(b) *Notifications.* (1) If a fishing vessel of the United States used for commercial fishing for HMS in the Convention Area intends to conduct transshipments at sea, the owner or operator of that fishing vessel is required to carry a WCPFC observer under paragraph (d) of this section during the fishing trip and shall notify the Pacific Islands Regional Administrator of the need for a WCPFC observer at least 72 hours (exclusive of weekends and Federal holidays) before the vessel leaves port on the fishing trip. The notice shall be provided to the Observer Placement Contact specified by the Pacific Islands Regional Administrator and must include the official number of the vessel, the name of the vessel, the expected departure date, time, and location, the name of the operator of the vessel, and a telephone number at which the owner, operator, or a designated agent may be contacted during the business day (8 a.m. to 5 p.m. Hawaii Standard Time). If applicable, this notice may be provided in conjunction with the notice required under § 665.803(a) of this title.

(2) In order to obtain a WCPFC–IATTC cross-endorsed observer for a particular fishing trip, the owner or operator of a fishing vessel of the United States that is used for commercial fishing for HMS in the Convention Area shall provide the Pacific Islands Regional Administrator with the following information at least five days (exclusive of weekends and Federal holidays) before the vessel leaves port on the fishing trip: The name of the vessel; name of the operator of the vessel; a telephone number or email at which the owner or operator may be contacted; expected departure date; intended port of departure; and that the owner or operator requests a WCPFC–IATTC cross-endorsed observer. This information shall be provided to the address specified by the Pacific Islands Regional Administrator and may be provided in conjunction with the notice required under § 216.24(b)(8)(iv)(A) of this title, if applicable.

(3) In order to obtain a WCPFC observer on a fishing trip departing from American Samoa, the owner or operator of a fishing vessel of the United States equipped with purse seine gear shall provide the Pacific Islands Regional Administrator with the following information at least five days (exclusive of weekends and Federal holidays) before the vessel leaves port on the fishing trip: The name of the vessel; name of the operator of the vessel a telephone number or email at which the owner or operator may be contacted expected departure date; intended port of departure and; whether the owner or operator requests a WCPFC–IATTC cross-endorsed observer. This information shall be provided to the address specified by the Pacific Islands Regional Administrator and may be provided in conjunction with the information required under § 300.215(b)(2) of this title.

* * * * *

(f) *Observer safety.* The following requirements apply when a WCPFC observer is on a fishing trip operating under the Commission's Regional Observer Program.

(1) The owner or operator of a fishing vessel of the United States shall immediately report the serious illness that threatens the health or safety of a WCPFC observer to the U.S government contact on the list provided by the Pacific Islands Regional Administrator *at https://www.fisheries.noaa.gov/pacific-islands/commercial-fishing/western-and-central-pacific-longline-and-purse-seine-vessels.* In addition, the owner or operator of the fishing vessel must:

(i) Immediately cease fishing operations;

(ii) Take all reasonable actions to care for the observer and provide any medical treatment available and possible on board the vessel, and where appropriate seek external medical advice;

(iii) Where directed by the observer provider, if not already directed by the appropriate U.S. government contact, facilitate the disembarkation and transport of the observer to a medical facility equipped to provide the required care, as soon as practicable; and

(iv) Cooperate fully in any official investigations into the cause of the illness.

(2) In the event that a WCPFC observer on a fishing vessel of the United States has been assaulted, intimidated, threatened or harassed, the owner or operator of the fishing vessel shall immediately notify the U.S. government contact and observer program contact on the list provided by the Pacific Islands Regional Administrator at *https://www.fisheries.noaa.gov/pacific-islands/commercial-fishing/western-and-central-pacific-longline-and-purse-seine-vessels* of the situation and the status and location of the observer. In addition, the owner or operator of the fishing vessel must:

(i) Immediately take action to preserve the safety of the observer and mitigate and resolve the situation on board;

(ii) If the observer or the observer provider indicate that they wish to be removed from the vessel, facilitate the safe disembarkation of the observer in a manner and place, as agreed by the observer provider and a U.S. government contact, that facilitates access to any needed medical treatment; and

(iii) Cooperate fully in any official investigations into the incident.

■ 4. In § 300.222, add paragraph (yy) to read as follows:

§ 300.222 Prohibitions.

* * * * *

(yy) Fail to comply with the observer safety requirements in § 300.215(f).

[FR Doc. 2020–23162 Filed 10–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 200929–0258]

RIN 0648–BJ50

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Salmon Bycatch Minimization

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

ACTION: Proposed rule, request for comments.

SUMMARY: This rule proposes salmon bycatch minimization measures to minimize incidental take of Endangered Species Act-listed salmon by vessels in the Pacific Coast groundfish fishery. The proposed rule would establish additional management tools to minimize incidental Chinook and coho salmon bycatch to keep fishery sectors within guidelines, establish rules to allow industry to access the Chinook salmon bycatch reserve, and create Chinook salmon bycatch closure thresholds for the trawl fishery. This proposed rule fulfills the terms and conditions of a 2017 National Marine Fisheries Service Biological Opinion. This proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Pacific Coast Groundfish Fishery Management Plan, and other applicable laws, including the Endangered Species Act.

DATES: Comments must be received by November 19, 2020.

ADDRESSES: Submit your comments, identified by FDMS Docket Number NOAA–NMFS–2019–0147, by either of the following methods:

• *Federal e-Rulemaking Portal:* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0147,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070. Attn: Brian Hooper.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070. Attn: Brian Hooper and by submitting comments to *www.reginfo.gov/public/do/PRAMain*.

Electronic Access

This rule is accessible via the Office of the Federal Register website at *https://www.federalregister.gov/*. Background information and documents, including a Regulatory Impact Review/Initial Regulatory Flexibility Analysis (Analysis), which addresses the statutory requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Presidential Executive Order 12866, and the Regulatory Flexibility Act, are available at the NMFS West Coast Region website at *https://www.fisheries.noaa.gov/region/west-coast* and at the Pacific Fishery Management Council's website at *http://www.pcouncil.org*.

FOR FURTHER INFORMATION CONTACT: Brian Hooper, phone: (206) 526–6117, or email: *brian.hooper@noaa.gov*.

SUPPLEMENTARY INFORMATION:

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I. Background and Need for Action

The purpose of this proposed rule is to minimize interactions between Endangered Species Act (ESA)-listed salmon species and Pacific Coast groundfish fishing gear. On the West Coast, vessels fishing under the Pacific Coast Groundfish Fishery Management Plan (FMP) use gear types (*e.g.,* midwater and bottom trawl, fixed gear, and hook-and-line) that interact with listed Evolutionary Significant Units (ESUs) of coho and Chinook salmon. The seasonality and geographic extent, including fishing depth and north/south distribution of the different target strategies and gear types, result in different direct effects on different ESUs of these salmonids.

In January 2013, NMFS reinitiated ESA section 7 consultation for listed salmonids to address changes in the groundfish fishery, including the trawl rationalization program and the emerging midwater trawl fishery targeting species other than Pacific whiting. In October 2014, before the consultation was complete, the whiting fishery exceeded the incidental take limit established in the 2006 NMFS Biological Opinion (Consultation Number: 2006/00754), a second trigger for reinitiation. To better understand the implications of the changes in management framework and the effects on listed salmonids of all fishing under the FMP in the reinitiated consultation, NMFS conferred with the Pacific Fishery Management Council (Council), its advisory bodies, and the public over the next few years.

On December 11, 2017, NMFS issued its Biological Opinion on the impact of the NMFS authorization of the groundfish fishery on ESA-listed salmonids (see **ADDRESSES** for electronic access information). The Incidental Take Statement (ITS) in the Biological Opinion sets forth terms and conditions. Compliance with those terms and conditions provides an exemption to the prohibition on take of listed species in Section 9 of the ESA. The components of the Biological Opinion are summarized in the proposed rule for 2019–20 Pacific Coast groundfish harvest specifications and management measures (83 FR 47416; September 19, 2018). NMFS and the Council addressed a number of ITS terms and conditions in the final rule for 2019–20 Pacific Coast groundfish harvest specifications and management measures (83 FR 63970; December 12, 2018).

To address the remaining terms and conditions (2.b and 3.a), the Council was to consider developing new incidental salmon bycatch mitigation tools to allow for timely inseason management to keep sectors from exceeding their salmon bycatch guidelines (term and condition 2.b). If the Council determined additional management measures were needed to allow for timely inseason management of salmon bycatch guidelines, the Council would recommend these management measures to NMFS within a three-year period after the date of the Biological Opinion. The Council and NMFS would also develop and implement regulations regarding the Chinook salmon bycatch reserve and its use (term and condition 3.a).

