

approved under section 1425 of the SDWA, complies with the requirements for Class II wells within the context of section 1425's approval criteria.

Dated: July 9, 2004.

**Benjamin H. Grumbles,**

*Acting Assistant Administrator for Water.*

[FR Doc. 04-16075 Filed 7-14-04; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 04-1650; MM Docket No. 02-290; RM-10527, RM-10772, RM-10773]

#### Radio Broadcasting Services; Franklin, ID and Richfield, UT

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule, correction.

**SUMMARY:** The Federal Communications Commission published in the **Federal Register**, of June 25, 2004, a document which granted multiple channels substitutions and changes of community of license in Utah, Colorado, Idaho and Wyoming. The amendatory language requested removal of channels not currently listed in Section 73.202(b), FM Table of Allotments for Franklin, Idaho and Richfield, Utah. This document corrects the amendatory language under Idaho by removing Channel 249A at Franklin in lieu of Channel 248C1. Additionally, the published document substituted Channel 249C for Channel 248C at Richfield, Utah, reallocated Channel 249C to Elsinore, Utah, and modified the license of Station KLGL to specify operation on Channel 249C at Elsinore. In this case, the FM Table of Allotments lists Channel 248 for Richfield, Utah not Channel 248C, therefore this document corrects the amendatory language under Utah by removing Channel 248 at Richfield instead of Channel 248C.

**DATES:** Effective July 26, 2004.

**FOR FURTHER INFORMATION CONTACT:** Robert Hayne, Media Bureau, (202) 418-2177.

**SUPPLEMENTARY INFORMATION:** The FCC published a document in the **Federal Register** of June 25, 2004, (69 FR 35531) granting multiple channels substitutions and changes of community of license in Utah, Colorado, Idaho and Wyoming. In FR Doc. 04-14483, published in the **Federal Register** of June 25, 2004, (69 FR 35531), the amendatory language inadvertently listed the removal of channels not currently reflected in the FM Table of Allotments for Franklin,

Idaho and Richfield, Utah. This document corrects the amendatory language to reflect the removal of channels currently listed in the FM Table of Allotments for Franklin, Idaho and Richfield, Utah.

■ In rule FR Doc. 04-14483 published on June 25, 2004, (69 FR 35531) make the following corrections:

#### § 73.202 [Amended]

■ 1. On page 35532, in the first column, paragraph number 3, § 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Channel 249A at Franklin.

■ 2. On page 35532, in the first column, paragraph number 4, § 73.202(b), the Table of FM Allotments under Utah, is amended by removing Channel 248 at Richfield.

Dated: July 8, 2004.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 04-15987 Filed 7-14-04; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 040624193-4193-01; I.D. 060304A]

RIN 0648-AS43

#### Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery

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

**ACTION:** Final rule.

**SUMMARY:** NMFS is re-arranging the Pacific Coast Groundfish regulations so that they read in a more logical order. This final rule does not make substantive changes to the existing regulations; rather, it reorganizes regulatory measures into a more logical and cohesive order. This final rule also amends references to Paperwork Reduction Act (PRA) information-collection requirements to reflect this reorganization of regulatory language. The purpose of this final rule is to make the regulations more concise, better organized, and thereby easier for the public to use.

**DATES:** Effective July 15, 2004.

**FOR FURTHER INFORMATION CONTACT:** Yvonne deReynier (Northwest Region,

NMFS), phone: 206-526-6129; fax: 206-526-6736; and e-mail:

*yvonne.dereynier@noaa.gov.*

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This final rule also is accessible via the Internet at the Office of the **Federal Register's** website at [www.gpoaccess.gpo.gov/su\\_docs/aces/aces140.html](http://www.gpoaccess.gpo.gov/su_docs/aces/aces140.html) and at the NMFS Northwest Region website at [www.nwr.noaa.gov/1sustfsh/gfsh/gdfsh/gdfsh01.html](http://www.nwr.noaa.gov/1sustfsh/gfsh/gdfsh/gdfsh01.html).

##### Background

On September 4, 2003, NMFS approved Amendment 17 to the Pacific Coast Groundfish Fishery Management Plan (FMP). Through Amendment 17, the FMP will now set groundfish harvest specifications and management measures via a biennial process. The first two-year management period will occur from January 1, 2005, through December 31, 2006. The Pacific Fishery Management Council (Council) made its final recommendation on 2005-2006 groundfish specifications and management measures at its June 2004 meeting in Foster City, CA. After receiving the Council's recommendations, NMFS will develop a proposed rule to implement the 2005-2006 specifications and management measures through a public notice-and-comment rulemaking process. The proposed rule, which is to be published in the **Federal Register**, will announce a public comment period and may be followed by a final rule, also published in the **Federal Register**.

NMFS expects that the rulemaking for the 2005-2006 Pacific Coast groundfish harvest specifications and management measures will result in revisions to the Pacific Coast groundfish regulations at 50 CFR part 660, subpart G. NMFS has reviewed its Federal groundfish regulations in anticipation of the need to incorporate the 2005-2006 specifications and management measures rulemaking into the overall Federal groundfish regulations at 50 CFR part 660, subpart G. As a result of this review, NMFS has determined that Federal groundfish regulations should be reorganized so that they are more logically arranged and better able to incorporate the broad array of regulatory measures included in a specifications and management measures package.

This final rule reorganizes Federal groundfish regulations at 50 CFR part 660, subpart G, so that: broadly applicable regulations, including definitions and prohibitions, are found in §§ 660.301-660.306; prohibitions in

§ 660.306 are arranged by topic, where possible; gear restrictions and monitoring programs are found in §§ 660.310–660.314; allocations are found in §§ 660.320–660.324; permit-related regulations are found in §§ 660.331–660.350; and regulations regarding the setting of harvest specifications and management measures are found in §§ 660.365–660.390. Regulations concerning Groundfish Conservation Areas (GCAs) have been moved to § 660.390 in anticipation of the need to codify Rockfish Conservation Area (RCA) boundaries, which include several hundred latitude-longitude coordinates. By placing these coordinates-laden regulations at the end of 50 CFR part 660, subpart G, NMFS will be able to codify the GCA boundaries without interrupting the narrative flow of the overall groundfish regulations. The only changes to regulatory text made via this action will: (1) Remove an outdated reference to a disconnected computerized hotline that has since been replaced with a website intended to provide inseason information on management actions in the Pacific whiting fisheries; and (2) refer readers of the West Coast groundfish regulations definitions at § 660.302 to nationwide definitions of fisheries regulatory terms at § 600.10 for individual terms that appear in both nationwide regulations and in the regulations specified to the groundfish fisheries.

