

cod of the common pool sub-ACLs have been harvested.

This action decreases the GOM cod trip limit to 350 lb (158.8 kg) per DAS, up to 1,000 lb (453.6 kg) per trip and decreases the GB cod trip limit to 300 lb (136.1 kg) per DAS, up to 600 lb (272.2 kg) per trip, for common pool vessels, effective August 30, 2011, through April 30, 2012, to reduce harvest of these stocks and prevent the overharvest of their respective sub-ACLs. This action does not change the current GB cod trip limit for vessels with a Handgear A permit (300 lb (136.1 kg) per trip), Handgear B permit (75 lb (34.0 kg) per trip), or Small Vessel Category permit (300 lb (136.1 kg) of cod, haddock, and yellowtail flounder combined). Catch will continue to be monitored through dealer-reported landings, VMS catch reports, and other available information, and if necessary, additional adjustments to common pool management measures may be made.

Classification

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive prior notice and the opportunity for public comment for this inseason adjustment because notice and comment would be impracticable and contrary to the public interest. The regulations at § 648.86(o) grant the RA authority to adjust the NE multispecies trip limits for common pool vessels in order to prevent the overharvest or underharvest of the pertinent common pool sub-ACLs. This action decreases the trip limits for GOM and GB cod to reduce their harvest in order to prevent the common pool sub-ACLs from being exceeded. The time necessary to provide for prior notice and comment would prevent NMFS from implementing the necessary trip limit adjustments in a timely manner. A resulting delay in the reduction of trip limits would allow for continued higher catch rates and potentially allow the pertinent common pool sub-ACLs to be exceeded. This is contrary to the agency's obligation under the Magnuson-Stevens Act to prevent overfishing. Further, if the sub-ACLs are exceeded, this would trigger the implementation of accountability measures that will have negative economic impacts on the participants in the common pool. Giving effect to this rule as soon as possible will prevent these unnecessary impacts.

Further, the AA finds good cause pursuant to 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this

action. This action decreases the trip limits for GOM and GB cod to reduce their harvest in order to prevent the common pool sub-ACLs from being exceeded. A delay in the reduction of trip limits would allow for continued higher catch rates and potentially allow the pertinent common pool sub-ACLs to be exceeded. This is contrary to the agency's obligation under the Magnuson-Stevens Act to prevent overfishing. Further, if the sub-ACLs are exceeded, this would trigger the implementation of accountability measures that will have negative economic impacts on the participants in the common pool. Giving effect to this rule as soon as possible will prevent these unnecessary impacts

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 25, 2011.

James P. Burgess,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 2011-22141 Filed 8-29-11; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 110721401-1470-01]

RIN 0648-BB31

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Amendments 20 and 21; Trawl Rationalization Program; Correcting Amendments

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

ACTION: Final rule; correcting amendment.

SUMMARY: NMFS announces a correcting amendment to regulations implementing the Pacific Coast Groundfish Fishery Management Plan (PCGFMP). The regulations implementing Amendments 20 and 21 to the PCGFMP, which included reorganization of the entire groundfish regulations and revision of the trawl related regulations, contained inadvertent non-substantive errors that are being corrected by this action in order to assure the enforceability of the regulations and reduce potential confusion of regulated parties. Amendment 20 established a trawl rationalization program for the Pacific

Coast groundfish fishery, which included an individual fishing quota (IFQ) program for the shorebased trawl fleet (including whiting and nonwhiting sectors); and cooperative (coop) programs for the at-sea (whiting only) mothership and catcher/processor trawl fleets. Amendment 21 established fixed allocations for limited entry trawl participants.

DATES: This action is effective August 30, 2011.

FOR FURTHER INFORMATION CONTACT: Becky Renko, NMFS, Northwest Region, 206-526-6110.

SUPPLEMENTARY INFORMATION:

Need for Corrections

On October 1, 2010 (75 FR 60868) and December 15, 2010 (75 FR 78344) NMFS published final rules to implement Amendments 20 and 21 to the PCGFMP. The October 1, 2010, final rule reorganized the Pacific Coast groundfish regulations previously at subpart G of part 660 by restructuring the regulations in subparts C through G of part 660 and adding regulations for establishing a new allocation structure and issuance of quota shares for the new trawl rationalization program. The second final rule, published on December 15, 2010, implemented the management structure for the trawl rationalization program that took effect on January 1, 2011. These actions contained numerous inadvertent minor errors in regulatory text, including: duplicate paragraphs; cross references that refer to incorrect sections and paragraphs; inconsistent formatting for cross references; and obsolete regulatory text that was not removed. This action corrects these non-substantive errors.

Duplicate paragraphs were identified at § 660.112 (c)(5) and (d)(12), § 660.150 (f)(2), and § 660.160 (e)(1). This action removes the duplicate regulatory text. Incorrect cross references as well as cross reference formatting errors are being corrected by this action. Language regarding the use of "bycatch limits" in the Pacific whiting fishery has been removed as they are no longer in use and have been replaced by allocations. Terms that were defined in the definitions, but inconsistently used in regulatory text were revised, including "Pacific Fishery Management Council", "sablefish primary season" and "economic data collection."