The Council evaluated the Biological Opinion and analyzed an action to amend the regulations implementing the FMP to address ESA-listed salmon bycatch in the fishery at its November 2018, April 2019, September 2019, and November 2019 meetings. The Council recommended a preferred alternative at its September 2019 meeting and took final action in November 2019. The Council deemed the proposed regulations consistent with and necessary to implement this action in a June 2, 2020, letter from Council Chairman Phil Anderson to NMFS Regional Administrator Barry Thom. NMFS proposes amendments to the regulations for the Pacific Coast groundfish fishery at 50 CFR 660 through this proposed rule to incorporate the Council's recommendation and implement the terms and conditions set forth in the 2017 NMFS Biological Opinion.

II. Description of Existing Salmon Bycatch Management in the Pacific Coast Groundfish Fishery

For purpose of analysis in the Biological Opinion, NMFS divided the groundfish fishery into two groups or ''sectors'' for the purposes of estimating and analyzing ESA-listed salmon bycatch. This rule will refer to these groups as the whiting sector and non-whiting sector. The whiting sector includes the tribal and non-tribal vessels in the mothership (MS) Coop Program, Catcher/processor (C/P) Coop Program, and Pacific whiting Shorebased individual fishing quota (IFQ) fishery. In this rule, the MS Coop Program, the C/P Coop Program and the Pacific whiting IFQ fishery are referred to as ''components'' of the whiting sector. The non-whiting sector includes tribal and non-tribal vessels in the Shoreside trawl, fixed gear, and recreational fisheries that are not accounted for in pre-season salmon modeling. The recreational fisheries not accounted for in pre-season salmon modeling are those occurring outside of the open salmon seasons and the Oregon longleader fishery.

NMFS currently manages Chinook salmon bycatch to guidelines of 11,000 fish for the whiting sector, and 5,500 fish for the non-whiting sector. Fishery sectors may access a 3,500 Chinook salmon bycatch ''reserve'' upon reaching their Chinook bycatch guideline (described further in Section IV). NMFS automatically closes all groundfish fisheries once the guidelines plus the reserve are reached (*i.e.,* a total of 20,000 Chinook salmon are caught as bycatch). For accounting purposes, Chinook salmon bycatch accrues to either the whiting sector or non-whiting sector. NMFS monitors Chinook salmon bycatch inseason and will (1) close the whiting sector if that sector catches its guideline limit and the full reserve amount, (2) close the non-whiting sector if that sector catches its guideline limit and the full reserve amount, or (3) close either the whiting or non-whiting sector if either sector reaches its guideline limit when the other sector has already taken the reserve amount (83 FR 63970; December 12, 2018). The bycatch guidelines and reserve are summarized in Table 1.

TABLE 1—CHINOOK SALMON BYCATCH GUIDELINES AND RESERVE

	Number of Chinook salmon
Whiting sector guideline	11,000
Non-whiting sector guideline	5,500
Reserve	3,500
Total for all groundfish fisheries (guidelines + reserve)	20,000

NMFS previously established two tools to manage Chinook and coho salmon bycatch in the groundfish fishery through prior rulemakings. These two tools are a Bycatch Reduction Area (BRA) for midwater trawl vessels at the 200-fathom (fm) (366-meter (m)) depth contour (83 FR 63970, December 12, 2018), and Block Area Closures (BACs) for bottom trawl vessels from shore to the 250-fm (457-m) depth contour (84 FR 63966, November 19, 2019). The BRA is a coastwide closure from 3nm out to the 200-fm (366-m). BACs are set using depth contour approximations and latitude lines in regulation at 50 CFR 660.71 through 660.74, and are more targeted area closures to minimize salmon bycatch and potential economic losses. Additional details about BACs are presented in Section IV. The Council may recommend NMFS implement BRAs and BACs to minimize salmon bycatch through routine management measures. Most trip, bag, and size limits, and some Groundfish Conservation Area closures in the groundfish fishery, including BRAs and BACs, have been designated ''routine'' management measures in the Pacific Coast Groundfish FMP. The Council can use routine management measures to rapidly implement or modify these management measures through a single Council meeting process. Inseason changes to routine management measures are announced in the **Federal Register** pursuant to the requirements of the Administrative Procedures Act. BRAs and BACs are effective at the times and areas stated in the **Federal Register**. NMFS also disseminates the boundaries and duration of the BRA or BAC through public notices and postings on the West Coast Region website (see **ADDRESSES** for electronic access information).

III. Proposed Additional Management Tools To Minimize ESA-Listed Salmon Bycatch

This rule proposes additional management tools beyond BRAs and existing BACs to minimize incidental Chinook and coho salmon bycatch to keep fishery sectors within guidelines. These additional tools include: (1) BACs for midwater trawl fisheries; (2) an extension of BACs seaward of the 250-fm (457-m) depth contour for bottom trawl fisheries; and (3) a selective flatfish trawl (SFFT) gear requirement for bottom trawl vessels. These additional management tools apply only to non-tribal fisheries. NMFS expects the tribes may implement area management measures to minimize salmon bycatch, if necessary.

A. Block Area Closures for Midwater Trawl Fisheries

This proposed rule would make BACs available as a routine management measure to minimize salmon bycatch in the midwater trawl fisheries in the whiting and non-whiting sectors and prevent bycatch from exceeding the guidelines. BACs are size variable spatial closures bounded by latitude lines, defined at 50 CFR 660.11, and depth contour approximations defined at 50 CFR 660.71 through 660.74 ((10 fm (18 m) through 250 fm (457 m)), and § 660.76 (700 fm (1280 m)) Amendment 28 to the FMP (84 FR 63966; November 19, 2019) established BACs for bottom trawl fisheries. This proposed rule would prohibit midwater trawl fishing within the BAC boundaries. BACs could be implemented or modified in the Exclusive Economic Zone (EEZ) off Oregon and California for vessels using limited entry midwater trawl gear. BACs may be implemented in the EEZ off Washington shoreward of the boundary line approximating the 250-fm (457-m) depth contour for vessels using limited entry midwater trawl gear. The Council decided to not include extending the available BAC boundary for vessels fishing with midwater trawl gear beyond 250-fm (457-m) off Washington as part of its recommendation due to the limited operation of midwater trawl vessels in that area.

The BAC tool would allow the Council to recommend and NMFS to implement size variable area closures as a routine management measure to address specific areas of high salmon bycatch rather than large fixed closure areas (*e.g.,* BRA). BACs would allow for the midwater trawl fishery to remain open in areas outside of the BACs.

This proposed rule would not implement specific individual BACs. BACs could not be used to close an area to any type of fishing other than groundfish bottom or midwater trawling. This rule would allow NMFS to close or reopen BACs preseason (*e.g.,* before the start of the fishing year or before the May 15 start of the Pacific

whiting fishery) or inseason. The approach would be consistent with existing ''routine inseason'' frameworks already in the FMP and regulations (described in Section II above). If good cause exists under the Administrative Procedure Act to waive notice and comment, a single **Federal Register** notice will announce routine inseason BACs approved by NMFS.

When deciding whether to recommend BACs for NMFS to implement, consistent with the FMP, the Council will consider environmental impacts, including economic impacts, and public comment via the Council process. Depending on the circumstances, NMFS may close areas for a defined period of time, for example, a few months or the remainder of the fishing year, or maintain the closure for an indefinite period of time, for example, until reopened by a subsequent action. NMFS may close one or more BACs, and the size of the BACs can vary. A **Federal Register** notice will announce the geographic boundaries (described with coordinates in codified regulations) of one or more BACs, the effective dates, applicable gear/fishery restrictions, as well as the purpose and rationale. NMFS would also disseminate this information on BACs through public notices and posting on the West Coast Region website (see **ADDRESSES** for electronic access information).

B. Extension of Block Area Closures for Bottom Trawl Fisheries

This proposed rule would allow the NMFS to take routine inseason action to implement BACs seaward of the boundary line approximating the 250-fm (457 m) depth contour to the existing boundary line approximating the 700-fm (1280-m) Essential Fish Habitat Conservation Area closure for bottom trawl fisheries. The boundary line approximating the 700-fm (1280-m) depth contour is described at 50 CFR 660.76. This extension of BACs would only apply south of 46°0 16′00″ N. latitude (in the EEZ off Oregon and California). These actions would allow NMFS to implement and modify BACs, as a routine management measure, in open areas beyond the 250-fm (457-m) boundary in order to minimize incidental salmon bycatch. While salmon bycatch rates are generally low in depths greater than 250-fm (457-m) for trawl fisheries (see Section 2.15 of the Analysis), salmon distribution is known to extend into those depths. Therefore, the Council recommended, and NMFS is proposing to implement, this extension so as to not constrain management of salmon bycatch for bottom trawl vessels to the boundary line approximating the 250-fm (457-m) depth contour as the seaward boundary for a BAC. This proposed rule does not implement individual BACs for bottom trawl fisheries. If consistent with the FMP, Magnuson-Stevens Act, and other applicable law, NMFS may approve and implement a Council recommended BAC through a routine inseason action as described in Section II and III.A above. The Council decided to not include extending the available BAC boundary for vessels fishing with bottom trawl gear beyond 250 fm (457 m) off Washington as part of its recommendation due to the limited operation of bottom trawl vessels in that area.