The following table shows how NMFS has reorganized its West Coast groundfish regulations via this action:

Old Section (50 CFR part 660)	New Section (50 CFR part 660)
§ 660.301 <i>Purpose and scope</i>	§ 660.301 <i>Purpose and scope</i> (now includes what was § 660.304(d)(1))
§ 660.302 <i>Definitions</i>	§ 660.302 <i>Definitions</i> (now includes what was § 660.304(a), (b), (d)(2), and (d)(3))
§ 660.304 <i>Management areas, including conservation areas, and commonly used geographic coordinates.</i> Moved: § 660.304(a), (b), (d)(2) and (d)(3) moved to § 660.302; § 660.304(c) moved to § 660.390; § 660.304(d)(1) moved to § 660.301.	
§ 660.306 <i>Prohibitions</i>	§ 660.306 <i>Prohibitions</i> (paragraphs reorganized)

Old Section (50 CFR part 660)	New Section (50 CFR part 660)	Old Section (50 CFR part 660)	New Section (50 CFR part 660)
	<p>§ 660.310 <i>Gear restrictions</i> New section, moved from § 660.322.</p> <p>§ 660.312 <i>Vessel Monitoring System (VMS) requirements</i> New section, moved from § 660.359.</p> <p>§ 660.314 <i>Groundfish observer program</i> New section, moved from § 660.360.</p> <p>§ 660.320 <i>Allocations</i> New section, moved from § 660.323(a)(4)(i)(B), (a)(4)(iii)–(vi), and from § 660.332.</p>		<p>§ 660.370 <i>Catch Restrictions and Specifications and Management Measures</i> New section, moved from § 660.321 and § 660.323(a) introductory text, (b), and (c).</p> <p>§ 660.371 <i>Black Rockfish Fishery Management</i> New section, moved from § 660.323(a)(1)</p> <p>§ 660.372 <i>Fixed Gear Sablefish Fishery Management</i> New section, moved from § 660.323(a)(2)</p> <p>§ 660.373 <i>Pacific whiting (whiting) fishery management</i> New section, moved from § 660.323(a)(3), and (a)(4)(i)(A), (a)(4)(ii) and (vii).</p> <p>§ 660.390 <i>Groundfish Conservation Areas</i> New section, moved from § 660.304(c)</p>
§ 660.321 <i>Specifications and management measures</i> Moved to § 660.370			
§ 660.322 <i>Gear restrictions</i> Moved to § 660.310			
§ 660.323 <i>Catch restrictions</i> Moved: § 660.323(a) introductory text, (b), and (c) moved to § 660.370; § 660.323(a)(1) moved to § 660.371; § 660.323(a)(2) moved to § 660.372; § 660.323(a)(3), (a)(4)(i)(A), (a)(4)(ii) and (vii) moved to § 660.373; (a)(4)(i)(B), (iii), (iv), (v) and (vi) retained as § 660.323.	§ 660.323 <i>Pacific whiting allocations, allocation attainment, and inseason allocation reapportionment</i> Revised to retain language specific to whiting allocations at former § 660.323 (a)(4)(i)(B), (iii), (iv), (v) and (vi).		
§ 660.332 <i>Allocations</i> Moved to § 660.320			
§ 660.359 <i>Vessel Monitoring System (VMS) requirements</i> Moved to § 660.312			
§ 660.360 <i>Groundfish observer program</i> Moved to § 660.314			
§ 660.370 <i>Overfished Species Rebuilding Plans</i> Moved to § 660.365			
	§ 660.365 <i>Overfished Species Rebuilding Plans</i> New section, moved from § 660.370.		

#### Revisions to Paperwork Reduction Act References in 15 CFR 902.1(b)

Section 3507(c)(B)(i) of the PRA requires that agencies inventory and display a current control number assigned by the Director, Office of Management and Budget (OMB), for each agency information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule reorganizes the codification of many recordkeeping and reporting requirements, 15 CFR 902.1(b) is revised to reference correctly the new sections resulting from the consolidation.

#### Classification

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

Pursuant to the Administrative Procedure Act (APA) at 5 U.S.C. 553 (d), the Assistant Administrator for Fisheries, NOAA, (AA), finds that a 30-day delay in effectiveness of this rule does not apply since this is a non-substantive rule.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds good cause that waiving prior notice and public comment is unnecessary because this rule merely reorganizes and republishes the regulations in a more logical format, and in a way that anticipates that new

biennial regulations will be incorporated into these regulations beginning in 2005. With two exceptions, the contents of the regulations are unchanged. The exceptions make no material change in the regulations, and consist only of deleting an obsolete reference to a hotline that no longer exists, and adding references to nationwide definitions of some terms that also appear in these regulations.

The following collection-of-information requirements have already been approved by OMB for U.S. fishing activities:

- a. *Approved under 0648-0243--* Survey of intent and capacity to harvest and process fish and shellfish, estimated at 5 minutes per response (§ 660.303).
- b. *Approved under 0648-0305--* Gear identification requirements, estimated at 15 minutes per response (§ 660.310).

#### List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: July 7, 2004.

**Rebecca Lent,**

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

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

### PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

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

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

■ 2. Section 660.301 is revised to read as follows:

#### § 660.301 Purpose and scope.

(a) This subpart implements the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) developed by the Pacific Fishery Management Council. This subpart governs groundfish fishing vessels of the U.S. in the EEZ off the coasts of Washington, Oregon, and California. All weights are in round weight or round-weight equivalents, unless specified otherwise.

(b) Any person fishing subject to this subpart is bound by the international boundaries described in this section, notwithstanding any dispute or negotiation between the U.S. and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are established or recognized by the U.S.

■ 3. Section 660.302 is amended as follows:

A. In the definition for “Fishing gear”, paragraphs (2) and (4) are revised, and paragraphs (9) through (22) are redesignated as paragraphs (10) through (23);

B. The definitions for “Fishery management area,” “Groundfish Conservation Area or GCA,” “Mobile transceiver unit,” “North-South management area,” and “Vessel monitoring system or VMS” are revised;

C. The definition for “Footrope” is redesignated as new paragraph (9) under the definition for “Fishing Gear”; and

D. The definitions of “Allocation”, “Catch, take, harvest”, “Fishing”, “Fishing vessel”, “Operator”, “Secretary”, “Sell or sale”, “Trip”, and “Vessel of the United States, or U.S. vessel” are added.

The additions and revisions read as follows:

#### § 660.302 Definitions.

*Allocation.* (See § 660.10).

*Catch, take, harvest.* (See § 660.10).

*Fishery management area* means the EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nm offshore, and bounded on the north by the Provisional International Boundary between the U.S. and Canada, and bounded on the south by the International Boundary between the U.S. and Mexico. The inner boundary of the fishery management area is a line coterminous with the seaward boundaries of the States of Washington, Oregon, and California (the “3-mile limit”). The outer boundary of the fishery management area is a line drawn in such a manner that each point on it is 200 nm from the baseline from which the territorial sea is measured, or is a provisional or permanent international boundary between the U.S. and Canada or Mexico. All groundfish possessed between 0–200 nm offshore or landed in Washington, Oregon, or California are presumed to have been taken and retained from the EEZ, unless otherwise demonstrated by the person in possession of those fish.

*Fishing.* (See § 660.10).

*Fishing gear* \*\*\*

(2) *Bottom trawl.* A trawl in which the otter boards or the footrope of the net are in contact with the seabed. It includes roller (or bobbin) trawls, Danish and Scottish seine gear, and pair trawls fished on the bottom. Any trawl net not meeting the requirements for a

pelagic trawl in § 660.310 is a bottom trawl.

(4) *Codend.* (See §§ 660.10 and 660.310(b)(4)).

*Fishing vessel.* (See § 660.10).

*Groundfish Conservation Area or GCA* means a geographic area defined by coordinates expressed in degrees latitude and longitude, created and enforced for the purpose of contributing to the rebuilding of overfished West Coast groundfish species. Specific GCAs area referred to or defined at § 660.390.

*Mobile transceiver unit* means a vessel monitoring system or VMS device, as set forth at § 660.312, installed on board a vessel that is used for vessel monitoring and transmitting the vessel’s position as required by this subpart.

