the Alaskan Eastern Bering Sea walleye pollock seasons.

Currently, there are reporting requirements due 45 days prior to the season start date. This final rule aligns the administrative deadlines to be due 45 days before the new season start date of May 1.

The following due dates are now **March 17**:



- Annual MS co-op report
- Annual CP co-cop report
- Proposed salmon mitigation plans (SMP)
- Post season SMP reports
- Deadline for declaring into the MS co-op or non-co-op fishery
- MS co-op permit annual registration
- CP co-op permit annual registration

Additionally, the Electronic Monitoring (EM) application and EM renewal due dates are now **February 1**.

MS Processor Obligation Deadline Removal

Before this final rule, mothership catcher vessels (MSCV) had to make a MS processor obligation by November 30. With this final rule, the MS processor obligation is now removed from regulation and therefore not required.

This final rule was implemented to give the MSCVs security in finding a delivery vessel without having to obligate their catch under the current season. Additionally, this rule is intended to remove administrative burden from the fleet and the National Marine Fisheries Service (NMFS).

With This Final Rule

- MSCVs do not have to obligate their catch history assignment (CHA) to an MS permit.
- MSCVs do not have to notify NMFS of a mutual agreement exception (MAE).
- The requirement to notify NMFS of MS permit withdrawal is no longer required.

NOTE: MSCVs will still be required to renew their limited entry permits each year, including the co-op declaration for the following year, and co-ops will still be required to submit their annual application.

MS Processor Cap Removal

Before this final rule, the total Pacific whiting that a single MS was allowed to process was 45 percent of the annual MS sector Pacific whiting allocation. The regulation was put in place in order to prevent the consolidation of Pacific whiting processing by a minority of MS processors. However, since 2011, there has been no evident inequitable consolidation as of 2022.

This final rule will potentially increase market availability for MSCVs wishing to deliver to a MS in the event of reduction in MS processor vessel participation for various reasons such as mechanical failure or departure for other fisheries.

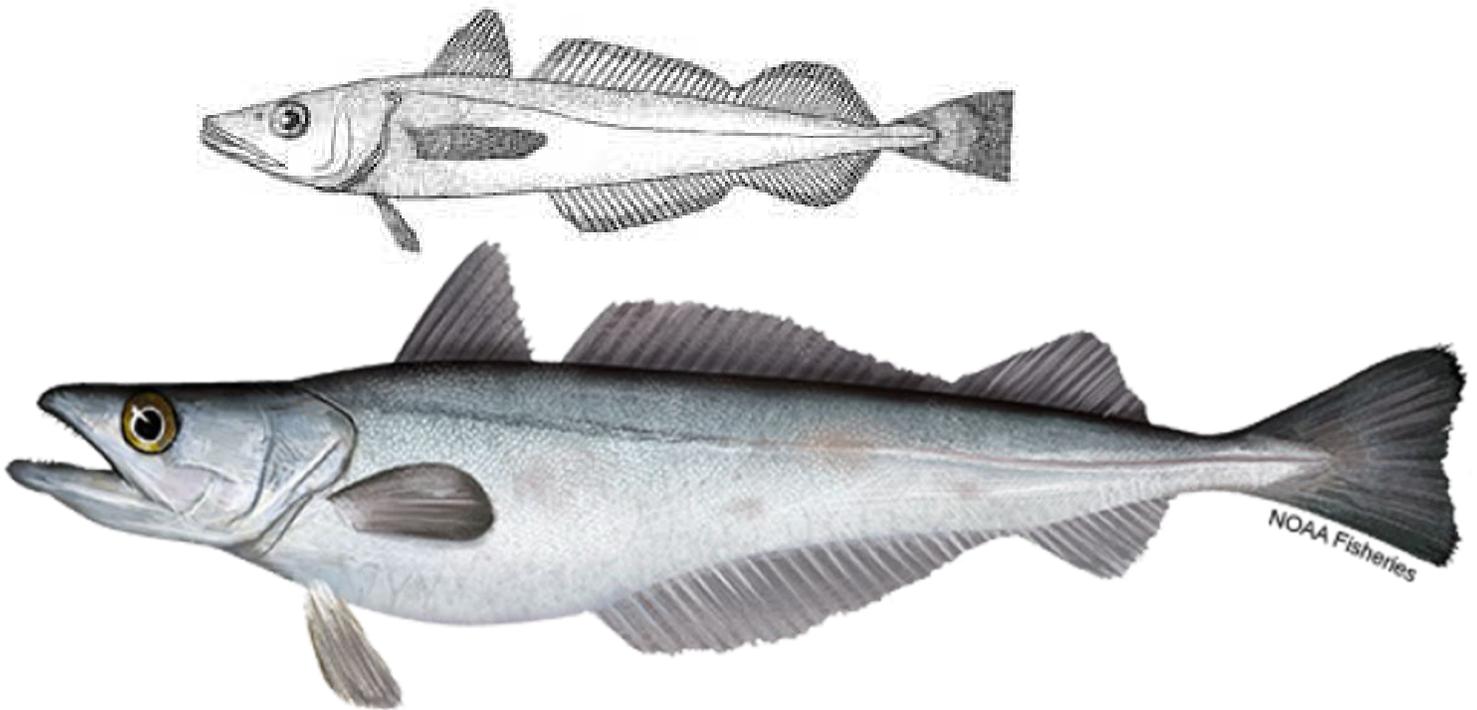
- There are no restrictions on the amount of the MS sector allocation that an entity can process.
- MS permit holders do not have to submit to NMFS a trawl identification of ownership interest (OI) form.

NOTE: MSCVs are still held to a 20 percent accumulation limit of the Pacific whiting CHA and a catch limit of 30 percent of the allocation.

MS/CP Yearly Transfers

Before this final rule, a vessel could not be registered to a MS and a CP permit in the same calendar year. This final rule now allows for a vessel to be registered as a MS and CP in the same year with unlimited transfers between the two designations.

This rule was implemented incase MSCVs were left stranded without a processing ship to deliver to if an MS was not available.



What is changing?

- A vessel can now operate as a MS and CP in the same year **BUT NOT** on the same trip.
- Owners of processing vessels that intend to operate as both MS and CP during the fishery are required to register the vessel under both a valid MS and a CP permit.
- A vessel may be registered under both an MS permit and a CP endorsed permit simultaneously.

What is staying the same?

- Current requirements for operating as a MS or CP are the same.
- A vessel operating in the MS sector must be included in the MS co-op agreement.
- A vessel operating in the CP sector must be included in the CP co-op agreement.
- Vessels added to either the MS or CP co-op agreement constitutes a change to the co-op agreement; therefore,
- NMFS must be notified by the co-op manager within 7 days of a new processing vessel operating for the first time in the MS or CP fisheries.
- Within 30 days of a new vessel participating in the co-op fishery (MS or CP) the co-op manager must submit a revised co-op agreement to NMFS to show all vessels in the co-op including the new vessel along with a letter describing the change to the co-op agreement.

What is staying the same? (continued)

- Vessels are still required to update the VMS declaration to reflect its activity for that trip prior to departure for each trip.
- A separate economic data collection (EDC) form is required for the owner, lessee, charterer of a MS vessel registered to an MS permit as well as owner, lessee, charterer of a CP vessel registered to a CP endorsed permit.
- If a vessel holds both MS and CP endorsed permits in the same calendar year, two EDC forms must be submitted.
- Separate cost recovery requirements apply to the MS and CP sectors.

For assistance, contact the West Coast Region Permit Office at (206) 526-4353.