C. Selective Flatfish Trawl Requirement for Bottom Trawl Fisheries

Selective flatfish trawl (SFFT) gear was designed to target flatfish while allowing stronger swimming rockfish to swim up-and-over the cut-back headrope. Typical bottom trawls have a ''hooded'' headrope and lower escapement compared to an SFFT. Chinook and coho salmon are strong swimmers and capable of swimming over the low headrope or low wings of SFFT. Therefore, use of SFFT is also expected to reduce bycatch of Chinook salmon (Section 3.6.3.4.1 of Analysis).

This proposed rule would make a requirement for SFFT available as a routine management measure to address ESA-listed salmon bycatch in the groundfish bottom trawl fisheries. The requirement to fish with an SFFT could be used in conjunction with a BAC. In other words, if the Council were to recommend and NMFS were to implement a BAC for bottom trawl, it could allow bottom trawl vessels to continue fishing in the BAC if vessels used SFFT. The Council recommended, and NMFS is proposing to implement, this action because it would provide flexibility for those vessels with SFFT.

This proposed rule would not implement individual SFFT requirements. The Council would recommend SFFT requirements in the future. This rule would allow NMFS to implement SFFT requirements preseason or inseason. If consistent with the FMP, Magnuson-Stevens Act, and other applicable law, NMFS may approve and implement a Council recommended SFFT requirement through a routine inseason action as described in Sections II and III.A above.

When deciding whether to recommend SFFT requirements, consistent with the FMP, the Council will consider environmental impacts, including economic impacts, and public comment via the Council process. Depending on the circumstances, NMFS may require SFFT for a short period of time, such as the remainder of the fishing year, or maintain the requirements for a longer period of time, such as until lifted by a subsequent action. NMFS could require SFFT for bottom trawl vessels coastwide or require SFFT in one or more BACs. A **Federal Register** notice will announce the geographic boundaries (described with coordinates in codified regulations) of one or more BACs with SFFT requirements, the effective dates of the SFFT requirement, as well as the purpose and rationale. NMFS would also disseminate information on the SFFT requirement through public notices and on posting the West Coast Region website (see **ADDRESSES** for electronic access information).

NMFS proposes changes to the declaration report to allow NMFS Office of Law Enforcement (OLE) to sufficiently monitor and enforce SFFT requirements. In the list of potential gear type or sector/monitoring type declarations found at 50 CFR 660.13(d)(4)(iv)(A), NFMS proposes adding a declaration for ''Limited entry selective flatfish trawl, shorebased IFQ'' and modifying the existing ''Limited entry bottom trawl, shorebased IFQ, not including demersal trawl'' declaration to clarify that selective flatfish trawl gear is not included (*i.e.,* ''Limited entry bottom trawl, shorebased IFQ, not including demersal trawl or selective flatfish trawl''). NMFS expects the addition of another declaration to the suite of available declarations would have negligible impact on a vessel's reporting burden.

IV. Proposed Rules for Access to the Chinook Salmon Reserve

The Biological Opinion analyzed the 3,500 Chinook salmon bycatch ''reserve'', implemented through a prior rulemaking (83 FR 63970, December 12, 2018). Fishery sectors may access the reserve upon reaching their Chinook salmon bycatch guideline. Either the whiting or non-whiting sector, or both sectors, may access the reserve in a given year, but the reserve is limited to 3,500 Chinook salmon total. Accessing the reserve in three out of any five consecutive years will also trigger reinitiation of the ESA consultation. The reserve accounts for a scenario in which Chinook salmon bycatch increases unexpectedly. The reserve is not an entitlement or a de facto increase in the bycatch threshold. Rather, the reserve is a safety net to minimize disruption to the fishery when other actions already in effect to reduce bycatch are insufficient.

The Council deferred consideration of the regulations governing the reserve during the development the 2019–20 Pacific Coast groundfish harvest specifications and management measures (83 FR 63970, December 12, 2018) and instead chose to address the reserve in this action. This proposed rule would establish the rules or circumstances in which the whiting and non-whiting sectors can access the reserve. As described in the Biological Opinion, access to the reserve for additional Chinook salmon bycatch above the sector's guideline is not guaranteed. The Council recommended that a sector may only access the reserve if NMFS has implemented a routine management measure to minimize Chinook salmon bycatch in that sector prior to it reaching its Chinook salmon bycatch guideline. The Council recommended, and NMFS is proposing to implement, rules for accessing the reserve that hold the whiting and non-whiting sectors accountable for minimizing bycatch.

The Council recommended, and NMFS is proposing to implement, that the non-whiting sector may only access the reserve if NMFS has implemented a routine management measure (*i.e.,* BRA, BAC, or a SFFT gear requirement) to minimize Chinook salmon bycatch in the non-whiting sector prior to it reaching its Chinook salmon bycatch guideline. This requirement may be satisfied where NMFS has implemented a BAC for bottom trawl or midwater trawl fisheries, or an SFFT gear requirement for bottom trawl fisheries.

In contrast to the non-whiting sector, the Council recommended, and NMFS is proposing to implement, that each component of the sector (*i.e.,* the Mothership Cooperative Program, Catcher/processor Cooperative Program, and the Pacific whiting Shorebased IFQ fishery) may access to the reserve only if NMFS has implemented a routine management measure to minimize Chinook salmon bycatch for that component. This requirement may be satisfied through the implementation of a BRA, BAC, or Salmon Mitigation Plan (SMP) for the applicable component. Those vessels with an approved SMP (see Section V) would have access to the reserve without further action by NMFS. The Council recommended, and NMFS is proposing to implement, that vessels not party to an SMP may access the reserve only if NMFS has implemented a routine management measure (*e.g.,* BRA or BAC) to minimize Chinook salmon bycatch for those vessels.

As part of the rules for access to the reserve, the Council recommended, and NMFS is proposing to implement, automatic fishery closure thresholds. The Council may recommend a routine management measure (*e.g.,* BRA, BAC, or SFFT gear requirement) to minimize Chinook salmon bycatch in the groundfish fishery. If NMFS has not implemented a routine management measure to minimize Chinook salmon bycatch in the non-whiting sector, the non-whiting sector would close once the sector exceeds its Chinook salmon bycatch guideline of 5,500 Chinook salmon. NMFS would automatically close the MS Coop Program, C/P Coop Program, and the Pacific whiting IFQ fishery if NMFS has not implemented a routine management measure to minimize Chinook salmon bycatch (*i.e.,* BRAs, BACs, or a SFFT gear requirement) for that specific component of the whiting sector prior to the whiting sector exceeding its Chinook salmon bycatch guideline of 11,000 Chinook salmon. Those vessels with an approved SMP (see Section V) would be exempt from the 11,000 Chinook salmon bycatch guideline closure threshold condition that requires NMFS to close a specific component of the whiting sector if NMFS has not implemented a routine management measure to minimize Chinook salmon bycatch. Therefore, these vessels would have access to the reserve without further action by NMFS. The entire whiting sector, including those with an approved SMP, would close if the non-whiting sector has caught its 5,500 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve. Table 2 summarizes the proposed automatic fishery closure thresholds for the Council's recommended reserve access rules that NMFS is proposing to implement.

TABLE 2—SUMMARY OF FISHERY CLOSURES TO IMPLEMENT RESERVE ACCESS RULES

Close:	If Chinook salmon catch exceeds:	And:
Whiting sector	11,000 fish in the whiting sector	(1) NMFS has not implemented a routine management measure to minimize Chinook salmon bycatch OR (2) The non-whiting sector has caught its 5,500 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve.
Non-whiting sector	5,500 fish in the non-whiting sector	(1) NMFS has not implemented a routine management measure to minimize Chinook salmon bycatch OR (2) The non-whiting sector has caught its 5,500 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve.

V. Proposed Salmon Mitigation Plans for Pacific Whiting Sector

This proposed rule would allow a Pacific whiting sector cooperative or group of vessels to develop a Salmon Mitigation Plan (SMP) for NMFS approval. The SMP is a voluntary agreement by a cooperative or group of vessels in the Pacific whiting fishery Mothership (MS) Coop Program, Catcher/processor (C/P) Coop Program, or Pacific whiting Shorebased IFQ fishery to manage Chinook salmon bycatch.

The at-sea and shorebased whiting cooperatives have developed a self-management system that governs their effort and is based on targeting whiting while minimizing incidental bycatch, including salmon. At present, tools employed by the cooperatives include information sharing, area closures, movement rules, salmon excluders, and internal Chinook salmon guidelines. These tools make the cooperative structure uniquely effective at bycatch avoidance and reduction. Additionally, the cooperative governance system requires vessels to abide by the cooperative's rules, and, if warranted based on those rules, the cooperative can implement vessel-level accountability measures. This system allows the industry to rapidly mitigate bycatch concerns through a suite of bycatch avoidance methods.