*North-South management area* means the management areas defined in paragraphs (1)(i) through (v) of this definition (Vancouver, Columbia, Eureka, Monterey Conception) or defined and bounded by one or more of the commonly used geographic coordinates set out in paragraphs (2)(i) through (xi) of this definition for the purposes of implementing different management measures in separate sections of the U.S. West Coast.

(1) *Management areas--(i) Vancouver.* (A) The northeastern boundary is that part of a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35’75” N. lat., 124°43’00” W. long.) south of the International Boundary between the U.S. and Canada (at 48° 29’37.19” N. lat., 124°43’33.19” W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(B) The northern and northwestern boundary is a line connecting the following coordinates in the order listed, which is the provisional international boundary of the EEZ as shown on NOAA/NOF Charts #18480 and #18007:

Point	N. Lat.	W. Long.
1 .....	48°29’37.19”	124°43’33.19”
2 .....	48°30’11”	124°47’13”
3 .....	48°30’22”	124°50’21”
4 .....	48°30’14”	124°54’52”
5 .....	48°29’57”	124°59’14”
6 .....	48°29’44”	125°00’06”
7 .....	48°28’09”	125°05’47”
8 .....	48°27’10”	125°08’25”
9 .....	48°26’47”	125°09’12”
10 .....	48°20’16”	125°22’48”
11 .....	48°18’22”	125°29’58”

Point	N. Lat.	W. Long.
12 .....	48°11'05"	125°53'48"
13 .....	47°49'15"	126°40'57"
14 .....	47°36'47"	127°11'58"
15 .....	47°22'00"	127°41'23"
16 .....	46°42'05"	128°51'56"
17 .....	46°31'47"	129°07'39"

(C) The southern limit is 47°30' N. lat.  
(ii) *Columbia*. (A) The northern limit is 47°30' N. lat.

(B) The southern limit is 43°00' N. lat.  
(iii) *Eureka*. (A) The northern limit is 43°00' N. lat.

(B) The southern limit is 40°30' N. lat.  
(iv) *Monterey*. (A) The northern limit is 40°30' N. lat.

(B) The southern limit is 36°00' N. lat.  
(v) *Conception*. (A) The northern limit is 36°00' N. lat.

(B) The southern limit is the U.S.-Mexico International Boundary, which is a line connecting the following coordinates in the order listed:

Point	N. Lat.	W. Long.
1 .....	32°35'22"	117°27'49"
2 .....	32°37'37"	117°49'31"
3 .....	31°07'58"	118°36'18"
4 .....	30°32'31"	121°51'58"

(2) *Commonly used geographic coordinates*. (i) Washington/Oregon border 4616' N. lat.

(ii) Cape Falcon, OR--4546' N. lat.  
(iii) Cape Lookout, OR--4520'15" N. lat.

(iv) Cape Blanco, OR--4250' N. lat.

(v) Oregon/California border--4200' N. lat.

(vi) Cape Mendocino, CA--4030' N. lat.

(vii) North/South management line--4010' N. lat.

(viii) Point Arena, CA--3857'30" N. lat.

(ix) Point San Pedro, CA--3735'40" N. lat.

(x) Point Lopez, CA--3600' N. lat.

(xi) Point Conception, CA--3427' N. lat.

\* \* \* \* \*

*Operator*. (See § 660.10).

\* \* \* \* \*

*Secretary*. (See § 660.10).

*Sell or sale*. (See § 660.10).

*Scientific research activity*. (See § 660.10).

\* \* \* \* \*

*Trip*. (See § 660.10).

\* \* \* \* \*

*Vessel monitoring system or VMS* means a vessel monitoring system or mobile transceiver unit as set forth in § 660.312 and approved by NMFS for use on vessels that take (directly or incidentally) species managed under the

Pacific Coast Groundfish FMP, as required by this subpart. *Vessel of the United States or U.S. vessel*. (See § 660.10).

■ 4. In § 660.303, paragraphs (a) and (d)(2) are revised to read as follows:

#### § 660.303 Reporting and recordkeeping.

(a) This subpart recognizes that catch and effort data necessary for implementing the PCGFMP are collected by the States of Washington, Oregon, and California under existing state data collection requirements. Telephone surveys of the domestic industry may be conducted by NMFS to determine amounts of whiting that may be available for reallocation under 50 CFR 660.323(c). No Federal reports are required of fishers or processors, so long as the data collection and reporting systems operated by state agencies continue to provide NMFS with statistical information adequate for management.

\* \* \* \* \*

(d) \* \* \*

(2) Declaration reports for non-trawl vessels intending to fish in a conservation area. The operator of any vessel registered to a limited entry permit with a longline or pot endorsement must provide NMFS OLE with a declaration report, as specified at paragraph (d)(5) of this section, to identify the intent to fish within the CCA, as defined at § 660.390, or any non-trawl RCA, as defined in the groundfish annual management measures that are published in the **Federal Register**.

\* \* \* \* \*

#### § 660.304 [Removed]

■ 5. Remove § 660.304.

■ 6. Section 660.306 is revised to read as follows:

#### § 660.306 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to:

(a) *General*. (1) Sell, offer to sell, or purchase any groundfish taken in the course of recreational groundfish fishing.

(2) Retain any prohibited species (defined in § 660.302 and restricted in § 660.370(e)) caught by means of fishing gear authorized under this subpart or unless authorized by part 600 of this chapter. Prohibited species must be returned to the sea as soon as practicable with a minimum of injury when caught and brought on board.

(3) Falsify or fail to affix and maintain vessel and gear markings as required by § 660.305 or § 660.310.

(4) Fish for groundfish in violation of any terms or conditions attached to an EFP under § 600.745 of this chapter or § 660.350.

(5) Fish for groundfish using gear not authorized under § 660.310 or in violation of any terms or conditions attached to an EFP under § 660.350 or part 600 of this chapter.

(6) Take and retain, possess, or land more groundfish than specified under §§ 660.370 through 660.373, or under an EFP issued under § 660.350 or part 600 of this chapter.

(7) 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, quota, or harvest guideline, if the vessel fished or landed in an area during a time when such trip limit, size limit, harvest guideline or quota applied.

(8) Possess, deploy, haul, or carry onboard a fishing vessel subject to this subpart a set net, trap or pot, longline, or commercial vertical hook-and-line that is not in compliance with the gear restrictions in § 660.310, unless such gear is the gear of another vessel that has been retrieved at sea and made inoperable or stowed in a manner not capable of being fished. The disposal at sea of such gear is prohibited by Annex V of the International Convention for the Prevention of Pollution From Ships, 1973 (Annex V of MARPOL 73/78).

(9) Refuse to submit fishing gear or fish subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.

(10) 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 primary limited entry, fixed gear sablefish season from a vessel authorized under § 660.372(a) to participate in that season, as described at § 660.372(b).

(11) Take and retain, possess, or land groundfish in excess of the landing limit for the open access fishery without having a valid limited entry permit for the vessel affixed with a gear endorsement for the gear used to catch the fish.

(b) *Reporting and recordkeeping*. (1) Falsify or fail to make and/or file, retain or make available any and all reports of groundfish landings, containing all data, and in the exact manner, required by the applicable State law, as specified in § 660.303, provided that person is required to do so by the applicable state law.

(2) Fail to retain on board a vessel from which groundfish is landed, and provide to an authorized officer upon

request, copies of any and all reports of groundfish landings, or receipts containing all data, and made in the exact manner required by the applicable state law throughout the cumulative limit period during which such landings occurred and for 15 days thereafter.