Classification

The Assistant Administrator (AA) finds good cause under 5 U.S.C. 553(b)(3)(B) to waive prior notice and opportunity for public comment because it is unnecessary and contrary

to the public interest. This document corrects inaccurate cross references; removes language regarding referring to “bycatch limits” in the Pacific whiting fishery at § 660.60 (c) that are no longer in use; removes duplicate paragraphs at § 660.112 (c)(5), and (d)(12), § 660.150 (f)(2) and § 660.160 (e)(1); and, revises the use of the terms “Pacific Fishery Management Council”, “sablefish primary season” and “economic data collection” so they are consistently used in regulatory text and are used consistently with the defined terms. Providing notice and comment on these changes is unnecessary because all are non-substantive and have no effect on the public or the operation of the fishery; thus would have no impact on regulated parties. Allowing inconsistencies in regulatory text to persist would be contrary to the public interest as it could affect the enforceability of the regulations. For the same reasons above, the AA finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness and makes this rule effective immediately upon publication.

Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

It has been determined that this rule is not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 25, 2011.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, part 660 is 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, revise the definitions for “*B_{MSY}*”, “Catch monitor”, “Commercial harvest guideline”, “Open access fishery”, “Pacific Coast Groundfish Fishery Management Plan or PCGFMP”, “Person”, “Processing or to

process” introductory text and “Processor” to read as follows:

§ 660.11 General definitions.

* * * * *

B_{MSY} means the biomass level that produces maximum sustainable yield (MSY), as stated in the PCGFMP at Section 4.3.

* * * * *

Catch monitor means an individual that is certified by NMFS, is deployed to a first receiver, and whose primary duties include: monitoring and verification of the sorting of fish relative to Federal requirements defined in § 660.60(h)(6); documentation of the weighing of such fish relative to the requirements of § 660.13(b); and verification of first receivers’ reporting relative to the requirements defined in § 660.113(b)(4).

* * * * *

Commercial harvest guideline means the fishery harvest guideline minus the estimated recreational catch. Limited entry and open access allocations are derived from the commercial harvest guideline.

* * * * *

Open access fishery means the fishery composed of commercial vessels using open access gear fished pursuant to the harvest guidelines, quotas, and other management measures governing the harvest of open access allocations (detailed in § 660.55) or governing the fishing activities of open access vessels (detailed in subpart F of this part). Any commercial vessel that is not registered to a limited entry permit and which takes and retains, possesses or lands groundfish is a participant in the open access groundfish fishery.

* * * * *

Pacific Coast Groundfish Fishery Management Plan or PCGFMP means the Fishery Management Plan for the Washington, Oregon, and California Groundfish Fishery developed by the Council and approved by the Secretary on January 4, 1982, and as it may be subsequently amended.

* * * * *

Person, as it applies to limited entry and open access fisheries conducted under, subparts C through F of this part means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a).

Processing or to process means the preparation or packaging of groundfish to render it suitable for human

consumption, retail sale, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless additional preparation is done. (A vessel that is 75-ft (23-m) or less LOA that harvests whiting and, in addition to heading and gutting, cuts the tail off and freezes the whiting, is not considered to be a catcher/processor nor is it considered to be processing fish (See § 660.112(b)(1)(xii)(A))).

Processor means a person, vessel, or facility that engages in commercial processing; or receives live groundfish directly from a fishing vessel for retail sale without further processing. (Also see the definition for processors at § 660.140, which defines processor for the purposes of qualifying for initial issuance of QS in the Shorebased IFQ Program.)

(1) For the purposes of economic data collection or EDC in the Shorebased IFQ Program, shorebased processor means a person that engages in commercial processing, that is an operation working on U.S. soil or permanently fixed to land, that takes delivery of fish that has not been subject to at-sea processing or shorebased processing; and that thereafter engages that particular fish in shorebased processing; and excludes retailers, such as grocery stores and markets, which receive whole or headed and gutted fish that are then filleted and packaged for retail sale. At § 660.114(b), trawl fishery—economic data collection program, the definition of processor is further refined to describe which shorebased processors are required to submit their economic data collection forms.

(2) [Reserved]

* * * * *

■ 3. In § 660.12, revise paragraphs (a)(8), (e)(7), (f)(5), and (f)(9) to read as follows:

§ 660.12 General groundfish prohibitions.

* * * * *

(a) * * *

(8) Fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, scientific sorting designation, quota, harvest guideline, ACT, ACL or OY, if the vessel fished or landed in an area during a time when such trip limit, size limit, scientific sorting designation, quota, harvest guideline, ACT, ACL or OY applied; except as specified at § 660.130(d), for vessels participating in the Pacific whiting sectors.

* * * * *

(e) * * *

(7) Fail to provide departure or cease fishing reports specified at §§ 660.113(c), 660.150(c), 660.160(c); § 660.216(c); or § 660.316(c).

(f) * * *

(5) Receive, purchase, or take custody, control, or possession of a delivery without catch monitor coverage when such coverage is required under § 660.140(i).

(9) Fail to meet the catch monitor provider responsibilities specified at § 660.17(e).

■ 4. In § 660.17, revise paragraphs (b)(3), and (e)(5) to read as follows:

§ 660.17 Catch monitors and catch monitor providers.