NMFS expects the SMP to promote reductions in Chinook salmon bycatch relative to what would have occurred in the absence of an SMP because the SMP will require bycatch minimization measures for all vessels party to that SMP. Therefore, NMFS approval of an SMP would give those vessels party to

the SMP access to the Chinook salmon bycatch reserve. Additionally, vessels that are party to an approved SMP would have access to the reserve regardless of NMFS implementing other inseason measures to minimize bycatch, such as BACs. Vessels that are party to an approved SMP may fish into the reserve when the non-whiting sector has not used the full reserve and NMFS has closed the whiting sector on the basis that it has reached 11,000 Chinook bycatch.

Salmon Mitigation Plan Parties

Individual vessels would not be eligible to submit an SMP for approval. MS and C/P vessels receive permits from NMFS to operate as cooperatives. Vessels in the Pacific whiting Shorebased IFQ fishery do not receive cooperative permits like the MS or C/P cooperatives. However, participants in the Pacific whiting Shorebased IFQ fishery may form groups around common goals such as managing bycatch. NMFS is aware of one group, the Shorebased Whiting Cooperative, which operates in this way.

Under this proposed rule no vessel may join or leave an SMP after it is approved. Therefore, those vessels party to the SMP would be committed to follow the SMP provisions for the year in which it is approved. NMFS proposes this condition to: (1) Maximize the potential salmon conservation benefits of an SMP; (2) prevent vessels that did not follow the SMP provisions throughout the year from receiving the benefit of access into the reserve on the basis of the SMP; and (3) ensure NMFS can sufficiently monitor and enforce a BAC from which vessels with an approved SMP are exempt. We specifically seek comment and information related to this measure.

In recommending the SMP measures, the Council provided, and NMFS is proposing to implement, an additional way to allow groups of Pacific whiting vessels to access the reserve. The Council limited SMP submissions to cooperatives or other groups of vessels because of concerns regarding the enforceability of plans from individual whiting vessels. The Council noted that other groups would have the potential to employ a robust management system similar to that employed by the existing whiting cooperatives. The Council did not recommend a minimum number of vessels in an SMP. In order to improve the clarity of the regulations, NMFS proposes a three-vessel minimum for an approved SMP. NMFS proposes that an SMP would need to have at least three vessels to ensure the robust management and accountability system envisioned by the Council. We specifically request comment and information related to specifying a minimum number of vessels for an SMP.

Salmon Mitigation Plan Required Contents

The SMP must detail how those vessels party to the SMP would avoid and minimize Chinook salmon bycatch, including the tools they would employ. The SMP must contain the names and signatures of the owner or representative for each vessel that is party to the SMP. The SMP must designate a representative to serve as the SMP point of contact with NMFS and the Council, and to submit the SMP proposal, any amendments, and post-season report. The SMP must also contain a compliance agreement in which all parties to the SMP agree to voluntarily comply with all the provisions of the SMP.

Salmon Mitigation Plan Review and Approval

Consistent with the dates for MS and C/P cooperative permit and agreement submission, applicants would submit proposed SMPs to NMFS between February 1 and March 31. An SMP would expire on December 31 of the year in which NMFS approved it. Given the timing of this rulemaking, NMFS anticipates it would start to accept and evaluate SMP proposals beginning in 2021.

NMFS would approve a proposed SMP if the proposal contains the required contents. NMFS would disapprove a proposed SMP if it does not contain the required contents. If NMFS makes an initial administrative determination (IAD) to disapprove the proposed SMP, the applicant may appeal. Any appeal under the SMP program would be processed by the NOAA Fisheries National Appeals Office.

An amendment to an approved SMP may be submitted to NMFS at any time during the year in which the SMP is valid. NMFS would review the amendment to ensure it contains the required SMP contents. An amendment to an approved SMP would be effective upon written notification of approval by NMFS to the designated SMP representative.

Inseason SMP Monitoring and Evaluation

Those vessels party to the SMP would commit to voluntarily comply with the provisions of the SMP. The Council would evaluate Chinook salmon bycatch levels and adherence to SMP provisions by those vessels party to the SMP, as needed, during the inseason review process at Council meetings. In recommending and implementing a routine management measure to minimize Chinook salmon bycatch, the Council and NMFS would specifically state whether the measure would apply to vessels party to an approved SMP. The Council may choose to exempt vessels fishing under an approved SMP from any additional salmon bycatch minimization measure recommendation. If the SMP measures are not sufficient in minimizing salmon bycatch, as determined by the Council during inseason review at regular Council meetings, the Council could recommend that NMFS implement additional salmon bycatch minimization measures (*i.e.,* BRAs or BACs) that would apply to those vessels party to an approved SMP even if those vessels had access to the reserve through the SMP. For example, NMFS may implement a BAC for all whiting sector vessels, including those with an approved SMP, if the whiting sector were approaching the Chinook salmon bycatch guideline and the Council had determined SMP measures were not sufficiently minimizing salmon bycatch.

By using the existing declarations and procedures, as well as a list of vessels with an approved SMP, NMFS OLE anticipates it could sufficiently monitor for unauthorized fishing vessels within the boundaries of a BAC that exempts vessels with an approved SMP.

Post-Season Reporting

The Council also recommended, and NMFS is proposing to implement, an SMP post-season report as a necessary component of the SMP measures. The post-season report would allow NMFS and the Council to monitor and assess Chinook salmon bycatch minimization efforts by vessels party to the SMP. This post-season report, and specifically information on the effectiveness of the bycatch avoidance measures, would also help NMFS comply with term and condition 6.a.iii of the Biological Opinion. This term and condition requires that NMFS produce an annual report summarizing bycatch reduction measures used and their effectiveness.

The designated SMP representative would be required to provide an annual post-season report to the Council and NMFS no later than March 31 of the year following the year in which the SMP was valid. The report would describe the group's use of Chinook salmon bycatch avoidance measures and an evaluation of the effectiveness of those measures. The report would also describe any amendments to the terms

of the SMP that NMFS approved during that fishing year and the reasons that the group amended the SMP.

VI. Proposed Trawl Fishery Closures in Response to Chinook Salmon Bycatch

This proposed rule would establish automatic actions that would close all trawl fisheries if Chinook salmon bycatch exceeds 19,500 fish in the whiting and non-whiting sectors, and would close non-whiting trawl fisheries if Chinook salmon bycatch exceeds 8,500 fish in the non-whiting sector. The closures would ensure that 500 Chinook salmon are available for bycatch in fixed gear and select recreational fisheries, so those fisheries could continue to operate in years of high Chinook salmon bycatch in the trawl fishery. Ensuring the availability of 500 Chinook salmon would cover the worst-case scenario for Chinook salmon bycatch by fixed gear and recreational fisheries in a single year. The 2017 Biological Opinion estimated the fixed gear and recreational fisheries would catch a maximum of 154 Chinook salmon annually. The Biological Opinion also analyzed an additional buffer of 250 Chinook salmon, resulting in an estimated annual maximum of 404 Chinook salmon caught in these fisheries. The Council's Groundfish Management Team (GMT) suggested that a fixed amount of 500 Chinook salmon be available annually for fixed gear and select recreational fisheries as it should be able to account for potential bycatch in these fisheries without being constraining (Agenda Item G.8.a, Supplemental GMT Report 1, November 2018). For catch accounting purposes, the Chinook salmon bycatch from Pacific Coast treaty Indian fisheries would count towards the applicable whiting or non-whiting sector bycatch guideline. However, Pacific Coast treaty Indian fisheries would not close until the existing 20,000 Chinook salmon total fishery limit was reached.

The proposed action would not change any of the existing closure thresholds established in the 2019–20 Pacific Coast groundfish harvest specifications and management measures (83 FR. 63970, December 12, 2018). The closure thresholds (bycatch guideline plus reserve) for the whiting and non-whiting sectors would remain at 14,500 Chinook salmon for the whiting sector and 9,000 Chinook salmon for the non-whiting sector, and a total closure of all groundfish fisheries at 20,000 Chinook salmon. The Council noted the existing fishery closure thresholds and inseason processes would be sufficient to manage to the Chinook salmon bycatch guidelines. However, the Council also recognized the importance of protecting fixed-gear and recreational fisheries from potential closure in years of high non-whiting trawl Chinook salmon bycatch. Therefore, the Council recommended, and NMFS is proposing to implement, closure thresholds for trawl fisheries. Table 3 summarizes the proposed closure thresholds for trawl fisheries.

TABLE 3—SUMMARY OF FISHERY CLOSURES TO IMPLEMENT TRAWL FISHERY THRESHOLDS

Close:	If Chinook salmon catch exceeds:
Non-whiting trawl fisheries	8,500 fish in the non-whiting sector.
All trawl fisheries	19,500 fish in the whiting and non-whiting sectors.