(c) *Limited entry fisheries.* (1) Fish with groundfish trawl gear, or carry groundfish trawl gear on board a vessel that also has groundfish on board, without having a limited entry permit valid for that vessel affixed with a gear endorsement for trawl gear, with the following exception. A vessel with groundfish on board may carry groundfish trawl gear if:

(i) The vessel is in continuous transit from outside the fishery management area to a port in Washington, Oregon, or California; or

(ii) The vessel is a mothership, in which case trawl nets and doors must be stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.

(2) Carry on board a vessel, or deploy, limited entry gear when the limited entry fishery for that gear is closed, except a vessel may carry on board limited entry gear as provided in paragraph (c)(1) of this section.

(d) *Black rockfish fisheries.* Have onboard a commercial hook-and-line fishing vessel (other than a vessel operated by persons under § 660.370(c)(1)(ii)), more than the amount of the trip limit set for black rockfish by § 660.371 while that vessel is fishing between the U.S.-Canada border and Cape Alava (48°09'30" N. lat.), or between Destruction Island (47°40'00" N. lat.) and Leadbetter Point (46°38'10" N. lat.).

(e) *Sablefish fisheries.* Take, retain, possess or land sablefish under the cumulative limits provided for the primary limited entry, fixed gear sablefish season, described in § 660.372, from a vessel that is not registered to a limited entry permit with a sablefish endorsement.

(f) *Pacific whiting fisheries.* (1) Process whiting in the fishery management area during times or in areas where at-sea processing is prohibited for the sector in which the vessel participates, unless:

(i) The fish are received from a member of a Pacific Coast treaty Indian tribe fishing under § 660.324;

(ii) The fish are processed by a waste-processing vessel according to § 660.373(i); or

(iii) The vessel is completing processing of whiting taken on board during that vessel's primary season.

(2) Take and retain or receive, except as cargo or fish waste, whiting on a vessel in the fishery management area that already possesses processed whiting on board, during times or in areas where at-sea processing is prohibited for the sector in which the vessel participates, unless the fish are received from a member of a Pacific Coast treaty Indian tribe fishing under § 660.324.

(3) Participate in the mothership or shoreside sector as a catcher vessel that does not process fish, if that vessel operates in the same calendar year as a catcher/processor in the whiting fishery, according to § 660.373(h)(2).

(4) Operate as a waste-processing vessel within 48 hours of a primary season for whiting in which that vessel operates as a catcher/processor or mothership, according to § 660.373(i).

(5) Fail to keep the trawl doors on board the vessel and attached to the trawls on a vessel used to fish for whiting, when taking and retention is prohibited under § 660.373(f).

(g) *Limited entry permits.* (1) Fail to carry on board a vessel the limited entry permit registered for use with that vessel, if a limited entry permit is registered for use with that vessel.

(2) Make a false statement on an application for issuance, renewal, transfer, vessel registration, or replacement of a limited entry permit.

(h) *Fishing in conservation areas.* (1) Fish with any trawl gear, including exempted gear used to take pink shrimp, ridgeback prawns, California halibut south of Pt. Arena, CA, and sea cucumber; or with trawl gear from a tribal vessel or with any gear from a vessel registered to a groundfish limited entry permit in a conservation area unless the vessel owner or operator has a valid declaration confirmation code or receipt for fishing in a conservation area as specified at § 660.303(d)(5).

(2) Operate any vessel registered to a limited entry permit with a trawl endorsement and trawl gear on board in a Trawl Rockfish Conservation Area or a Cowcod Conservation Area (as defined at § 660.302), except for purposes of continuous transiting, with all groundfish trawl gear stowed in accordance with § 660.310(b)(7), or except as authorized in the annual or biennial groundfish management measures published in the **Federal Register**.

(3) Operate any vessel registered to a limited entry permit with a longline or trap (pot) endorsement and longline and/or trap gear onboard in a Nontrawl Rockfish Conservation Area or a Cowcod Conservation Area (as defined at § 660.302), except for purposes of

continuous transiting, or except as authorized in the annual or biennial groundfish management measures published in the **Federal Register**.

(i) *Groundfish observer program.* (1) Forcibly assault, resist, oppose, impede, intimidate, harass, sexually harass, bribe, or interfere with an observer.

(2) Interfere with or bias the sampling procedure employed by an observer, including either mechanically or physically sorting or discarding catch before sampling.

(3) Tamper with, destroy, or discard an observer's collected samples, equipment, records, photographic film, papers, or personal effects without the express consent of the observer.

(4) Harass an observer by conduct that:

(i) Has sexual connotations,

(ii) Has the purpose or effect of interfering with the observer's work performance, and/or

(iii) Otherwise creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.

(5) Fish for, land, or process fish without observer coverage when a vessel is required to carry an observer under § 660.314(c).

(6) Require, pressure, coerce, or threaten an observer to perform duties normally performed by crew members, including, but not limited to, cooking, washing dishes, standing watch, vessel maintenance, assisting with the setting or retrieval of gear, or any duties associated with the processing of fish, from sorting the catch to the storage of the finished product.

(7) Fail to provide departure or cease fishing reports specified at § 660.312(c)(2).

(8) Fail to meet the vessel responsibilities specified at § 660.312(d).

(j) *Vessel monitoring systems.* (1) Use any vessel registered to a limited entry permit to operate in State or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California, unless that vessel carries a NMFS OLE type-approved mobile transceiver unit and complies with the requirements described at § 660.312.

(2) Fail to install, activate, repair or replace a mobile transceiver unit prior to leaving port as specified at § 660.312.

(3) Fail to operate and maintain a mobile transceiver unit on board the vessel at all times as specified at § 660.312.

(4) Tamper with, damage, destroy, alter, or in any way distort, render useless, inoperative, ineffective, or inaccurate the VMS, mobile transceiver unit, or VMS signal required to be installed on or transmitted by a vessel as specified at § 660.312.

(5) Fail to contact NMFS OLE or follow NMFS OLE instructions when automatic position reporting has been interrupted as specified at § 660.312.

(6) Register a VMS transceiver unit registered to more than one vessel at the same time.

**§ 660.322 [Redesignated as § 660.310 and Amended]**

■ 7. Section 660.322 is redesignated as § 660.310 and newly redesignated section heading and paragraph (b)(5) are revised to read as follows:

**§ 660.310 Gear restrictions and gear identification.**

\* \* \* \* \*

(b) \* \* \*

(5) *Large and small footrope trawl gear.* Large footrope gear is bottom trawl gear, as specified at § 660.302, with a footrope diameter larger than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope.) Small footrope trawl gear is bottom trawl gear, as specified at § 660.302 and herein at paragraph (b) of this section, with a footrope diameter of 8 inches (20 cm) or smaller (including rollers, bobbins or other material encircling or tied along the length of the footrope). Chafing gear may be used only on the last 50 meshes of a small footrope trawl, measured from the terminal (closed) end of the codend. Other lines or ropes that run parallel to the footrope may not be augmented to violate the footrope size restrictions. For enforcement purposes, the footrope will be measured in a straight line from the outside edge to the opposite outside edge at the widest part on any individual part, including any individual disk, roller, bobbin, or any other device.

\* \* \* \* \*

■ 8. Section 660.359 is redesignated as § 660.312, and newly redesignated § 660.312 is amended in paragraph (d)(7) by removing the words “U.S. Coast Guard” and adding in their place “USCG,” and paragraphs (d)(4) introductory text and (d)(4)(iv) are revised to read as follows:

**§ 660.312 Vessel Monitoring System (VMS) requirements.**

\* \* \* \* \*

(d) \* \* \*

(4) *VMS exemptions.* A vessel that is required to operate the mobile transceiver unit continuously 24 hours a day throughout the calendar year may be exempted from this requirement if a valid exemption report, as described at paragraph (d)(4)(iii) of this section, is received by NMFS OLE and the vessel is in compliance with all conditions and requirements of the VMS exemption identified in this section.