(b) * * *

(3) Have not been decertified as an observer or catch monitor under provisions in §§ 660.18(e), and 660.140(h)(6), 660.150(g)(6), and 660.160(g)(6).

(e) * * *

(5) *Respond to industry requests for catch monitors.* A catch monitor provider must provide a catch monitor for assignment pursuant to the terms of the contractual relationship with the first receiver to fulfill first receiver requirements for catch monitor coverage under § 660.140(i)(1). An alternate catch monitor must be supplied in each case where injury or illness prevents the catch monitor from performing his or her duties or where the catch monitor resigns prior to completion of his or her duties. If the catch monitor provider is unable to respond to an industry request for catch monitor coverage from a first receiver for whom the provider is in a contractual relationship due to the lack of available catch monitors, the provider must report it to NMFS at least 4 hours prior to the expected assignment time.

■ 5. In § 660.18, revise paragraphs (e)(3) to read as follows:

§ 660.18 Certification and decertification procedures for catch monitors and catch monitor providers.

(e) * * *

(3) *Issuance of IAD.* Upon determination that decertification is warranted, the decertification official will issue a written IAD. The IAD will identify the specific reasons for the action taken. Decertification is effective

30 calendar days after the date on the IAD, unless there is an appeal.

■ 6. In § 660.25, revise paragraphs (b)(2), (b)(3)(v) and (vi), and (b)(4)(iv)(B) to read as follows:

§ 660.25 Permits.

(b) * * *

(2) *Mothership (MS) permit.* The MS permit conveys a conditional privilege for the vessel registered to it, to participate in the MS fishery by receiving and processing deliveries of groundfish in the Pacific whiting mothership sector. An MS permit is a type of limited entry permit. An MS permit does not have any endorsements affixed to the permit. The provisions for the MS permit, including eligibility, renewal, change of permit ownership, vessel registration, fees, and appeals are described at § 660.150 (f).

(3) * * *

(v) *MS/CV endorsement.* An MS/CV endorsement on a trawl limited entry permit conveys a conditional privilege that allows a vessel registered to it to fish in either the coop or non-coop fishery in the MS Coop Program described at § 660.150. The provisions for the MS/CV-endorsed limited entry permit, including eligibility, renewal, change of permit ownership, vessel registration, combinations, accumulation limits, fees, and appeals are described at § 660.150(g).

(vi) *C/P endorsement.* A C/P endorsement on a trawl limited entry permit conveys a conditional privilege that allows a vessel registered to it to fish in the C/P Coop Program described at § 660.160. The provisions for the C/P-endorsed limited entry permit, including eligibility, renewal, change of permit ownership, vessel registration, combinations, fees, and appeals are described at § 660.160(e).

(4) * * *

(iv) * * *

(B) *Effective date.* The change in ownership of the permit or change in the permit holder will be effective on the day the change is approved by SFD, unless there is a concurrent change in the vessel registered to the permit. Requirements for changing the vessel registered to the permit are described at paragraph (b)(4)(v) of this section.

■ 7. In § 660.55, (b)(4), (f)(2), and (k) are revised to read as follows:

§ 660.55 Allocations.

(b) * * *

(4) EFPs are authorized and governed by regulations at §§ 660.60(f) and 600.745.

(f) * * *

(2) The commercial harvest guideline for Pacific whiting is allocated among three sectors, as follows: 34 percent for the C/P Coop Program; 24 percent for the MS Coop Program; and 42 percent for the Shore based IFQ Program. No more than 5 percent of the Shore based IFQ Program allocation may be taken and retained south of 42° N. lat. before the start of the primary Pacific whiting season north of 42° N. lat. Specific sector allocations for a given calendar year are found in Tables 1a through c and 2a through c of this subpart. Set asides for other species for the at-sea whiting fishery for a given calendar year are found in Tables 1d and 2d of this subpart.

(k) *Exempted fishing permit set-asides.* Annual set-asides for EFPs described at §§ 660.60(f) and 600.745, will be deducted from the ACL or ACT when specified. Set-aside amounts will be adjusted through the biennial harvest specifications and management measures process.

■ 8. In § 660.60, paragraphs (c)(1)(ii) and (iii), and (f)(3) are revised to read as follows:

§ 660.60 Specifications and management measures.

(c) * * *

(1) * * *

(ii) *Differential trip landing limits and frequency limits based on gear type, closed seasons, and bycatch limits.* Trip landing and frequency limits that differ by gear type and closed seasons may be imposed or adjusted on a biennial or more frequent basis for the purpose of rebuilding and protecting overfished or depleted stocks.

(iii) *Type of limited entry trawl gear on board.* Limits on the type of limited entry trawl gear on board a vessel may be imposed on a biennial or more frequent basis. Requirements and restrictions on limited entry trawl gear type are found at § 660.130(b).

(f) * * *

(3) U.S. vessels operating under an EFP are subject to restrictions in subparts C through G of this part unless otherwise provided in the permit.

■ 9. In § 660.70, the introductory text and paragraph (p) are revised to read as follows:

§ 660.70 Groundfish conservation areas.

