

(1) Advisory panel

The term “advisory panel” means the Advisory Panel on Pacific Hake/Whiting established by the Agreement.

(2) Agreement

The term “Agreement” means the Agreement between the Government of the United States and the Government of Canada on Pacific Hake/Whiting, signed at Seattle, Washington, on November 21, 2003.

(3) Catch

The term “catch” means all fishery removals from the offshore whiting resource, including landings, discards, and bycatch in other fisheries.

(4) Joint management committee

The term “joint management committee” means the joint management committee established by the Agreement.

(5) Joint technical committee

The term “joint technical committee” means the joint technical committee established by the Agreement.

(6) Offshore whiting resource

The term “offshore whiting resource” means the transboundary stock of *Merluccius productus* that is located in the offshore waters of the United States and Canada except in Puget Sound and the Strait of Georgia.

(7) Scientific review group

The term “scientific review group” means the scientific review group established by the Agreement.

(8) Secretary

The term “Secretary” means the Secretary of Commerce.

(9) United States Section

The term “United States Section” means the United States representatives on the joint management committee.

(Pub. L. 109-479, title VI, § 602, Jan. 12, 2007, 120 Stat. 3644.)

SHORT TITLE

Pub. L. 109-479, title VI, § 601, Jan. 12, 2007, 120 Stat. 3644, provided that: “This title [enacting this chapter] may be cited as the ‘Pacific Whiting Act of 2006’.”

§ 7002. United States representation on joint management committee**(a) Representatives****(1) In general**

The Secretary, in consultation with the Secretary of State, shall appoint 4 individuals to represent the United States as the United States Section on the joint management committee. In making the appointments, the Secretary shall select representatives from among individuals who are knowledgeable or experienced concerning the offshore whiting resource. Of these—

(A) 1 shall be an official of the National Oceanic and Atmospheric Administration;

(B) 1 shall be a member of the Pacific Fishery Management Council, appointed with

consideration given to any recommendation provided by that Council;

(C) 1 shall be appointed from a list submitted by the treaty Indian tribes with treaty fishing rights to the offshore whiting resource; and

(D) 1 shall be appointed from the commercial sector of the whiting fishing industry concerned with the offshore whiting resource.

(2) Term of office

Each representative appointed under paragraph (1) shall be appointed for a term not to exceed 4 years, except that, of the initial appointments, 2 representatives shall be appointed for terms of 2 years. Any individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual’s predecessor shall be appointed for the remainder of that term. A representative may be appointed for a term of less than 4 years if such term is necessary to ensure that the term of office of not more than 2 representatives will expire in any single year. An individual appointed to serve as a representative is eligible for reappointment.

(3) Chair

Unless otherwise agreed by all of the 4 representatives, the chair shall rotate annually among the 4 members, with the order of rotation determined by lot at the first meeting.

(b) Alternate representatives

The Secretary, in consultation with the Secretary of State, may designate alternate representatives of the United States to serve on the joint management committee. An alternative representative may exercise, at any meeting of the committee, all the powers and duties of a representative in the absence of a duly designated representative for whatever reason.

(Pub. L. 109-479, title VI, § 603, Jan. 12, 2007, 120 Stat. 3645.)

§ 7003. United States representation on the scientific review group**(a) In general**

The Secretary, in consultation with the Secretary of State, shall appoint no more than 2 scientific experts to serve on the scientific review group. An individual shall not be eligible to serve on the scientific review group while serving on the joint technical committee.

(b) Term

An individual appointed under subsection (a) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of a term of office of that individual’s predecessor shall be appointed to serve for the remainder of that term.

(c) Joint appointments

In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, may appoint to the scientific review group, from a list of names provided by the advisory panel—

(1) up to 2 independent members of the scientific review group; and

(2) 2 public advisors.

(Pub. L. 109-479, title VI, §604, Jan. 12, 2007, 120 Stat. 3645.)

§ 7004. United States representation on joint technical committee

(a) Scientific experts

(1) In general

The Secretary, in consultation with the Secretary of State, shall appoint no more than 2 individuals to serve as scientific experts on the joint technical committee, at least 1 of whom shall be an official of the National Oceanic and Atmospheric Administration.

(2) Term of office

An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.

(b) Independent member

In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, shall appoint 1 independent member to the joint technical committee selected from a list of names provided by the advisory panel.

(Pub. L. 109-479, title VI, §605, Jan. 12, 2007, 120 Stat. 3646; Pub. L. 111-348, title III, §302(a), Jan. 4, 2011, 124 Stat. 3672.)

AMENDMENTS

2011—Subsec. (a)(1). Pub. L. 111-348 substituted “no more than 2” for “at least 6 but not more than 12”.

§ 7005. United States representation on advisory panel

(a) In general

(1) Appointment

The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as members of the advisory panel, selected from among individuals who are—

(A) knowledgeable or experienced in the harvesting, processing, marketing, management, conservation, or research of the offshore whiting resource; and

(B) not employees of the United States.

(2) Term of office

An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.

(Pub. L. 109-479, title VI, §606, Jan. 12, 2007, 120 Stat. 3646.)

§ 7006. Responsibilities of the Secretary

(a) In general

The Secretary is responsible for carrying out the Agreement and this chapter, including the

authority, to be exercised in consultation with the Secretary of State, to accept or reject, on behalf of the United States, recommendations made by the joint management committee.

(b) Regulations; cooperation with Canadian officials

In exercising responsibilities under this chapter, the Secretary—

(1) may promulgate such regulations as may be necessary to carry out the purposes and objectives of the Agreement and this chapter; and

(2) with the concurrence of the Secretary of State, may cooperate with officials of the Canadian Government duly authorized to carry out the Agreement.

(Pub. L. 109-479, title VI, §607, Jan. 12, 2007, 120 Stat. 3646.)

§ 7007. Rulemaking

(a) Application with Magnuson-Stevens Act

The Secretary shall establish the United States catch level for Pacific whiting according to the standards and procedures of the Agreement and this chapter rather than under the standards and procedures of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), except to the extent necessary to address the rebuilding needs of other species. Except for establishing the catch level, all other aspects of Pacific whiting management shall be—

(1) subject to the Magnuson-Stevens Fishery Conservation and Management Act; and

(2) consistent with this chapter.

(b) Joint management committee recommendations

For any year in which both parties to the Agreement approve recommendations made by the joint management committee with respect to the catch level, the Secretary shall implement the approved recommendations. Any regulation promulgated by the Secretary to implement any such recommendation shall apply, as necessary, to all persons and all vessels subject to the jurisdiction of the United States wherever located.

(c) Years with no approved catch recommendations

If the parties to the Agreement do not approve the joint management committee's recommendation with respect to the catch level for any year, the Secretary shall establish the total allowable catch for Pacific whiting for the United States catch. In establishing the total allowable catch under this subsection, the Secretary shall—

(1) take into account any recommendations from the Pacific Fishery Management Council, the joint management committee, the joint technical committee, the scientific review group, and the advisory panel;

(2) base the total allowable catch on the best scientific information available;

(3) use the default harvest rate set out in paragraph 1 of Article III of the Agreement unless the Secretary determines that the scientific evidence demonstrates that a different