\* \* \* \* \*

(iv) Exemption reports must be received by NMFS at least 2 hours and not more than 24 hours before the exempted activities defined at paragraph (d)(4)(i) and (ii) of this section occur. An exemption report is valid until NMFS receives a report canceling the exemption. An exemption cancellation must be received at least 2 hours before the vessel re-enters the EEZ following an outside areas exemption or at least 2 hours before the vessel is placed back in the water following a haul out exemption.

\* \* \* \* \*

**§ 660.360 [Redesignated as § 660.314 and Amended]**

■ 9. Section 660.360 is redesignated as § 660.314, and newly designated § 660.314 is amended as follows:

A. In paragraph (c)(2)(ii), remove the words “Pacific Coast Groundfish Fishery Management Plan” and add in their place “PCGFMP”;

B. In paragraph (d)(2), remove the words “U.S. Coast Guard” and add in their place “USCG”; and

C. In paragraph (d)(3)(i), remove the words “United States” and add in their place “U.S.”.

**§ 660.332 [Redesignated as § 660.320]**

■ 10. Section 660.332 is redesignated as § 660.320.

■ 11. Section 660.323 is revised to read as follows:

**§ 660.323 Pacific whiting allocations, allocation attainment, and inseason allocation reapportionment.**

(a) *Allocations.* The commercial harvest guideline for whiting is allocated among three sectors, as follows: 34 percent for the catcher/processor sector; 24 percent for the mothership sector; and 42 percent for the shoreside sector. No more than 5 percent of the shoreside allocation may be taken and retained south of 42° N. lat. before the start of the primary season north of 42° N. lat. These allocations are harvest guidelines unless

otherwise announced in the **Federal Register**.

(b) *Reaching an allocation.* If the whiting harvest guideline, commercial harvest guideline, or a sector's allocation is reached, or is projected to be reached, the following action(s) for the applicable sector(s) may be taken as provided under paragraph (e) of this section and will remain in effect until additional amounts are made available the next fishing year or under paragraph (e) of this section.

(1) *Catcher/processor sector.* Further taking and retaining, receiving, or at-sea processing of whiting by a catcher/processor is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a catcher/processor may continue to process whiting that was on board before at-sea processing was prohibited.

(2) *Mothership sector.* Further receiving or at-sea processing of whiting by a mothership is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a mothership may continue to process whiting that was on board before at-sea processing was prohibited. Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the mothership sector.

(3) *Shoreside sector.* Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the shoreside sector except as authorized under a trip limit specified under § 660.370(c).

(4) *Shoreside south of 42° N. lat.* If 5 percent of the shoreside allocation for whiting is taken and retained south of 42° N. lat. before the primary season for the shoreside sector begins north of 42° N. lat., then a trip limit specified under § 660.370(c) may be implemented south of 42° N. lat. until the northern primary season begins, at which time the southern primary season would resume.

(c) *Reapportionments.* That portion of a sector's allocation that the Regional Administrator determines will not be used by the end of the fishing year shall be made available for harvest by the other sectors, if needed, in proportion to their initial allocations, on September 15 or as soon as practicable thereafter. NMFS may release whiting again at a later date to ensure full utilization of the resource. Whiting not needed in the fishery authorized under § 660.324 may also be made available.

(d) *Estimates.* Estimates of the amount of whiting harvested will be based on actual amounts harvested, projections of amounts that will be harvested, or a combination of the two. Estimates of the

amount of Pacific whiting that will be used by shoreside processors by the end of the fishing year will be based on the best information available to the Regional Administrator from state catch and landings data, the survey of domestic processing capacity and intent, testimony received at Council meetings, and/or other relevant information.

(e) *Announcements.* The Assistant Administrator will announce in the **Federal Register** when a harvest guideline, commercial harvest guideline, or an allocation of whiting is reached, or is projected to be reached, specifying the appropriate action being taken under paragraph (b) of this section. The Regional Administrator will announce in the **Federal Register** any reapportionment of surplus whiting to others sectors on September 15, or as soon as practicable thereafter. In order to prevent exceeding the limits or to avoid underutilizing the resource, prohibitions against further taking and retaining, receiving, or at-sea processing of whiting, or reapportionment of surplus whiting may be made effective immediately by actual notice to fishermen and processors, by e-mail, internet ([www.nwr.noaa.gov/lstsfsh/groundfish/whiting\\_mgt.htm](http://www.nwr.noaa.gov/lstsfsh/groundfish/whiting_mgt.htm)), phone, fax, letter, press release, and/or USCG Notice to Mariners (monitor channel 16 VHF), followed by publication in the **Federal Register**, in which instance public comment will be sought for a reasonable period of time thereafter. If insufficient time exists to consult with the Council, the Regional Administrator will inform the Council in writing of actions taken.

■ 12. In § 660.334, paragraphs (b), (c)(1)(i), and (d)(1) are revised to read as follows:

**§ 660.334 Limited entry permits – endorsements.**

\* \* \* \* \*

(b) *Gear endorsements.* There are three types of gear endorsements: trawl, longline and pot (trap). When limited entry permits were first issued, some vessel owners qualified for more than one type of gear endorsement based on the landings history of their vessels. Each limited entry permit has one or more gear endorsement(s). Gear endorsement(s) assigned to the permit at the time of issuance will be permanent and shall not be modified. While participating in the limited entry fishery, the vessel registered to the limited entry permit is authorized to fish the gear(s) endorsed on the permit. While participating in the limited entry, primary fixed gear fishery for sablefish described at § 660.372, a vessel

registered to more than one limited entry permit is authorized to fish with any gear, except trawl gear, endorsed on at least one of the permits registered for use with that vessel. During the limited entry fishery, permit holders may also fish with open access gear; except that vessels fishing against primary sablefish season cumulative limits described at § 660.372(b)(3) may not fish with open access gear against those limits.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) If the permit is registered for use with a trawl vessel that is more than 5 ft (1.52 m) shorter than the size for which the permit is endorsed, it will be endorsed for the size of the smaller vessel. This requirement does not apply to a permit with a sablefish endorsement that is endorsed for both trawl and either longline or pot gear and which is registered for use with a longline or pot gear vessel for purposes of participating in the limited entry primary fixed gear sablefish fishery described at § 660.372.

\* \* \* \* \*

(d) \* \* \*

(1) *General.* Participation in the limited entry fixed gear sablefish fishery during the primary season described in § 660.372 north of 36° N. lat., requires that an owner of a vessel hold (by ownership or lease) a limited entry permit, registered for use with that vessel, with a longline or trap (or pot) endorsement and a sablefish endorsement. Up to three permits with sablefish endorsements may be registered for use with a single vessel. Limited entry permits with sablefish endorsements are assigned to one of three different cumulative trip limit tiers, based on the qualifying catch history of the permit.

\* \* \* \* \*

■ 13. In § 660.335, paragraph (c) is revised to read as follows:

**§ 660.335 Limited entry permits – renewal, combination, stacking, change of permit ownership or permit holdership, and transfer.**

\* \* \* \* \*

(c) *“Stacking” Limited Entry Permits.* “Stacking” limited entry permits refers to the practice of registering more than one permit for use with a single vessel. Only limited entry permits with sablefish endorsements may be “stacked.” Up to three limited entry permits with sablefish endorsements may be registered for use with a single vessel during the primary sablefish season described at § 660.372(b). Privileges, responsibilities, and

restrictions associated with stacking permits to participate in the primary sablefish fishery are described at § 660.372 and at § 660.334(d).