In § 660.11, a groundfish conservation area is defined in part as “a geographic area defined by coordinates expressed in degrees latitude and longitude, wherein fishing by a particular gear type or types may be prohibited.” While some groundfish conservation areas may be designed with the intent that their shape be determined by ocean bottom depth contours, their shapes are defined in regulation by latitude/longitude coordinates and are enforced by those coordinates. Latitude/longitude coordinates designating the large-scale boundaries for rockfish conservation areas are found in §§ 660.71 through 660.74. Fishing activity that is prohibited or permitted within a particular groundfish conservation area is detailed at subparts D through G of part 660.

* * * * *

(p) *Rockfish Conservation Areas.* RCA restrictions are detailed in subparts D through G. RCAs may apply to a single gear type or to a group of gear types such as “trawl RCAs” or “non-trawl RCAs.” Specific latitude and longitude coordinates for RCA boundaries that approximate the depth contours selected for trawl, non-trawl, and recreational RCAs are provided in §§ 660.71 through 660.74. Also provided in §§ 660.71 through 660.74, are references to islands and rocks that serve as reference points for the RCAs.

(1) *Trawl (Limited Entry and Open Access Nongroundfish Trawl Gears) Rockfish Conservation Areas.* Trawl RCAs are intended to protect a complex of species, such as overfished shelf rockfish species, and have boundaries defined by specific latitude and longitude coordinates intended to approximate particular depth contours. Boundaries for the trawl RCA throughout the year are provided in Table 1 (North) and Table 1 (South), and may be modified by NMFS inseason pursuant to § 660.60(c). Trawl RCA boundaries are defined by specific latitude and longitude coordinates and are provided in §§ 660.71 through 660.74.

(2) *Non-Trawl (Limited Entry Fixed Gear and Open Access Non-trawl Gears) Rockfish Conservation Areas.* Non-trawl RCAs are intended to protect a complex of species, such as overfished shelf rockfish species, and have boundaries defined by specific latitude and longitude coordinates intended to approximate particular depth contours. Boundaries for the non-trawl RCA throughout the year are provided in Table 2 (North), and Table 2 (South) of subpart E, and Table 3 (North) and

Table 3 (South) of subpart F and may be modified by NMFS inseason pursuant to § 660.60(c). Non-trawl RCA boundaries are defined by specific latitude and longitude coordinates and are provided in §§ 660.71 through 660.74.

(3) *Recreational Rockfish Conservation Areas.* Recreational RCAs are closed areas intended to protect overfished rockfish species. Recreational RCAs may either have boundaries defined by general depth contours or boundaries defined by specific latitude and longitude coordinates intended to approximate particular depth contours. Boundaries for the recreational RCAs throughout the year are provided in the text in subpart G under each state (Washington, Oregon and California) and may be modified by NMFS inseason pursuant to § 660.60(c). Recreational RCA boundaries are defined by specific latitude and longitude coordinates and are provided in §§ 660.71 through 660.74.

■ 10. In § 660.75, the introductory text is revised to read as follows:

§ 660.75 Essential Fish Habitat (EFH).

Essential fish habitat (EFH) is defined as those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity (16 U.S.C. 1802 (10)). EFH for Pacific Coast Groundfish includes all waters and substrate within areas with a depth less than or equal to 3,500 m (1,914 fm) shoreward to the mean higher high water level or the upriver extent of saltwater intrusion (defined as upstream and landward to where ocean-derived salts measure less than 0.5 parts per thousand during the period of average annual low flow). Seamounts in depths greater than 3,500 m (1,914 fm) are also included due to their ecological importance to groundfish. Geographically, EFH for Pacific Coast groundfish includes both a large band of marine waters that extends from the Northern edge of the EEZ at the U.S. border with Canada to the Southern edge of the EEZ at the U.S. border with Mexico, and inland within bays and estuaries. The seaward extent of EFH is consistent with the westward edge of the EEZ for areas approximately north of Cape Mendocino. Approximately south of Cape Mendocino, the 3500 m depth contour and EFH is substantially shoreward of the seaward boundary of the EEZ. There are also numerous discrete areas seaward of the main 3500 m depth contour where the ocean floor rises to depths less than 3500 m and therefore are also EFH. The seaward boundary of EFH and additional areas of EFH are defined by straight lines connecting a series of latitude and

longitude coordinates in §§ 660.76 through 660.79.

* * * * *

■ 11. In § 660.76, the introductory text is revised to read as follows:

§ 660.76 EFH Conservation Areas.

EFH Conservation Areas are designated to minimize to the extent practicable adverse effects to EFH caused by fishing (16 U.S.C. 1853 section 303(a)(7)). The boundaries of areas designated as Groundfish EFH Conservation Areas are defined by straight lines connecting a series of latitude and longitude coordinates. This section provides coordinates outlining the boundaries of the coastwide EFH Conservation Area. Section 660.77 provides coordinates outlining the boundaries of EFH Conservation Areas that occur wholly off the coast of Washington. Section 660.78 provides coordinates outlining the boundaries of EFH Conservation Areas that occur wholly off the coast of Oregon. Section 660.79 provides coordinates outlining the boundaries of EFH Conservation Areas that occur wholly off the coast of California. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFH Conservation Area is detailed at § 660.11; §§ 660.112 and 660.130; §§ 660.212 and 660.230; §§ 660.312 and 660.330; and §§ 660.360.