VII. Summary of Existing and Proposed Groundfish Fishery Closures in Response to Chinook Salmon Bycatch

Table 4 summarizes the existing and proposed groundfish fishery closures in response to Chinook salmon bycatch. The closures described in the table do not apply to Pacific Coast treaty Indian fisheries except for the existing threshold closing all groundfish fisheries, including Pacific Coast treaty Indian fisheries, if Chinook salmon bycatch in the groundfish fishery exceeds 20,000 fish. However, for catch accounting purposes, the Chinook salmon bycatch from Pacific Coast treaty Indian fisheries would count towards the applicable whiting or non-whiting sector bycatch guideline. Each component of the whiting sector (Pacific whiting IFQ fishery, MS Coop Program and C/P Coop Program) would be closed when Chinook salmon bycatch exceeds 11,000 Chinook salmon if NMFS has not implemented a routine management measure (*i.e.,* BRA, BAC, or a SFFT gear requirement) to minimize Chinook salmon bycatch for that individual component of the whiting sector. The whiting sector closure at 11,000 Chinook salmon would not apply to those vessels that are parties to an approved SMP, unless the non-whiting sector has caught the entire 3,500 Chinook salmon bycatch reserve.

TABLE 4—SUMMARY OF GROUNDFISH FISHERIES CLOSURES DUE TO CHINOOK SALMON BYCATCH

Existing/proposed:	Close:	If Chinook salmon bycatch exceeds:	And:
Proposed (implement reserve access rules).	Whiting sector	11,000 fish in the whiting sector	(1) NMFS has not implemented a routine management measure to minimize Chinook salmon bycatch OR (2) The non-whiting sector has caught its 5,500 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve.
Existing (83 FR 63970; December 12, 2018).	Whiting sector	14,500 fish in the whiting sector	The non-whiting sector has not accessed the Chinook salmon bycatch reserve.

TABLE 4—SUMMARY OF GROUNDFISH FISHERIES CLOSURES DUE TO CHINOOK SALMON BYCATCH—Continued

Existing/proposed:	Close:	If Chinook salmon bycatch exceeds:	And:
Proposed (implement reserve access rules).	Non-whiting sector	5,500 fish in the non-whiting sector.	(1) NMFS has not implemented a routine management measure to minimize Chinook salmon bycatch OR (2) The whiting sector has caught its 11,000 Chinook salmon guideline and 3,500 Chinook salmon from the bycatch reserve.
Proposed (ensure 500 Chinook salmon available for fixed gear and recreational fisheries).	Non-whiting trawl fisheries (midwater trawl and bottom trawl fisheries under the Shorebased IFQ Program).	8,500 fish in the non-whiting sector.	
Existing (83 FR 63970; December 12, 2018).	Non-whiting sector	9,000 fish in the non-whiting sector.	The whiting sector has not accessed the Chinook salmon bycatch reserve.
Proposed (ensure 500 Chinook salmon available for fixed gear and recreational fisheries).	All trawl fisheries (whiting sector and non-whiting trawl fisheries).	19,500 fish in the whiting and non-whiting sector.	
Existing (83 FR 63970; December 12, 2018).	All groundfish fisheries	20,000 fish in the whiting and non-whiting sector.	

VIII. Anticipated Effects of This Proposed Rule

Effectiveness in Minimizing Chinook and Coho Salmon Bycatch

The additional management tools in the proposed action would provide NMFS with more flexibility to effectively minimize incidental Chinook and coho salmon bycatch in the Pacific coast groundfish fishery (Sections 3.6.1.2.1, 3.6.2.2.1, and 3.6.3.4.1 of the Analysis). The effects of the proposed rule on Chinook and coho salmon overlap. Therefore, we examine these species together in this analysis. BACs, including the extension, could close ''hot spot'' areas, thus reducing the risk of bycatch where Chinook and/or coho salmon presence is highest. SFFT gear requirements would be a beneficial tool to reduce incidental Chinook and coho salmon bycatch in the bottom trawl fishery.

Given that the SMPs would formalize the voluntary salmon bycatch mitigation measures taken by the cooperatives, the proposed rule would increase effectiveness in salmon bycatch minimization (Section 3.6.4.2.4 of the Analysis).

The proposed changes to trawl fishery closures would be an appropriate and important tool to keep catch below the bycatch guidelines.

The proposed rules for access to the Chinook salmon reserve would not minimize salmon bycatch in the fishery directly; however, indirectly they could result in application of minimization measures that could reduce salmon bycatch (*i.e.,* BAC, BRA, or SFFT gear requirement). This proposed rule could therefore reduce the incidence of a sector exceeding its bycatch guideline and accessing the reserve (Section 3.6.6.2.1 of the Analysis).

Costs

Under this proposed rule, NMFS would have additional salmon bycatch management tools. The proposed action would not implement individual BACs or SFFT gear requirements. Implementing a BAC or SFFT gear requirement could result in a range of costs to industry, depending on the timing, location, and duration of the closure or gear restriction. Compared to a BRA, a BAC or SFFT gear requirement would provide a more flexible tool in minimizing salmon bycatch. For example, a BAC could potentially close a small area with anticipated high salmon bycatch while allowing industry to continue to fish in lower bycatch areas. Were an SFFT gear requirement implemented, vessels without an SFFT net could incur costs associated with either purchasing an SFFT net ($18,000 to $25,000 per single SFFT net), or moving to fish outside the closed area with a different net type (Section 3.6.1.2.2, 3.6.2.2.2, and 3.6.3.4.2 of the Analysis).

The proposed trawl fishery closure thresholds are not expected to diminish opportunity in the trawl fisheries. Salmon bycatch in the trawl fisheries has fallen steadily over the past 15 years and bycatch is expected to remain relatively low compared to the proposed closure thresholds. The fixed gear and the recreational fisheries would benefit from this measure to ensure 500 Chinook salmon are available for these fisheries as they could continue to operate even in years of high non-whiting trawl Chinook salmon bycatch (Section 3.6.4.2.5 of the Analysis).

The proposed rules for accessing the Chinook salmon bycatch reserve require NMFS to implement a routine management measure (or approve an SMP) to minimize Chinook salmon bycatch for the non-whiting sector or component of the whiting sector before granting those sectors access to the reserve. The costs to industry would be realized through implementation of the associated bycatch minimization measure (Section 3.6.6.2.2 of the Analysis) contained in the routine management measure action. Should Pacific whiting cooperatives or other groups choose to submit an SMP, they would incur minor costs associated with compiling the SMP proposal and post-season report (Section 3.6.4.2.5 of the Analysis).

IX. Correction

This rule also proposes a minor technical correction related to the definition of ''Mothership Coop Program'' at § 660.111. An inaccurate amendatory instruction (80 FR 77271, December 14, 2015) resulted in a duplicative definition with an incorrect title. This rule proposes to remove the definition for ''Mothership Coop Program or MS Coop Program'', and maintain the definition for ''Mothership (MS) Coop Program or MS sector'' at § 660.111. This change is not substantive, as it removes a redundant definition.

X. Classification

Pursuant to section 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the

NMFS Assistant Administrator has determined this rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

There are no relevant Federal rules that may duplicate, overlap, or conflict with this action.

An initial regulatory flexibility analysis (IRFA) was prepared for this action, as required by section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 603). The IRFA describes the economic impact that this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action is contained in the **SUMMARY** section and at the beginning of the **SUPPLEMENTARY INFORMATION** section of the preamble. A summary of the IRFA follows. A copy of the IRFA is available from NMFS (see **ADDRESSES** for electronic access information).

When an agency proposes regulations, the RFA requires the agency to prepare and make available for public comment an IRFA that describes the impact on small businesses, non-profit enterprises, local governments, and other small entities. The IRFA is to aid the agency in considering all reasonable regulatory alternatives that would minimize the economic impact on affected small entities.

The RFA (5 U.S.C. 601 *et seq.*) requires government agencies to assess the effects that regulatory alternatives would have on small entities, defined as any business/organization independently owned and operated and not dominant in its field of operation (including its affiliates). A small harvesting business has combined annual receipts of $11 million or less for all affiliated operations worldwide. A small fish-processing business is one that employs 750 or fewer persons for all affiliated operations worldwide.

For marinas and charter/party boats, a small business is one that has annual receipts not in excess of $7.5 million. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. A nonprofit organization is determined to be ''not dominant in its field of operation'' if it is considered small under one of the following Small Business Administration (SBA) size standards: Environmental, conservation, or professional organizations are considered small if they have combined annual receipts of $15 million or less, and other organizations are considered small if they have combined annual receipts of $7.5 million or less.

The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

Description and Estimate of the Number of Small Entities to Which the Rule Applies, and Estimate of Economic Impacts by Entity Size and Industry

This proposed rule would directly affect all commercial groundfish vessels and select recreational groundfish vessels. In the C/P sector, all three permit owners (owning the collective 10 permits) self-reported as large entities. For the MS sector, of the 31 MS/Catcher Vessel endorsed permits, 25 permits and their associated vessels are registered as small entities. Nine permits held by seven entities self-reported as large, with one entity owning three permits. In order to fish in the shoreside whiting or midwater trawl sector, a limited entry trawl endorsed permit is required. Of the 164 limited entry trawl endorsed permits (excluding those with a C/P endorsement), 110 permit owners holding 129 permits classified themselves as small entities. The average small entity owns 1.17 permits with 15 entities owning more than one permit. However, given that between 23 and 26 vessels have participated in the shoreside whiting fishery in the last three years and the same range of vessels in the midwater rockfish fisheries, this is an overestimate of the potential impacted number of small entities. Additionally, it is likely some entities own more than one vessel. From 2016–2018, there were 67–74 bottom trawl vessels.