\* \* \* \* \*

■ 14. In § 660.350, paragraph (a)(6) is revised to read as follows:

**§ 660.350 Compensation with fish for collecting resource information—exempted fishing permits off Washington, Oregon, and California.**

\* \* \* \* \*

(a) \* \* \*

(6) *Accounting for the compensation catch.* As part of the harvest specifications process (§ 660.370), NMFS will advise the Council of the amount of fish authorized to be retained under a compensation EFP, which then will be deducted from the next harvest specifications (ABCs) set by the Council. Fish authorized in an EFP too late in the year to be deducted from the following year's ABCs will be accounted for in the next management cycle where it is practicable to do so.

\* \* \* \* \*

**§ 660.370 [Redesignated as § 660.365]**

■ 15. Section 660.370 is redesignated as § 660.365.

■ 16. A new § 660.370 is added to read as follows:

**§ 660.370 Specifications and management measures.**

(a) *General.* NMFS will establish and adjust specifications and management measures biennially or annually and during the fishing year. Management of the Pacific Coast groundfish fishery will be conducted consistent with the standards and procedures in the PCGFMP and other applicable law. The PCGFMP is available from the Regional Administrator or the Council.

(b) *Biennial actions.* The Pacific Coast Groundfish fishery is managed on a biennial, calendar year basis. Harvest specifications and management measures will be announced biennially, with the harvest specifications for each species or species group set for two sequential calendar years. In general, management measures are designed to achieve, but not exceed, the specifications, particularly optimum yields (harvest guidelines and quotas), commercial harvest guidelines and quotas, limited entry and open access allocations, or other approved fishery allocations, and to protect overfished and depleted stocks.

(c) *Routine management measures.* In addition to the catch restrictions in §§ 660.371 through 660.373, other catch restrictions that are likely to be adjusted on a biennial or more frequent basis



may be imposed and announced by a single notification in the **Federal Register** if good cause exists under the APA to waive notice and comment, and if they have been designated as routine through the two-meeting process described in the PCGFMP. The following catch restrictions have been designated as routine:

(1) *Commercial limited entry and open access fisheries—*

(i) *Trip landing and frequency limits, size limits, all gear.* Trip landing and frequency limits have been designated as routine for the following species or species groups: widow rockfish, canary rockfish, yellowtail rockfish, Pacific ocean perch, yelloweye rockfish, splitnose rockfish, bocaccio, cowcod, minor nearshore rockfish or shallow and deeper minor nearshore rockfish, shelf or minor shelf rockfish, and minor slope rockfish; DTS complex which is composed of Dover sole, sablefish, shortspine thornyheads, and longspine thornyheads; petrale sole, rex sole, arrowtooth flounder, Pacific sanddabs, and the flatfish complex, which is composed of those species plus any other flatfish species listed at § 660.302; Pacific whiting; lingcod; and “other fish” as a complex consisting of all groundfish species listed at § 660.302 and not otherwise listed as a distinct species or species group. Size limits have been designated as routine for sablefish and lingcod. Trip landing and frequency limits and size limits for species with those limits designated as routine may be imposed or adjusted on a biennial or more frequent basis for the purpose of keeping landings within the harvest levels announced by NMFS, and for the other purposes given in paragraphs (c)(1)(i)(A) and (B) of this section.

(A) *Trip landing and frequency limits.* To extend the fishing season; to minimize disruption of traditional fishing and marketing patterns; to reduce discards; to discourage target fishing while allowing small incidental catches to be landed; to protect overfished species; to allow small fisheries to operate outside the normal season; and, for the open access fishery only, to maintain landings at the historical proportions during the 1984–88 window period.

(B) *Size limits.* To protect juvenile fish; to extend the fishing season.

(ii) *Differential trip landing and frequency limits based on gear type, closed seasons.* 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.

(2) *Recreational fisheries all gear types.* Routine management measures for all groundfish species, separately or in any combination, include bag limits, size limits, time/area closures, boat limits, hook limits, and dressing requirements. All routine management measures on recreational fisheries are intended to keep landings within the harvest levels announced by NMFS, to rebuild and protect overfished or depleted species, and to maintain consistency with State regulations, and for the other purposes set forth in this section.

(i) *Bag limits.* To spread the available catch over a large number of anglers; to protect and rebuild overfished species; to avoid waste.

(ii) *Size limits.* To protect juvenile fish; to protect and rebuild overfished species; to enhance the quality of the recreational fishing experience.

(iii) *Season duration restrictions.* To spread the available catch over a large number of anglers; to protect and rebuild overfished species; to avoid waste; to enhance the quality of the recreational fishing experience.

(3) *All fisheries, all gear types depth-based management measures.* Depth-based management measures, particularly the setting of closed areas known as Groundfish Conservation Areas may be imposed on any sector of the groundfish fleet using specific boundary lines that approximate depth contours with latitude/longitude waypoints. Depth-based management measures and the setting of closed areas may be used to protect and rebuild overfished stocks.

(d) *Changes to the regulations.* Regulations under this subpart may be promulgated, removed, or revised. Any such action will be made according to the framework standards and procedures in the PCGFMP and other applicable law, and will be published in the **Federal Register**.

(e) *Prohibited species.* Groundfish species or species groups under the PCGFMP for which quotas have been achieved and/or the fishery closed are prohibited species. In addition, the following are prohibited species:

(1) Any species of salmonid.

(2) Pacific halibut.

(3) Dungeness crab caught seaward of Washington or Oregon.

(f) *Applicability.* Groundfish species harvested in the territorial sea (0–3 nm) will be counted toward the catch limitations in §§660.370–660.373.

■ 17. Section 660.371 is added to read as follows:

**§ 660.371 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°09'30" N. lat.), and between Destruction Island (47°40' N. lat.) and Leadbetter Point (46°38'10" 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.

■ 18. Section 660.372 is added to read as follows:

**§ 660.372 Fixed gear sablefish fishery management.**

This section applies to the primary season for the fixed gear limited entry sablefish fishery north of 36° N. lat., except for paragraph (c), of this section, which also applies to the open access fishery north of 36° N. lat. Limited entry and open access fixed gear sablefish fishing south of 36° N. lat. is governed by routine management measures imposed under § 660.370 (c).

(a) *Sablefish endorsement.* A vessel may not participate in the primary season for the fixed gear limited entry fishery, unless at least one limited entry permit with both a gear endorsement for longline or trap (or pot) gear and a sablefish endorsement is registered for use with that vessel. Permits with sablefish endorsements are assigned to one of three tiers, as described at § 660.334(d).

(b) *Primary season limited entry, fixed gear sablefish fishery— (1) Season dates.* North of 36° N. lat., the primary sablefish season for limited entry, fixed gear vessels begins at 12 noon l.t. on April 1 and ends at 12 noon l.t. on October 31, unless otherwise announced by the Regional Administrator.

(2) *Gear type.* During the primary season and when fishing against primary season cumulative limits, each vessel authorized to participate in that season under paragraph (a) of this section may fish for sablefish with any of the gear types, except trawl gear, endorsed on at least one of the permits registered for use with that vessel.

