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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 110908575-1687-03]

RIN 0648-BB27

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2012 Specifications and Management Measures and Secretarial Amendment 1

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

ACTION: Final rule.

SUMMARY: This final rule establishes the 2012 harvest specifications and management measures for certain groundfish species taken in the U.S. exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Pacific Coast Groundfish Fishery Management Plan (PCGFMP). This action includes regulations to implement Secretarial Amendment 1 to the PCGFMP. Secretarial Amendment 1 contains the rebuilding plans for overfished species and new reference points for assessed flatfish species.

DATES: This rule is effective January 1, 2012.

ADDRESSES: Information relevant to this final rule, which includes a final environmental impact statement (FEIS), a regulatory impact review (RIR), and a final regulatory flexibility analysis (FRFA) is available for public review during business hours at the office of the Pacific Fishery Management Council (Council), at 7700 NE Ambassador Place, Portland, OR 97220, phone: 503-820-2280. Copies of additional reports referred to in this document may also be obtained from the Pacific Fishery Management Council.

FOR FURTHER INFORMATION CONTACT: Sarah Williams, phone: 206-526-4646, fax: 206-526-6736, or e-mail: sarah.williams@noaa.gov

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web site at http:// www.access.gpo.gov/su_docs/aces/aces140.html. Background information and documents are available at the NMFS Northwest Region Web site at http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/index.cfm and at the Council's Web site at http://www.pcouncil.org.

Summary of Provisions in this Final Rule

NMFS published a proposed rule on September 27, 2011 (76 FR 59634) and a Notice of Availability of Secretarial Amendment 1 to the Pacific Coast Groundfish Fishery Management Plan (PCGFMP)

on September 9, 2011 (76 FR 55865). The comment periods on both the proposed rule and FMP amendment closed on November 8, 2011. NMFS has approved Secretarial Amendment 1. This final rule implements the provisions from the September 27, 2011, proposed rule, except for the proposed regulatory change to add a geographical split for lingcod at 42° N. latitude. As a consequence, this final rule makes no changes to area-specific management of lingcod, and lingcod continue to be managed as a coastwide stock in 2012.

A discussion of the comments and NMFS's responses can be found in the Changes from the Proposed Rule and Comments and Responses section of this final rule. See the preamble to the proposed rule for additional background information on the fishery and on this final rule. The specifics associated with the development and decision making processes for the rebuilding plans in Secretarial Amendment 1 can be found in the proposed rule (75 FR 67810, November 3, 2010) and final rule (75 FR 27508, May 11, 2011) for the 2011-2012 harvest specifications and management measures.

Background

Every other year, the Council recommends biennial harvest levels for Pacific Coast groundfish, and management measures for commercial and recreational fisheries that are designed to achieve those harvest levels. For the 2011-2012 biennium, the

Council recommended Amendment 16-5 to the PCGFMP and proposed specifications and management measures. Amendment 16-5 included one new and seven revised rebuilding plans, and new reference points for assessed flatfish species. A Draft Environmental Impact Statement (DEIS) was published in August 2010 that analyzed the effects of Amendment 16-5 and the 2011-2012 groundfish harvest specifications and management measures. NMFS reviewed the DEIS and the comments and concluded that the analysis did not clearly explain the alternatives in such a way that NMFS could choose among them. Therefore, NMFS disapproved the Amendment on December 27, 2010. A Final Environmental Impact Statement (FEIS), which analyzed the effects of Amendment 16-5 and the 2011-2012 groundfish harvest specifications and management measures, was drafted by NMFS and a Record of Decision was signed on April 26, 2011.

Because management measures were needed for the 2011 fishery, NMFS published a final rule (75 FR 27508, May 11, 2011) establishing harvest specifications and management measures for most species. Pursuant to NFMS' emergency authority under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1801 et seq., NMFS implemented the specifications based on a slightly modified version of Amendment 16-5. Accordingly, the provisions can be effective for a maximum of 366 days. For more detail, see the "Comments

and Responses" section of the May 11, 2011, final rule. (76 FR 27509). The provisions implemented pursuant to emergency authority for 2011 included the rebuilding plans and corresponding harvest levels, new proxy reference points for assessed flatfish species, and the Overfishing Limits (OFLs), Acceptable Biological Catches (ABCs), and Annual Catch Limits (ACLs) for assessed flatfish based on the new reference points.