* * * * *

■ 12. In § 660.77, the introductory text is revised to read as follows:

§ 660.77 EFH Conservation Areas off the Coast of Washington.

Boundary line coordinates for EFH Conservation Areas off Washington are provided in this section. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFH Conservation Area is detailed at § 660.11; §§ 660.112 and 660.130; §§ 660.212 and 660.230; §§ 660.312 and 660.330; and §§ 660.360.

* * * * *

■ 13. In § 660.78, the introductory text is revised to read as follows:

§ 660.78 EFH Conservation Areas off the Coast of Oregon.

Boundary line coordinates for EFH Conservation Areas off Oregon are provided in this section. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFH Conservation Area is detailed at § 660.11; §§ 660.112 and 660.130; §§ 660.212 and 660.230; §§ 660.312 and 660.330; and §§ 660.360.

* * * * *

■ 14. In § 660.79, the introductory text is revised to read as follows:

§ 660.79 EFH Conservation Areas off the Coast of California.

Boundary line coordinates for EFH Conservation Areas off California are provided in this section. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFH Conservation Area is detailed at §§ 660.11; §§ 660.112 and 660.130; §§ 660.212 and 660.230; §§ 660.312 and 660.330; and §§ 660.360.

■ 15. In § 660.112, paragraphs (a)(3)(i), (a)(5)(vi), (c)(1)(ii), and (c)(3), are revised and paragraph (c)(5) is removed. The revisions read as follows:

§ 660.112 Trawl fishery—prohibitions.

(a) * * *

(3) * * *

(i) Fail to comply with all recordkeeping and reporting requirements at § 660.13; including failure to submit information, submission of inaccurate information, or intentionally submitting false information on any report required at § 660.13(d), and § 660.113.

(5) * * *

(vi) Fish with bottom trawl gear (defined at § 660.11), other than demersal seine, unless otherwise specified in this section or § 660.130, within the EEZ in the following areas (defined at § 660.79): Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Point Arena North, Point Arena South Biogenic Area, Cordell Bank/Biogenic Area, Farallon Islands/Fanny Shoal, Half Moon Bay, Monterey Bay/Canyon, Point Sur Deep, Big Sur Coast/Port San Luis, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island, Potato Bank (within Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West), and Cowcod EFH Conservation Area East.

(c) * * *

(1) * * *

(ii) The fish are processed by a waste-processing vessel according to § 660.131(g); or

(3) Operate as a waste-processing vessel within 48 hours of a primary season for Pacific whiting in which that vessel operates as a catcher/processor or mothership, according to § 660.131(g).

■ 16. In § 660.113, paragraphs (c)(3)(i) introductory text and (ii) and (d)(3)(i) introductory text and (ii) are revised to read as follows:

§ 660.113 Trawl fishery—recordkeeping and reporting.

(c) * * *

(3) * * *

(i) The designated coop manager for the mothership coop must submit an annual report to the Council for its November meeting each year. The annual coop report will contain information about the current year's fishery, including:

(ii) The annual coop report submitted to the Council must be finalized to capture any additional fishing activity that year and submitted to NMFS by March 31 of the following year before a coop permit is issued for the following year.

(d) * * *

(3) * * *

(i) The designated coop manager for the C/P coop must submit an annual report to the Council for its November meeting each year. The annual coop report will contain information about the current year's fishery, including:

(ii) The annual coop report submitted to the Council must be finalized to capture any additional fishing activity that year and submitted to NMFS by March 31 of the following year before a coop permit is issued for the following year.

■ 17. In § 660.130, (c)(2) introductory text, (c)(2)(i), and (e)(5)(ii) are revised to read as follows:

§ 660.130 Trawl fishery—management measures.

(c) * * *

(2) *Fishing with small footrope trawl gear.* North of 40°10' N. lat., it is unlawful for any vessel using small footrope gear (except selective flatfish gear) to fish for groundfish or have small footrope trawl gear (except selective flatfish gear) onboard while fishing shoreward of the RCA defined at paragraph (e) of this section and at §§ 660.70 through 660.74. South of 40°10' N. lat., small footrope gear is required shoreward of the RCA. Small footrope gear is permitted seaward of the RCA coastwide.

(i) North of 40°10' N. lat., selective flatfish gear is required shoreward of the RCA defined at paragraph (e) of this section and at §§ 660.70, through

660.74. South of 40°10' N. lat., selective flatfish gear is permitted, but not required, shoreward of the RCA. The use of selective flatfish trawl gear is permitted seaward of the RCA coastwide.

(e) * * *

(5) * * *

(ii) *EFHCAs for bottom contact gear, which includes bottom trawl gear.* Fishing with bottom contact gear, including bottom trawl gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§ 660.75 through 660.79: Thompson Seamount, President Jackson Seamount, Cordell Bank (50 fm (91 m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara. Fishing with bottom contact gear is also prohibited within the Davidson Seamount EFH Area, which is defined with specific latitude and longitude coordinates at § 660.79.

■ 18. In § 660.131, paragraphs (c)(4) and (d) are revised as follows:

§ 660.131 Pacific whiting fishery management measures.