Since 2016–18, there have been 17 to 23 fixed gear participants in the IFQ fishery, 136 to 144 in the limited entry fixed gear fisheries, and 746 to 769 in the open access fisheries. Of those fixed gear IFQ participants, there have been between 17 and 19 permits used to land groundfish. In 2018, an estimated 13 of these trawl endorsed permits were classified as small entities (based on 2019 declarations). In 2019, 208 of the 239 fixed gear endorsed limited entry permits (required to fish in the primary or limited entry fixed gear sectors) reported as small entities. For the permits that reported as large entities, one entity owned three permits and three owned two permits. All open access vessels are assumed to be small entities, with ex-vessel revenues for all landings averaging $8,966 in 2018.

For the recreational sector, all charter businesses are designated as small entities. The portion of the recreational fishery that would be affected by this action are those groundfish trips occurring outside of the salmon season. Therefore, the estimates provided here may be an overestimate of the actual number of entities or trips that may be affected depending on when the salmon seasons are set and when a closure could occur. For Washington, there were 55 unique charter vessels that took 20,833 bottomfish trips in 2018. In 2018, there were 48 charter vessels that took an estimated 19,208 angler trips in Oregon. However, this estimate does not include guide boats that do not have an official office. In California, there were approximately 290 vessels targeting bottomfish or lingcod, according to logbook submissions, that took an estimated 504,118 angler trips.

The economic effects of the proposed rule are described in Section 4.6 of the Analysis. The economic effects of the additional management tools to minimize ESA-listed salmon bycatch would depend on the extent and timing of the measure. It is likely that there would be some negative economic impact on small entities with the implementation of a BAC or SFFT gear requirement. Vessels would potentially have to move from closed fishing locations, which may decrease the effectiveness at accessing target species.

Cooperatives or other groups of vessels in the Pacific whiting C/P, MS, and shoreside sectors may incur additional administrative costs associated with developing and submitting the SMP and the post-season report. Because we estimate the reporting burden to average 10 hours per response for the SMP proposal, and 8 hours per response for the SMP post-season report, we do not expect the reporting requirement to impact profitability of operations for small or large entities.

Economic impacts to small entities affected by the trawl closure thresholds would depend on the time that the automatic closure points were reached. Table 3.15 of the Analysis details the potential estimated losses for fisheries by month. If the trawl sectors were to unexpectedly close the recreational sectors in November, this could be a loss of $27.4 million in revenue.

There are no direct costs associated with the proposed rules for access to the reserve. However, implementation of any inseason bycatch minimization measures prior to a sector accessing the reserve would have associated economic impacts. For example, if there were unexpected high bycatch in the non-

whiting sector, NMFS would have to implement bycatch minimization measures such as a BAC prior to that sector accessing the reserve. The associated impacts would be those described above for the additional bycatch minimization tools.

Description of Proposed Reporting, Record-Keeping, and Other Compliance Requirements of This Proposed Rule

Additional reporting or recordkeeping may be required of the regulated entities under the proposed action. Cooperatives or other groups of Pacific whiting vessels would have new reporting requirements under the proposed action if they chose to submit an SMP to NMFS for approval. The cooperatives or other groups of vessels with an approved SMP would also be required to submit a post-season report to the Council and NMFS. The proposed action adds a declaration to the suite of available declarations to allow NMFS OLE to sufficiently monitor and enforce SFFT gear requirements. This change would have negligible impact on a vessel's reporting burden.

Federal Rules Which May Duplicate, Overlap, or Conflict With This Proposed Rule

The proposed regulations do not create overlapping regulations with any state regulations or other Federal laws.

A Description of Any Significant Alternatives to the Proposed Rule That Accomplish the Stated Objectives of Applicable Statutes and That Minimize Any Significant Economic Impact of the Proposed Rule on Small Entities

There are no significant alternatives to the proposed rule that would accomplish the stated objectives in a way that would reduce economic impacts of the proposed rule on small entities. This action allows NMFS to exempt any take of listed species from the prohibitions that would otherwise be imposed by Section 9 of the ESA by complying with the terms and conditions in the 2017 NMFS Biological Opinion, which specify certain measures for the Council and NMFS to develop and implement, or consider to minimize bycatch of ESA-listed Chinook and coho salmon. For that reason, there are no significant alternatives to the proposed action evaluated in this IRFA.

Paperwork Reduction Act (PRA) Collection-of-Information Requirements

This proposed rule contains a new collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). NMFS has submitted this proposed requirement to OMB for approval. The following public reporting burden estimates for the submission of SMPs and post-season reports under this proposed rule include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Public reporting burden is estimated to average 10 hours per response for the SMP proposal, 3 hours per response for an SMP amendment, 6 hours per response for an administrative appeal of a disapproved SMP, and 8 hours per response for the SMP post-season report.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection of information to NMFS West Coast Region (see **ADDRESSES**) and at *www.reginfo.gov/public/do/PRAMain.*

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at *https://www.reginfo.gov/public/do/PRASearch.*

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 29, 2020.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.11, in the definition of ''Conservation area(s),'' revise paragraph (1) to read as follows:

§ 660.11 General definitions.

* * * * *

(1) *Groundfish Conservation Area* or *GCA* means a conservation area created or modified and enforced to control catch of groundfish or protected species. Regulations at § 660.60(c)(3) describe the various purposes for which NMFS may implement certain types of GCAs through routine management measures. Regulations at § 660.70 further describe and define coordinates for certain GCAs, including: Yelloweye Rockfish Conservation Areas; Cowcod Conservation Areas; waters encircling the Farallon Islands; and waters encircling the Cordell Banks. GCAs also include depth-based closures bounded by lines approximating depth contours, including Bycatch Reduction Areas or BRAs, or bounded by depth contours and lines of latitude, including, Block Area Closures or BACs, and Rockfish Conservation Areas or RCAs, which may be closed to fishing with particular gear types. BRA, BAC, and RCA boundaries may change seasonally according to conservation needs. Regulations at §§ 660.71 through 660.74, and § 660.76 define depth-based closure boundary lines with latitude/longitude coordinates. Regulations at § 660.11 describe commonly used geographic coordinates that define lines of latitude. Fishing prohibitions associated with GCAs are in addition to those associated with other conservation areas.

* * * * *

■ 3. In § 660.12, add paragraph (a)(19) to read as follows:

§ 660.12 General groundfish prohibitions.

* * * * *

(a) * * *

(19) Fish for, or take and retain, any species of groundfish, during salmon bycatch fishery closures described in § 660.60(d)(1)(iv) and (v), or fail to comply with the salmon bycatch management provisions described in § 660.60(i).

* * * * *

■ 4. Amend § 660.13 by:

■ a. Revising paragraph (d)(4)(iv)(A)(*10*);

■ b. Republishing paragraph (d)(4)(iv)(A)(*11*);

■ c. Revising paragraphs (d)(4)(iv)(A)(*12*) through (*30*)

■ d. Adding paragraph (d)(4)(iv)(A)(*31).*

The revisions, republication and addition read as follows:

§ 660.13 Recordkeeping and reporting.

* * * * *

(d) * * *

(4) * * *

(iv) * * *

(A) * * *

(*10*) Limited entry bottom trawl, shorebased IFQ, not including demersal trawl or selective flatfish trawl,

(*11*) Limited entry demersal trawl, shorebased IFQ,

(*12*) Limited entry selective flatfish trawl, shorebased IFQ,

(*13*) Non-groundfish trawl gear for pink shrimp,

(*14*) Non-groundfish trawl gear for ridgeback prawn,

(*15*) Non-groundfish trawl gear for California halibut,

(*16*) Non-groundfish trawl gear for sea cucumber,

(*17*) Open access longline gear for groundfish,

(*18*) Open access Pacific halibut longline gear,

(*19*) Open access groundfish trap or pot gear,

(*20*) Open access Dungeness crab trap or pot gear,

(*21*) Open access prawn trap or pot gear,

(*22*) Open access sheephead trap or pot gear,

(*23*) Open access line gear for groundfish,

(*24*) Open access HMS line gear,

(*25*) Open access salmon troll gear,

(*26*) Open access California Halibut line gear,

(*27*) Open access Coastal Pelagic Species net gear,

(*28*) Other gear,

(*29*) Tribal trawl,

(*30*) Open access California gillnet complex gear or

(*31*) Gear testing.

* * * * *

■ 5. In § 660.50, revise paragraph (h) to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(h) *Salmon bycatch.* This fishery may be closed through automatic action at § 660.60(d)(1)(v).