Regulations Implemented Through Secretarial Authority and Secretarial FMP Amendment 1

Under MSA section 304(a) (16 U.S.C. 1854(c)), when the Secretary of Commerce (the Secretary) disapproves of a Council's FMP amendment, the Council may resubmit a revised amendment. If the Council does not submit a revised amendment, the Secretary, acting through NMFS, is authorized to prepare an amendment, 16 U.S.C. 1854(c)(1).

Because NMFS disapproved the Council's FMP amendment, the issue was brought before the Council for reconsideration and further action. In June 2011, the Council decided not to resubmit a revised amendment. NMFS therefore drafted Secretarial Amendment 1 to the FMP pursuant to section 304(c) of the MSA. The notice of availability for the amendment published on September 9, 2011 (75 FR 55865) and the comment period closed on November 8, 2011.

Secretarial Amendment 1 is a revised version of Amendment 16-5. It contains rebuilding plans that differ from those in the Council's Amendment 16-5 for three species. As with rebuilding plans approved and implemented for 2011, NMFS has determined that these plans are consistent with the statutory provisions of section 304(e) of the MSA. While a Secretarial Amendment is rare, the substance of this Amendment is routine and it implements provisions through notice and comment rulemaking that were previously created by emergency action. As stated above, this final rule updates the regulations at 50 CFR Part 660 to establish new and revised rebuilding plans, establish the 2012 harvest specifications consistent with those rebuilding plans and new flatfish proxies, and calculate the resulting shorebased trawl allocations.

Secretarial Amendment 1 also makes some non-substantive structural changes to the PCGFMP by moving the descriptions of rebuilding plans and associated text to an appendix. These changes make it possible to update the rebuilding plans in the appendix without requiring an FMP amendment. The FMP still requires these changes to undergo notice and comment rule making. Moving the rebuilding plans helps ensure that they are easily accessible to the Council, agency, and members of the public. Currently, the PCGFMP allows the updating of rebuilding parameters, such as the target year to rebuild, through

regulatory amendments rather than FMP amendments. However, the exact provisions of the rebuilding plans are frequently difficult to locate because they are imbedded in the rule's text and in the main body of the FMP. By moving text to an appendix, Secretarial Amendment 1 does not change any substantive rebuilding policies or procedures described in the PCGFMP. Rather, it enhances the public's access to current rebuilding plans; if a rebuilding parameter or other element of a rebuilding plan changes through the biennial harvest specifications and management process, the appendix would be updated after the final rule is in place without a separate FMP amendment.

Regulations Implemented Through Routine Rulemaking

In addition to the regulations implementing Secretarial Amendment 1, this final rule includes one regulatory change. This rule corrects the 2012 limited entry fixed gear sablefish tier limits. On May 18, 2011, NMFS was notified by the Executive Director of the Council that there was a mistake in the calculation of the 2011 and 2012 sablefish cumulative limits during the development of the 2011-2012 biennial specifications and management measures. The Executive Director requested that NMFS correct the sablefish cumulative limits for the limited entry fixed gear primary fishery as quickly as possible, because the 2011 primary fishery season opened on April 1, and some

vessels were actively fishing on their cumulative limits. A previous rule (76 FR 34910, June 15, 2011) corrected the limits for 2011, but no correction was made for 2012. These limits were incorrect in the May 11, 2011, final rule, and therefore this rule corrects these limits for 2012.

The limits proposed in this rule are consistent with the analysis in the FEIS on the 2011-2012 Harvest Specifications and Management Measures and the intent of the previously published regulations. The tier limits corrected through this rule are the result of a minor calculation change and do not reflect a policy or management shift in regards to season structure, opening or closing dates of the fishery or any other management measure.

Comments and Responses

NMFS published an NOA for Secretarial Amendment 1 on September 9, 2011, (76 FR 55865) and a proposed rule on September 27, 2011 (76 FR 59634). Both comment periods closed on November 8, 2011. NMFS received 4 comments on the proposed rule and FMP amendment. The Department of the Interior submitted a letter stating that they reviewed the FMP amendment and had no comments, no other comments were received on the FMP amendment. The remaining comments were all on the proposed rule and were all in response to the proposed implementation of a geographical split for lingcod at 42° N. latitude. The Council submitted a letter stating that the effects of this change on

the trawl rationalization program would result in negative consequences (that are summarized below), and therefore this regulation change should not be made for the 2012 fishery but should be further explored through the 2013-2014 harvest specifications and management measures process. The two other letters were submitted by fishing industry representatives and individual fishermen. The two letters from the industry also stated that the full consequences of this regulation change had not been fully understood by the industry during the development of the trawl rationalization program. Because the substantive comments were very similar, the main points are summarized here.