(c) * * *

(4) *Pacific whiting bycatch reduction areas (BRAs).* Vessels using limited entry midwater trawl gear during the primary whiting season may be prohibited from fishing shoreward of a boundary line approximating the 75-fm (137-m), 100-fm (183-m) or 150-fm (274-m) depth contours. Latitude and longitude coordinates for the boundary lines approximating the depth contours are provided at §§ 660.72 and 660.73. Closures may be implemented inseason for a sector(s) through automatic action, defined at § 660.60(d), when NMFS projects that a sector will exceed an allocation for a non-whiting groundfish species specified for that sector before the sector's whiting allocation is projected to be reached.

(d) *Eureka area trip limits.* Trip landing or frequency limits may be established, modified, or removed under § 660.60 or this paragraph, specifying the amount of Pacific whiting that may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fathom (183 m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka area (from 43° 00' to 40° 30' N. lat.). Unless otherwise specified, no more than

10,000-lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fm (183 m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka management area (defined at § 660.11).

* * * * *

■ 19. In § 660.140, paragraphs (c)(1) introductory text (h)(3)(i) introductory text, (h)(5)(xi)(I)(2), are revised to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(c) * * *

(1) *IFQ species*. IFQ species are those groundfish species and Pacific halibut in the exclusive economic zone or adjacent state waters off Washington, Oregon and California, under the jurisdiction of the Council, for which QS and IBQ are issued. Groupings and area subdivisions for IFQ species are those groupings and area subdivisions for which ACLs or ACTs are specified in the Tables 1a through 2d, and those for which there is an area-specific precautionary harvest policy. The lists of individual groundfish species included in the minor shelf complex north of 40°10' N. lat., minor shelf complex south of 40°10' N. lat., minor slope complex north 40°10' N. lat., minor slope complex south of 40°10' N. lat., and in the other flatfish complex are specified under the definition of "groundfish" at § 660.11. The following are the IFQ species:

* * * * *

(h) * * *

(3) * * * *

(i) Owners of vessels required to carry observers under paragraph (h)(1) of this section must arrange for observer services from a permitted observer provider, except that:

* * * * *

(5) * * *

(xi) * * *

(I) * * *

(2) Any information regarding any action prohibited under § 660.12(e); § 660.112(a)(4); or § 600.725(o), (t) and (u);

* * * * *

■ 20. In § 660.150, remove duplicate (f)(2) paragraph marked [Reserved]; revise paragraphs (j)(5)(iv)(B)(2), (j)(5)(xi)(A)(5)(ii), and (j)(5)(xi)(B)(10)(ii) to read as follows:

§ 660.150 Mothership (MS) Coop Program.

* * * * *

(j) * * *

(5) * * *

(iv) * * *

(B) * * *

(2) Must have not informed the provider prior to the time of embarkation that he or she is experiencing a mental illness or a physical ailment or injury developed since submission of the physician's statement (required in paragraph (j)(5)(xi)(B)(2) of this section) that would prevent him or her from performing his or her assigned duties; and,

* * * * *

(xi) * * *

(A) * * *

(5) * * *

(ii) Any information regarding any action prohibited under § 660.12(e); § 660.112(a)(4); or § 600.725(o), (t) and (u);

* * * * *

(B) * * *

(10) * * *

(ii) Any information regarding any action prohibited under § 660.12(e); § 660.112(a)(4); or § 600.725(o), (t) and (u);

* * * * *

■ 21. In § 660.160, remove duplicate paragraph (e)(1) and revise remaining paragraph (e)(1) to read as follows:

§ 660.160 Catcher/processor (C/P) Coop Program.

* * * * *

(e) * * *

(1) *General*. Any vessel participating in the C/P sector of the non-tribal primary Pacific whiting fishery during the season described at § 660.131(b) of this subpart must be registered to a valid limited entry permit with a C/P endorsement. A C/P-endorsed permit is a limited entry permit and is subject to the limited entry permit provisions given at § 660.25(b).

(i) *Non-severable*. A C/P endorsement is not severable from the limited entry trawl permit, and therefore, the endorsement may not be transferred separately from the limited entry trawl permit.

(ii) *Restriction on C/P vessel operating as a catcher vessel in the mothership sector*. A vessel registered to a C/P-endorsed permit cannot operate as a catcher vessel delivering unprocessed Pacific whiting to a mothership processor during the same calendar year it participates in the C/P sector.

(iii) *Restriction on C/P vessel operating as mothership*. A vessel registered to a C/P-endorsed permit cannot operate as a mothership during the same calendar year it participates in the C/P sector.

* * * * *

■ 22. In § 660.211, remove the definition for "Sablefish primary fishery or

sablefish tier limit fishery" and add a definition for "Sablefish primary fishery" in its place and revise the definition for "Sablefish primary season" to read as follows:

§ 660.211 Fixed gear fishery—definitions.

* * * * *

Sablefish primary fishery means, for the limited entry fixed gear sablefish fishery north of 36° N. lat, the fishery where vessels registered to at least one limited entry permit with both a gear endorsement for longline or trap (or pot) gear and a sablefish endorsement fish up to a specified tier limit and when they are not eligible to fish in the DTL fishery.