* * * * *

■ 6. Amend § 660.60 as follows:

■ a. Revise paragraphs (c)(3)(i) introductory text; (c)(3)(i)(C), (d)(1)(iv) and (v); and

■ b. Add paragraph (i) to read as follows:

§ 660.60 Specifications and Management Measures.

* * * * *

(c) * * *

(3) * * *

(i) *Depth-based management measures.* Depth-based management measures, particularly closed areas known as Groundfish Conservation Areas, defined in § 660.11, include RCAs, BRAs, and BACs, and may be implemented in any fishery sector that takes groundfish directly or incidentally. Depth-based management measures are set using specific boundary lines that approximate depth contours with latitude/longitude waypoints found at §§ 660.70 through 660.74, and § 660.76. Depth-based management measures and closed areas may be used for the following conservation objectives: To protect and rebuild overfished stocks; to prevent the overfishing of any groundfish species by minimizing the direct or incidental catch of that species; or to minimize the incidental harvest of any protected or prohibited species taken in the groundfish fishery. Depth-based management measures and closed areas may be used for the following economic objectives: To extend the fishing season; for the commercial fisheries, to minimize disruption of traditional fishing and marketing patterns; for the recreational fisheries, to spread the available catch over a large number of anglers; to discourage target fishing while allowing small incidental catches to be landed; and to allow small fisheries to operate outside the normal season.

* * * * *

(C) *Block Area Closures.* BACs, as defined at § 660.111, may be closed or reopened, in the EEZ off Oregon and California for vessels using limited entry bottom trawl gear, and in the EEZ off Washington, Oregon and California for vessels using midwater trawl gear, consistent with the purposes described in this paragraph (c)(3)(i).

* * * * *

(d) * * *

(1) * * *

(iv) Close the following groundfish fisheries, not including Pacific Coast treaty Indian fisheries, when conditions for Chinook salmon bycatch described in this table and paragraphs (d)(1)(iv)(A) and (B) of this section are met:

TABLE 1 TO PARAGRAPH (d)(1)(iv)

Close:	If Chinook salmon bycatch, as described in § 660.60(i)(2), exceeds:	And:
Whiting sector (Pacific whiting IFQ fishery, MS Coop Program and/or C/P Coop Program).	11,000 fish in the whiting sector	(1) A routine management measure specified at § 660.60(c) has not been implemented as described in § 660.60(i)(1) OR (2) The non-whiting sector has caught its 5,500 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve.
Whiting sector (Pacific whiting IFQ fishery, MS Coop Program and C/P Coop Program).	14,500 fish in the whiting sector	The non-whiting sector has not accessed the Chinook salmon bycatch reserve.
Non-whiting sector (midwater trawl, bottom trawl, and fixed gear fisheries under the Shorebased IFQ Program, limited entry fixed gear fisheries, open access fisheries, and recreational fisheries subject to this provision as set out in § 660.360(d)).	5,500 fish in the non-whiting sector	(1) A routine management measure specified at § 660.60(c) has not been implemented as described in § 660.60(i)(1) OR (2) The whiting sector has caught its 11,000 Chinook salmon guideline and 3,500 Chinook salmon from the bycatch reserve.
Non-whiting sector (midwater trawl, bottom trawl, and fixed gear fisheries under the Shorebased IFQ Program, limited entry fixed gear fisheries, open access fisheries, and recreational fisheries subject to this provision as set out in § 660.360(d)).	9,000 fish in the non-whiting sector	The whiting sector has not accessed the Chinook salmon bycatch reserve.
Non-whiting trawl fisheries (midwater trawl and bottom trawl fisheries under the Shorebased IFQ Program).	8,500 fish in the non-whiting sector.	

TABLE 1 TO PARAGRAPH (d)(1)(iv)—Continued

Close:	If Chinook salmon bycatch, as described in § 660.60(i)(2), exceeds:	And:
All trawl fisheries (whiting sector and non-whiting trawl fisheries).	19,500 fish in the whiting and non-whiting sector.	

(A) Consistent with § 660.60(i)(2), each component of the whiting sector (Pacific whiting IFQ fishery, MS Coop Program and C/P Coop Program) will be closed when Chinook salmon bycatch exceeds 11,000 Chinook salmon if a routine management measure specified at § 660.60(c) has not been implemented as described in § 660.60(i)(2) for that individual component of the whiting sector.

(B) Consistent with § 660.60(i)(2), the Chinook salmon closure at 11,000 fish does not apply to those whiting sector vessels that are parties to an approved Salmon Mitigation Plan, as specified at § 660.113(e), unless the non-whiting sector has caught the entire 3,500 Chinook salmon bycatch reserve.

(v) Close all groundfish fisheries, including Pacific Coast treaty Indian fisheries, if Chinook salmon bycatch in the groundfish fishery exceeds 20,000 fish.

* * * * *

(i) *Salmon bycatch management.* Salmon bycatch is managed through routine management measures, salmon bycatch guidelines and a Chinook salmon bycatch reserve, and fisheries closures. For purposes of salmon bycatch management, the groundfish fishery is divided into the whiting sector and non-whiting sector and includes bycatch of Chinook salmon and coho salmon from both non-tribal fisheries and Pacific Coast treaty Indian fisheries. The non-whiting sector includes the midwater trawl, bottom trawl, and fixed gear fisheries under the Shorebased IFQ Program, limited entry fixed gear fisheries, open access fisheries as defined at § 660.11, and recreational fisheries subject to this provision as set out in § 660.360(d). The whiting sector is the Pacific whiting fishery, as defined in § 660.111, and includes vessels participating in the C/P Coop Program, the MS Coop Program, and the Pacific whiting IFQ fishery.

(1) *Routine management measures.* Routine management measures specified at § 660.60(c) may be implemented to minimize Chinook salmon and/or coho salmon bycatch in the groundfish fishery. These measures may include BRAs, BACs, or a selective flatfish trawl gear requirement. These measures would not apply to vessels fishing in Pacific Coast treaty Indian fisheries.

(i) *Non-whiting sector.* Routine management measures to manage salmon bycatch in the non-whiting sector include:

(A) A BAC for bottom trawl or midwater trawl as specified at § 660.60(c)(3)(i).

(B) A BRA for midwater trawl as specified at § 660.60(c)(3)(i).

(C) A selective flatfish trawl gear requirement for bottom trawl.

(ii) W*hiting sector.* Routine management measures to manage salmon bycatch in the whiting sector include:

(A) A BAC as specified at § 660.60(c)(3)(i).

(B) A BRA as specified at § 660.60(c)(3)(i).

(2) *Chinook salmon bycatch guidelines and Chinook salmon bycatch reserve.* The Chinook salmon bycatch guideline for the non-whiting sector is 5,500 fish. The Chinook salmon bycatch guideline for the whiting sector is 11,000 fish. If a sector exceeds its Chinook salmon bycatch guideline, it may access a reserve of 3,500 Chinook salmon reserve provided action has been taken to minimize Chinook salmon bycatch as described in paragraph (i)(2)(i) or (ii) of this section. For bycatch accounting purposes, all Chinook salmon bycatch from the groundfish fishery, including both non-tribal and Pacific Coast treaty Indian fisheries, counts towards the applicable whiting or non-whiting sector bycatch guideline and the reserve.

(i) *Reserve access for the non-whiting sector.* The non-whiting sector may only access the reserve if a measure described in paragraph (i)(1)(i) of this section has been implemented.

(ii) *Reserve access for the whiting sector.* Each component of the whiting sector (Pacific whiting IFQ fishery, MS Coop Program and C/P Coop Program) may only access the reserve if a measure described in paragraph (i)(1)(ii) of this section has been implemented for that component of the whiting fishery. If a measure described in paragraph (i)(1)(ii) of this section has not been implemented for that component of the whiting fishery, vessels within that component that are parties to an approved Salmon Mitigation Plan (SMP), as specified at § 660.113(e), may access the reserve.

(3) *Fisheries closures.* Groundfish fisheries may be closed through automatic action at § 660.60(d)(1)(iv) and (v).

■ 7. Amend § 660.111 as follows:

■ a. Revise the definition of ''Block area closures or BACs'';

■ b. Remove the definition of ''Mothership Coop Program or MS Coop Program''; and

■ c. Add a definition for ''Salmon Mitigation Plan (SMP)'' in alphabetical order to read as follows:

§ 660.111 Trawl fishery—definitions.