(3) *Cumulative limits.* (i) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. The Regional Administrator will biennially or annually calculate the size of the cumulative trip limit for each of the three tiers associated with the sablefish endorsement such that the ratio of limits between the tiers is approximately 1:1.75:3.85 for Tier 3: Tier 2: Tier 1, respectively. The size of the cumulative trip limits will vary



depending on the amount of sablefish available for the primary fishery and on estimated discard mortality rates within the fishery. The size of the cumulative trip limits for the three tiers in the primary fishery will be announced in the **Federal Register**.

(ii) During the primary season, each vessel authorized to participate in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the permits registered for use with that vessel. If multiple limited entry permits with sablefish endorsements are registered for use with a single vessel, that vessel may land up to the total of all cumulative limits announced in the **Federal Register** for the tiers for those permits, except as limited by paragraph (b)(3)(iii) of this section. Up to 3 permits may be registered for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than 3 primary season sablefish cumulative limits in any one year. A vessel registered for use with multiple limited entry permits is subject to per vessel limits for species other than sablefish, and to per vessel limits when participating in the daily trip limit fishery for sablefish under paragraph (c) of this section.

(iii) If a permit is registered to more than one vessel during the primary season in a single year, the second vessel may only take the portion of the cumulative limit for that permit that has not been harvested by the first vessel to which the permit was registered. The combined primary season sablefish landings for all vessels registered to that permit may not exceed the cumulative limit for the tier associated with that permit.

(iv) A cumulative trip limit is the maximum amount of sablefish that may be taken and retained, possessed, or landed per vessel in a specified period of time, with no limit on the number of landings or trips.

(c) *Limited entry and open access daily trip limit fisheries.* (1) Before the start of the primary season, all sablefish landings made by a vessel authorized under paragraph (a) of this section to participate in the primary season will be subject to the restrictions and limits of the limited entry daily trip limit fishery for sablefish, which is governed by routine management measures imposed under § 660.370(c).

(2) Following the start of the primary season, all landings made by a vessel authorized under paragraph (a) of this section to participate in the primary season will count against the primary season cumulative limit(s) associated

with the permit(s) registered for use with that vessel. Once a vessel has reached its total cumulative allowable sablefish landings for the primary season under paragraph (b)(3) of this section, any subsequent sablefish landings by that vessel will be subject to the restrictions and limits of the limited entry daily trip limit fishery for sablefish for the remainder of the calendar year.

(3) Vessels registered for use with a limited entry, fixed gear permit that does not have a sablefish endorsement may participate in the limited entry, daily trip limit fishery for as long as that fishery is open during the year, subject to routine management measures imposed under § 660.370.

(4) Open access vessels may participate in the open access, daily trip limit fishery for as long as that fishery is open during the year, subject to the routine management measures imposed under § 660.370(c).

(d) *Trip limits.* Trip and/or frequency limits may be imposed in the limited entry fishery on vessels that are not participating in the primary season under § 660.370(c). Trip and/or size limits to protect juvenile sablefish in the limited entry or open-access fisheries also may be imposed at any time under § 660.370(c). Trip limits may be imposed in the open-access fishery at any time under § 660.370(c).

■ 19. Section 660.373 is added to read as follows:

**§ 660.373 Pacific whiting (whiting) fishery management.**

(a) *Sectors.* The catcher/processor sector is composed of catcher/processors, which are vessels that harvest and process whiting during a calendar year. The mothership sector is composed of motherships and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting during a calendar year. The shoreside sector is composed of vessels that harvest whiting for delivery to shore-based processors.

(b) *Seasons.* The primary seasons for the whiting fishery are: For the shore-based sector, the period(s) when the large-scale target fishery is conducted (when trip limits under paragraph (b) of this section are not in effect); for catcher/processors, the period(s) when at-sea processing is allowed and the fishery is open for the catcher/processor sector; and for vessels delivering to motherships, the period(s) when at-sea processing is allowed and the fishery is open for the mothership sector. Before and after the primary seasons, trip landing or frequency limits may be

imposed under § 660.370(c). The sectors are defined at § 660.370(a).

(1) *North of 40°30' N. lat.* Different starting dates may be established for the catcher/processor sector, the mothership sector, catcher vessels delivering to shoreside processors north of 42° N. lat., and catcher vessels delivering to shoreside processors between 42°-40°30' N. lat.

(i) *Procedures.* The primary seasons for the whiting fishery north of 40°30' N. lat. generally will be established according to the procedures of the PCGFMP for developing and implementing harvest specifications and apportionments. The season opening dates remain in effect unless changed, generally with the harvest specifications and management measures.

(ii) *Criteria.* The start of a primary season may be changed based on a recommendation from the Council and consideration of the following factors, if applicable: Size of the harvest guidelines for whiting and bycatch species; age/size structure of the whiting population; expected harvest of bycatch and prohibited species; availability and stock status of prohibited species; expected participation by catchers and processors; environmental conditions; timing of alternate or competing fisheries; industry agreement; fishing or processing rates; and other relevant information.

(2) *South of 40°30' N. lat.* The primary season starts on April 15 south of 40°30' N. lat.

(c) *Closed areas.* Pacific whiting may not be taken and retained in the following portions of the fishery management area:

(1) *Klamath River Salmon Conservation Zone.* The ocean area surrounding the Klamath River mouth bounded on the north by 41°38'48" N. lat. (approximately 6 nm north of the Klamath River mouth), on the west by 124°23' W. long. (approximately 12 nm from shore), and on the south by 41°26'48" N. lat. (approximately 6 nm south of the Klamath River mouth).

(2) *Columbia River Salmon Conservation Zone.* The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nm due west from North Head along 46°18' N. lat. to 124°13'18" W. long., then southerly along a line of 167 True to 46°11'06" N. lat. and 124°11' W. long. (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty.

(d) *Eureka area trip limits.* Trip landing or frequency limits may be established, modified, or removed under § 660.370 or § 660.373, 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.).

(e) *At-sea processing.* Whiting may not be processed at sea south of 42°00' N. lat. (Oregon-California border), unless by a waste-processing vessel as authorized under paragraph (i) of this section.

(f) *Time of day.* Pacific whiting may not be taken and retained by any vessel in the fishery management area south of 42°00' N. lat. between 0001 hours to one-half hour after official sunrise (local time). During this time south of 42°00' N. lat., trawl doors must be on board any vessel used to fish for whiting and the trawl must be attached to the trawl doors. Official sunrise is determined, to the nearest 5° lat., in The Nautical Almanac issued annually by the Nautical Almanac Office, U.S. Naval Observatory, and available from the U.S. Government Printing Office.

(g) *Bycatch reduction and full utilization program for at-sea processors (optional).* If a catcher/processor or mothership in the whiting fishery carries more than one NMFS-approved observer for at least 90 percent of the fishing days during a cumulative trip limit period, then groundfish trip limits may be exceeded without penalty for that cumulative trip limit period, if the conditions in paragraph (g)(1) of this section are met. For purposes of this program, "fishing day" means a 24-hour period, from 0001 hours through 2400 hours, local time, in which fishing gear is retrieved or catch is received by the vessel, and will be determined from the vessel's observer data, if available. Changes to the number of observers required for a vessel to participate in the program will be announced prior to the start of the fishery, generally concurrent with the harvest specifications and management measures. Groundfish consumed on board the vessel must be within any applicable trip limit and recorded as retained catch in any applicable logbook or report. [Note: For a mothership, non-whiting groundfish landings are limited by the cumulative landings limits of the catcher vessels delivering to that mothership.]