Sablefish primary season means, for the limited entry fixed gear sablefish fishery north of 36° N. lat, the period when vessels registered to at least one limited entry permit with both a gear endorsement for longline or trap (or pot) gear and a sablefish endorsement, are allowed to fish in the sablefish primary fishery described at § 660.231 of this subpart.

* * * * *

■ 23. In § 660.212, paragraphs (a)(2), and (d)(1) are revised to read as follows:

§ 660.212 Fixed gear fishery—prohibitions.

(a) * * *

(2) Take, retain, possess, or land more than a single cumulative limit of a particular species, per vessel, per applicable cumulative limit period, except for sablefish taken in the limited entry, fixed gear sablefish primary season from a vessel authorized to fish in that season, as described at § 660.231 and except for IFQ species taken in the Shorebased IFQ Program from a vessel authorized under gear switching provisions as described at § 660.140(k).

* * * * *

(d) * * *

(1) Take, retain, possess or land sablefish under the tier limits provided for the limited entry, fixed gear sablefish primary season, described in § 660.231(b)(3), from a vessel that is not registered to a limited entry permit with a sablefish endorsement.

* * * * *

■ 24. In § 660.230, paragraphs (a) and (d)(14) are revised to read as follows:

§ 660.230 Fixed gear fishery-management measures.

(a) *General*. Most species taken in limited entry fixed gear (longline and pot/trap) fisheries will be managed with cumulative trip limits (see trip limits in Tables 2 (North) and 2 (South) of this subpart), size limits (see § 660.60(h)(5)), seasons (see trip limits in Tables 2

(North) and 2 (South) of this subpart and sablefish primary season details in § 660.231, gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (d) of this section and §§ 660.70 through 660.79). Cowcod retention is prohibited in all fisheries, and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (d)(10) of this section and § 660.70). Yelloweye rockfish and canary rockfish retention is prohibited in the limited entry fixed gear fisheries. Regulations governing and tier limits for the limited entry, fixed gear sablefish primary season north of 36° N. lat. are found in § 660.231. Vessels not participating in the sablefish primary season are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see § 660.230(e). The trip limits in Table 2 (North) and Table 2 (South) of this subpart apply to vessels participating in the limited entry groundfish fixed gear fishery and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally-managed groundfish.

* * * * *

(d) * * *

(14) *Essential Fish Habitat*

Conservation Areas (EFHCA). An EFHCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude at §§ 660.75 through 660.79, where specified types of fishing are prohibited in accordance with § 660.12. EFHCAs apply to vessels using “bottom contact gear,” which is defined at § 660.11, to include limited entry fixed gear (longline and pot/trap,) among other gear types. Fishing with all bottom contact gear, including longline and pot/trap gear, is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§ 660.75 through 660.79: Thompson Seamount, President Jackson Seamount, Cordell Bank (50 fm (91 m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara. Fishing with bottom contact gear is also prohibited

within the Davidson Seamount EFH Area, which is defined by specific latitude and longitude coordinates at § 660.75.

* * * * *

■ 25. In § 660.231, paragraph (b)(1) is revised to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(1) *Season dates.* North of 36° N. lat., the sablefish primary season for the limited entry, fixed gear, sablefish-endered vessels begins at 12 noon local time on April 1 and closes at 12 noon local time on October 31, or closes for an individual permit holder when that permit holder's tier limit has been reached, whichever is earlier, unless otherwise announced by the Regional Administrator through the routine management measures process described at § 660.60(c).

* * * * *

■ 26. In § 660.232, paragraph (a)(1) is revised to read as follows:

§ 660.232 Limited entry daily trip limit (DTL) fishery for sablefish.

(a) * * *

(1) Before the start of the sablefish primary season, all sablefish landings made by a vessel authorized by § 660.231(a) to fish in the sablefish primary season will be subject to the restrictions and limits of the limited entry daily and/or weekly trip limit (DTL) fishery for sablefish specified in this section and which is governed by routine management measures imposed under § 660.60(c).

* * * * *

■ 27. In § 660.330, paragraphs (a), (d)(11)(i), (d)(11)(ii), (d)(12)(iv), (d)(13)(iv)(B), (d)(16)(i)(A), (d)(16)(i)(E), and (e) are revised to read as follows:

§ 660.330 Open access fishery—management measures.

(a) *General.* Groundfish species taken in open access fisheries will be managed with cumulative trip limits (see trip limits in Tables 3 (North) and 3 (South) of this subpart), size limits (see § 660.60(h)(5)), seasons (see seasons in Tables 3 (North) and 3 (South) of this subpart), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (d) of this section and §§ 660.70 through 660.79). Unless otherwise specified, a vessel operating in the open access fishery is subject to, and must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery. Cowcod retention is prohibited in all fisheries and

groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (d)(11) of this section and § 660.70). Retention of yelloweye rockfish and canary rockfish is prohibited in all open access fisheries. For information on the open access daily/weekly trip limit fishery for sablefish, see § 660.332 of this subpart and the trip limits in Tables 3 (North) and 3 (South) of this subpart. Open access vessels are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see paragraph (e) of this section. Open access vessels that fish with non-groundfish trawl gear or in the salmon troll fishery north of 40°10' N. lat. are subject the cumulative limits and closed areas (except the pink shrimp fishery which is not subject to RCA restrictions) listed in Tables 3 (North) and 3 (South) of this subpart. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally managed groundfish.