* * * * *

Block area closures or *BACs* are a type of groundfish conservation area, defined at § 660.11, bounded on the north and south by commonly used geographic coordinates, defined at § 660.11, and on the east and west by the EEZ, and boundary lines approximating depth contours, defined with latitude and longitude coordinates at §§ 660.71 through 660.74 (10 fm through 250 fm), and § 660.76 (700 fm). BACs may be implemented or modified as routine management measures, per regulations at § 660.60(c). BACs may be implemented in the EEZ off Oregon and California for vessels using limited entry bottom trawl and/or midwater trawl gear. BACs may be implemented in the EEZ off Washington shoreward of the boundary line approximating the 250-fm depth contour for midwater trawl vessels. BACs may close areas to specific trawl gear types (*e.g.* closed for midwater trawl, bottom trawl, or bottom trawl unless using selective flatfish trawl) and/or specific programs within the trawl fishery (*e.g.* Pacific whiting fishery or MS Coop Program). BACs may vary in their geographic boundaries and duration. Their geographic boundaries, applicable gear type(s) and/or specific trawl fishery program, and effective dates will be announced in the **Federal Register**. BACs may have a specific termination date as described in the **Federal Register**, or may be in effect until modified. BACs that are in effect until modified by Council recommendation and subsequent NMFS action are set out in Tables 1 (North) and 1 (South) of this subpart.

* * * * *

Salmon Mitigation Plan (SMP) means a voluntary agreement amongst a group of at least three vessels in the MS Coop Program, C/P Coop Program, or Pacific whiting IFQ fishery to manage Chinook salmon bycatch, approved by NMFS under § 660.113(e). Vessels fishing under an approved SMP would have access to the Chinook salmon bycatch reserve as described in § 660.60(i)(2). Routine management measures to minimize Chinook salmon bycatch as described in § 660.60(i) may be implemented for vessels that are parties to an approved SMP.

* * * * *

■ 8. In § 660.113, add paragraph (e) to read as follows:

§ 660.113 Trawl fishery—recordkeeping and reporting.

* * * * *

(e) *Salmon Mitigation Plan (SMP).* NMFS may approve an SMP for a group of at least three vessels in the MS Coop Program, C/P Coop Program, or Pacific whiting IFQ fishery. NMFS may approve an SMP for more than one group in a given year.

(1) *Applicability of further measures to manage salmon bycatch.* Routine management measures to minimize Chinook salmon bycatch as described in § 660.60(i) may be implemented for vessels with an approved SMP.

(2) *SMP contents.* The SMP must contain, at a minimum, the following—

(i) Name of the SMP.

(ii) *Compliance agreement.* A written statement that all parties to the SMP agree to voluntarily comply with all provisions of the SMP.

(iii) *Signatures of those party to SMP.* The names and signatures of the owner or representative for each vessel that is party to the SMP.

(iv) *Designated SMP representative.* The name, telephone number, and email address of a person appointed by those party to the SMP who is responsible for:

(A) Serving as the SMP contact person between NMFS and the Council

(B) Submitting the SMP proposal and any SMP amendments; and

(C) Submitting the SMP postseason report to the Council and NMFS

(v) A description of:

(A) How parties to the SMP will adequately monitor and account for the catch of Chinook salmon.

(B) How parties to the SMP will avoid and minimize Chinook salmon bycatch, including a description of tools parties will employ. Tools may include, but would not be limited to, information sharing, area closures, movement rules, salmon excluder use, and internal bycatch guidelines.

(C) How the SMP is expected to promote reductions in Chinook salmon bycatch relative to what would have occurred in absence of the SMP.

(3) *Deadline for proposed SMP.* A proposed SMP must be submitted to NMFS between February 1 and March 31 of the year in which it intends to be in effect. NMFS will not consider any proposals received after March 31.

(4) *Duration.* Once approved, the SMP expires on December 31 of the year in which it was approved. An SMP may not expire mid-year. No party may join or leave an SMP once it is approved.

(5) *NMFS review of a proposed SMP*—(i) *Approval.* The Assistant Regional Administrator will provide written notification of approval to the designated SMP representative if the SMP meets the following requirements:

(A) Contains the information required in paragraph (e)(2) of this section; and

(B) Is submitted in compliance with the requirements of paragraphs (e)(3) and (e)(4) of this section.

(ii) *SMP identification number.* If approved, NMFS will assign an SMP identification number to the approved SMP.

(iii) *Amendments to an SMP.* The designated SMP representative may submit amendments to an approved SMP to NMFS at any time during the year in which the SMP is approved. The amendment must include the SMP identification number. NMFS will review amendments under the requirements in paragraph (e)(2) of this section. An amendment to an approved SMP is effective upon written notification of approval by NMFS to the designated SMP representative.

(iv) *Disapproval.* (A) NMFS will disapprove a proposed SMP or a proposed amendment to an SMP for either of the following reasons:

(*1*) If the proposed SMP fails to meet any of the requirements of paragraphs (e)(2) through (e)(4) of this section, or

(*2*) If a proposed amendment to an SMP would cause the SMP to no longer meet the requirements of paragraphs (e)(2) through (e)(4) of this section.

(B) *Initial Administrative Determination (IAD).* If, in NMFS' review of the proposed SMP or amendment, NMFS identifies deficiencies in the proposed SMP that would require disapproval of the proposed SMP or amendment, NMFS will notify the applicant in writing. The applicant will be provided one 30-day period to address, in writing, the deficiencies identified by NMFS. Additional information or a revised SMP received by NMFS after the expiration of the 30-day period specified by NMFS will not be considered for purposes of the review of the proposed SMP or amendment. NMFS will evaluate any additional information submitted by the applicant within the 30-day period. If the Assistant Regional Administrator determines the additional information addresses deficiencies in the proposed SMP or amendment, the Assistant Regional Administrator will approve the proposed SMP or amendment under paragraph (e)(5)(i) or (iii) of this section. However, if, after consideration of the original proposed SMP or amendment, any additional information, or a revised SMP submitted during the 30-day period, NMFS determines the proposed SMP or amendment does not comply with the requirements of paragraph (e)(5)(i) or (iii) of this section, the Assistant Regional Administrator will issue an IAD to the applicant in writing providing the reasons for disapproving the proposed SMP or amendment.

(*C*) *Administrative Appeals.* An applicant who receives an IAD disapproving a proposed SMP or amendment may appeal. The appeal must be filed in writing within 30 calendar days of when NMFS issues the IAD. The NOAA Fisheries National Appeals Office will process any appeal. The regulations and policy of the National Appeals Office will govern the appeals process. The National Appeals Office regulations are specified at 15 CFR part 906.

(D) *Pending appeal.* While the appeal of an IAD disapproving a proposed SMP or amendment is pending, proposed parties to the SMP subject to the IAD will not have access to the Chinook salmon bycatch reserve unless a measure described in paragraph § 660.60 (i)(1)(ii) has been implemented for that component of the whiting fishery.

(6) *SMP postseason report.* The designated SMP representative for an approved SMP must submit a written postseason report to NMFS and the Council for the year in which the SMP was approved.

(i) *Submission deadline.* The SMP postseason report must be received by NMFS and the Council no later than March 31 of the year following that in which the SMP was approved.

(ii) *Information requirements.* The SMP postseason report must contain, at a minimum, the following information:

(A) Name of the SMP and SMP identification number.

(B) A comprehensive description of Chinook salmon bycatch avoidance measures used in the fishing year in which the SMP was approved, including but not limited to, information sharing, area closures, movement rules, salmon excluder use, and internal bycatch guidelines.

(C) An evaluation of the effectiveness of these avoidance measures in minimizing Chinook salmon bycatch.

(D) A description of any amendments to the terms of the SMP that were approved by NMFS during the fishing year in which the SMP was approved and the reasons the amendments to the SMP were made.

* * * * *

■ 9. Amend § 660.130 as follows:

■ a. Revise paragraphs (e) introductory text, (e)(5) introductory text, (e)(5)(i), and (iii); and

■ b. Add paragraph (g) to read as follows:

§ 660.130 Trawl fishery—management measures.

* * * * *

(e) *Groundfish conservation areas (GCAs).* GCAs are closed areas, defined at § 660.11, and using latitude and longitude coordinates specified at §§ 660.70 through 660.74, and § 660.76.

* * * * *

(5) *Block area closures or BACs.* BACs, defined at § 660.111, are applicable to vessels with groundfish bottom trawl or midwater trawl gear on board that is not stowed, per the prohibitions in § 660.112(a)(5). When in effect, BACs are areas closed to bottom trawl and/or midwater trawl fishing. A vessel operating, for any purpose other than continuous transiting, in the BAC must have prohibited trawl gear stowed, as defined at § 660.111. Nothing in these Federal regulations supersedes any state regulations that may prohibit trawling shoreward of the fishery management area, defined at § 660.11. Prohibitions at § 660.112(a)(5) do not apply under any of the following conditions and when the vessel has a valid declaration for the allowed fishing:

(i) *Trawl gear.* Limited entry midwater trawl gear and bottom trawl gear may be used within the BAC only when it is an authorized gear type for the area and season, and not prohibited by the BAC.

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(iii) *Multiple gears.* If a vessel fishes in a BAC with an authorized groundfish trawl gear, it may fish outside the BAC on the same trip using another authorized trawl gear type for that area and season, provided it makes the appropriate declaration change.

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(g) *Salmon bycatch.* This fishery may be closed through automatic action at § 660.60(d)(1)(iv) and (v).

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