(1) *Conditions.* Conditions for participating in the voluntary full utilization program are as follows:

(i) All catch must be made available to the observers for sampling before it is sorted by the crew.

(ii) Any retained catch in excess of cumulative trip limits must either be:

Converted to meal, mince, or oil products, which may then be sold; or donated to a bona fide tax-exempt hunger relief organization (including food banks, food bank networks or food bank distributors), and the vessel operator must be able to provide a receipt for the donation of groundfish landed under this program from a tax-exempt hunger relief organization immediately upon the request of an authorized officer.

(iii) No processor or catcher vessel may receive compensation or otherwise benefit from any amount in excess of a cumulative trip limit unless the overage is converted to meal, mince, or oil products. Amounts of fish in excess of cumulative trip limits may only be sold as meal, mince, or oil products.

(iv) The vessel operator must contact the NMFS enforcement office nearest to the place of landing at least 24 hours before landing groundfish in excess of cumulative trip limits for distribution to a hunger relief agency. Cumulative trip limits and a list of NMFS enforcement offices are found on the NMFS, Northwest Region homepage at [www.nwr.noaa.gov](http://www.nwr.noaa.gov).

(v) If the meal plant on board the whiting processing vessel breaks down, then no further overages may be retained for the rest of the cumulative trip limit period unless the overage is donated to a hunger relief organization.

(vi) Prohibited species may not be retained.

(vii) Donation of fish to a hunger relief organization must be noted in the transfer log (Product Transfer/Offloading Log (PTOL)), in the column for total value, by entering a value of "0" or "donation," followed by the name of the hunger relief organization receiving the fish. Any fish or fish product that is retained in excess of trip limits under this rule, whether donated to a hunger relief organization or converted to meal, must be entered separately on the PTOL so that it is distinguishable from fish or fish products that are retained under trip limits. The information on the Mate's Receipt for any fish or fish product in excess of trip limits must be consistent with the information on the PTOL. The Mate's Receipt is an official document that states who takes possession of offloaded fish, and may be a Bill of Lading, Warehouse Receipt, or other official document that tracks the transfer of offloaded fish or fish product. The Mate's Receipt and PTOL must be made available for inspection upon request of an authorized officer throughout the cumulative limit period during which such landings occurred and for 15 days thereafter.

(h) *Additional restrictions on catcher/processors.* (1) A catcher/processor may receive fish from a catcher vessel, but that catch is counted against the catcher/processor allocation unless the catcher/processor has been declared as a mothership under paragraph (h)(3) of this section.

(2) A catcher/processor may not also act as a catcher vessel delivering unprocessed whiting to another processor in the same calendar year.

(3) When renewing its limited entry permit each year under § 660.333, the owner of a catcher/processor used to take and retain whiting must declare if the vessel will operate solely as a mothership in the whiting fishery during the calendar year to which its limited entry permit applies. Any such declaration is binding on the vessel for the calendar year, even if the permit is transferred during the year, unless it is rescinded in response to a written request from the permit holder. Any request to rescind a declaration must be made by the permit holder and granted in writing by the Regional Administrator before any unprocessed whiting has been taken on board the vessel that calendar year.

(i) *Processing fish waste at sea.* A vessel that processes only fish waste (a "waste-processing vessel") is not considered a whiting processor and therefore is not subject to the allocations, seasons, or restrictions for catcher/processors or motherships while it operates as a waste-processing vessel. However, no vessel may operate as a waste-processing vessel 48 hours immediately before and after a primary season for whiting in which the vessel operates as a catcher/processor or mothership. A vessel must meet the following conditions to qualify as a waste-processing vessel:

(1) The vessel makes meal (ground dried fish), oil, or minced (ground flesh) product, but does not make, and does not have on board, surimi (fish paste with additives), fillets (meat from the side of the fish, behind the head and in front of the tail), or headed and gutted fish (head and viscera removed).

(2) The amount of whole whiting on board does not exceed the trip limit (if any) allowed under § 660.370(c).

(3) Any trawl net and doors on board are stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.

(4) The vessel does not receive codends containing fish.

(5) The vessel's operations are consistent with applicable state and Federal law, including those governing disposal of fish waste at sea.

■ 20. Section 660.390 is added to read as follows:

**§ 660.390 Groundfish Conservation Areas (GCAs).**

In § 660.302, a GCA is defined as “a geographic area defined by coordinates expressed in latitude and longitude, created and enforced for the purpose of contributing to the rebuilding of overfished West Coast groundfish species.” Specific GCAs may be defined here in this paragraph, or in the **Federal Register**, within the harvest specifications and management measures process. While some GCAs 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. Fishing activity that is prohibited or permitted within a particular GCA is detailed in **Federal Register** documents associated with the harvest specifications and management measures process.

(a) *Rockfish Conservation Areas (RCAs)*. RCAs are defined in the **Federal Register** through the harvest specifications and management measures process. RCAs may apply to a single gear type or to a group of gear types, such as “trawl RCAs” or “non-trawl RCAs”.

(b) *Cowcod Conservation Areas (CCAs)*. (1) The Western CCA is an area south of Point Conception that is bound by straight lines connecting all of the following points in the order listed:

33°50' N. lat., 119°30' W. long.;  
33°50' N. lat., 118°50' W. long.;  
32°20' N. lat., 118°50' W. long.;  
32°20' N. lat., 119°37' W. long.;  
33°00' N. lat., 119°37' W. long.;  
33°00' N. lat., 119°53' W. long.;  
33°33' N. lat., 119°53' W. long.;  
33°33' N. lat., 119°30' W. long.;  
and connecting back to 33°50' N. lat., 119°30' W. long.

(2) The Eastern CCA is a smaller area west of San Diego that is bound by straight lines connecting all of the following points in the order listed:

32°42' N. lat., 118°02' W. long.;  
32°42' N. lat., 117°50' W. long.;  
32°36'42" N. lat., 117°50' W. long.;  
32°30' N. lat., 117°53'30" W. long.;  
32°30' N. lat., 118°02' W. long.;  
and connecting back to 32°42' N. lat., 118°02' W. long.

(c) *Yelloweye Rockfish Conservation Area (YRCA)*. The YRCA is a C-shaped area off the northern Washington coast

that is bound by straight lines connecting all of the following points in the order listed:

48°18' N. lat., 125°18' W. long.;  
48°18' N. lat., 124°59' W. long.;  
48°11' N. lat., 124°59' W. long.;  
48°11' N. lat., 125°11' W. long.;  
48°04' N. lat., 125°11' W. long.;  
48°04' N. lat., 124°59' W. long.;  
48°00' N. lat., 124°59' W. long.;  
48°00' N. lat., 125°18' W. long.; and  
connecting back to 48°18' N. lat., 125°18' W. long.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 031125292-4061-02; I.D. 070904E]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2004 total allowable catch (TAC) of Pacific ocean perch in this area.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), July 12, 2004, through 2400 hrs, A.l.t., December 31, 2004.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-2778.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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 2004 TAC specified for Pacific ocean perch in the Central Regulatory

Area of the GOA is 8,390 metric tons (mt) as established by the 2004 harvest specifications for groundfish of the GOA (69 FR 9261, February 27, 2004).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2004 TAC for Pacific ocean perch in the Central Regulatory Area will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 7,890 mt, and is setting aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Regulatory Area of the GOA.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the directed fishery for Pacific ocean perch in the Central Regulatory Area of the GOA.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 12, 2004.

**Alan D. Risenhoover,**

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

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