* * * * *

(d) * * *

(11) * * *

(i) Fishing for “other flatfish” is permitted within the CCAs under the following conditions: when using no more than 12 hooks, “Number 2” or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1-lb (0.45 kg) weights per line; and provided a valid declaration report as required at § 660.13(d), has been filed with NMFS OLE.

(ii) Fishing for rockfish and lingcod is permitted shoreward of the 20 fm (37 m) depth contour within the CCAs when trip limits authorize such fishing, and provided a valid declaration report as required at § 660.13(d), has been filed with NMFS OLE.

(12) * * *

(iv) Fishing for “other flatfish” off California (between 42° N. lat. south to the U.S./Mexico border) is permitted within the nontrawl RCA with fixed gear only under the following conditions: When using no more than 12 hooks, “Number 2” or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1-lb (0.91 kg) weights per line when trip

limits authorize such fishing; and provided a valid declaration report as required at § 660.13(d), has been filed with NMFS OLE.

(13) * * *

(iv) * * *

(B) When the shoreward line of the trawl RCA is shallower than 100 fm (183 m), vessels using ridgeback prawn trawl gear south of 34°27.00' N. lat. may operate out to the 100 fm (183 m) boundary line specified at § 660.73, when a valid declaration report as required at § 660.13(d), has been filed with NMFS OLE. Groundfish caught with ridgeback prawn trawl gear are subject to the limits in Table 3 (North) and Table 3 (South) of this subpart.

* * * * *

(16)

(i) * * *

(A) *Seaward of a boundary line approximating the 700-fm (1280-m) depth contour.* Fishing with bottom trawl gear is prohibited in waters of depths greater than 700 fm (1280 m) within the EFH, as defined by specific latitude and longitude coordinates at § 660.76.

* * * * *

(E) *EFHCAs for bottom contact gear, which includes bottom trawl gear.* Fishing with bottom contact gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§ 660.78 through 660.79: Thompson Seamount, President Jackson Seamount, Cordell Bank (50-fm (91-m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara. Fishing with bottom contact gear is also prohibited within the Davidson Seamount EFH Area, which is defined by specific latitude and longitude coordinates at § 660.75.

* * * * *

(e) *Black rockfish fishery management.* The trip limit for black rockfish (*Sebastes melanops*) for commercial fishing vessels using hook-and-line gear between the U.S.-Canada border and Cape Alava (48°09.50' N. lat.), and between Destruction Island (47°40' N. lat.) and Leadbetter Point (46°38.17' N. lat.), is 100-lbs (45 kg) or 30 percent, by weight of all fish on board, whichever is greater, per vessel per fishing trip. These per trip limits apply to limited entry and open access fisheries, in conjunction with the cumulative trip limits and other management measures in §§ 660.230 and 660.330. The crossover provisions

in § 660.60(h)(7), do not apply to the black rockfish per-trip limits.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126521-0640-02]

RIN 0648-XA672

Fisheries of the Exclusive Economic Zone Off Alaska; Other Rockfish, Other Flatfish, Sharks, and Skates in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; apportionment of reserves; request for comments.

SUMMARY: NMFS apportions amounts of the non-specified reserve to the initial total allowable catch of other rockfish, other flatfish, sharks, and skates in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the fisheries to continue operating. It is intended to promote the goals and objectives of the fishery management plan for the BSAI management area.

DATES: Effective August 25, 2011 through 2400 hrs, Alaska local time, December 31, 2011. Comments must be received at the following address no later than 4:30 p.m., Alaska local time, September 9, 2011.

ADDRESSES: Send comments to Glenn Merrill, Assistant Regional Administrator, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by FDMS Docket Number NOAA-NMFS-2011-0212, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal Web site at <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, first click the "submit a comment" icon, then enter [NOAA-NMFS-2011-0212] in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on the right of that line.

- **Mail:** Submit written comments to P.O. Box 21668, Juneau, AK 99802.

- **Fax:** (907) 586-7557.

- **Hand delivery to the Federal Building:** 709 West 9th Street, Room 420A, Juneau, AK.

Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

FOR FURTHER INFORMATION CONTACT:

Obren Davis, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2011 initial total allowable catch (ITAC) of Aleutian Islands (AI) other rockfish, BSAI other flatfish, BSAI sharks, and BSAI skates was established as 425 metric tons (mt), 2,550 mt, 43 mt, and 14,025 mt, respectively, by the final 2011 and 2012 harvest specifications for groundfish of the BSAI (76 FR 11139, March 1, 2011). In accordance with § 679.20(a)(3) the Regional Administrator, Alaska Region, NMFS, has reviewed the most current available data and finds that the ITACs for AI other rockfish, BSAI other flatfish, BSAI sharks, and BSAI skates in the BSAI need to be supplemented from the non-specified reserve in order to promote efficiency in the utilization of fishery resources in the BSAI and allow fishing operations to continue.

Therefore, in accordance with § 679.20(b)(3), NMFS apportions from the non-specified reserve of groundfish