Comments:

- The location of the 42° N. latitude line runs directly through fishing grounds, causing fishermen to use a greater amount of fuel and removing the flexibility to avoid adverse weather since they would be restricted to one area per trip.
- This change in regulation is occurring without knowledge of the fishing fleet and without discussion by the Council and its advisory bodies.
- Splitting quota share (QS) north and south of a new line will result in the same amount of quota being allocated to each quota share holder; however, the vessel accumulation limits are not going to change so quota share holders will

not be able to trade quota north and south of the line, limiting their flexibility in how they manage their Quota Pound (QP).

Response: As noted above, NMFS is not implementing the lingcod geographic split, and is referring the issue back to the Council for further consideration. The Council has already added this issue for consideration in the 2013-2014 specifications.

As background, NMFS notes that the requirement for IFQ species matching the species groupings and area subdivisions specified in the ABC tables was implemented through Amendment 20 to the FMP. Amendment 20 was implemented through an extensive and intensive review and regulatory deeming process. The deeming process, a requirement of section 303(c) of the MSA, consisted of a thorough review by the Council and its advisory bodies of the FMP amendment and the regulations implementing the amendment. Further, the Executive Director of the Council submitted a letter to NMFS stating that the regulations and FMP amendment were necessary and appropriate to achieve the goals of the FMP.

The geographic split for the lingcod stock was in front of the Council at its March, April, June, and September 2010 meetings in draft FMP language and draft regulations under the trawl rationalization program agenda items. It was also reviewed by the Council's Regulatory Deeming Workgroup at their February,

May, and June 2010 meetings. This requirement was available for public comment through the NOA for Amendment 20 and 21 (75 FR 26702, May 12, 2010), and two rulemakings (75 FR 32994, June 10, 2010 and 75 FR 53380, August 31, 2010). In addition, the Council considered the provision to split lingcod north and south of 42° N. latitude in the ABC tables at its April and June 2010 meetings under the harvest specifications agenda item. The GMT report at the September 2010 meeting under the trawl rationalization program agenda item recommended splitting lingcod north and south of 42° N. latitude for IFQ management to reflect action taken in the 2011-2012 harvest specifications.

For these reasons, NMFS disagrees with the comment that the public was not aware of the requirement for IFQ species to reflect the species groupings and area subdivisions from the harvest specifications (i.e., ABC tables), including the requirement for reallocation of IFQ species when there is an area subdivision through the harvest specifications, such as the case with lingcod being split north and south of 42° N. latitude in the 2011 and 2012 ABC tables.

However, NMFS agrees that it is appropriate to remove the proposed geographical split from the final rule. Given that this change was not implemented in 2011 because of the delay in the specifications and because the initial issuance process for the trawl rationalization program was implemented earlier in the

year, we believe issuing QP and QS in 2012 in the same way as 2011 will not disrupt the fishery. Further, given that QS trading doesn't start until 2013, NMFS believes not implementing this change will allow fishers more flexibility for 2012.

Changes from the Proposed Rule

Because of the issues raised by the commenters and in consideration of the fact that the suggestions for alternative approaches presented by the commenters have not been analyzed nor have they gone through public review or rule making, NMFS is withdrawing proposed changes to divide harvest specifications for lingcod at 42° N. latitude. This final rule makes no changes to area-specific management of lingcod, and lingcod will continue to be managed as a coastwide stock in 2012 and beyond. Therefore, this final rule does not revise any of the following regulations that were included in the proposed rule: the lingcod allocation for the Pacific coast treaty Indian fisheries at § 660.50(f)(3), Subpart C, which was proposed to apply only for the area north of 42° N. lat.; the at-sea whiting fishery annual set-aside for lingcod in Table 2d to Part 660, Subpart C, which was proposed to apply the set-aside to only the whiting fishery north of 42° N. lat.; the list of IFQ species at § 660.140(c)(1), which proposed to split lingcod from a coastwide IFQ species to two IFQ species, lingcod north of 42° N. lat. and lingcod south of 42° N. lat.; the list of IFQ management areas

at § 660.140(c)(2), Subpart D, which proposed to add a new management area between 42° N. lat. and 40°10′ N. lat. due to the split of lingcod IFQ at 42° N. lat.; lingcod accumulation limits for the shorebased IFQ program at § 660.140 (d)(4)(i)(C), which proposed to split lingcod from a coastwide accumulation limit to two area-specific accumulation limits for lingcod; and lingcod quota pound vessel limits for the shorebased IFQ program at § 660.140 (e)(4)(i), which proposed to split lingcod from a coastwide quota pound vessel limit to two area-specific quota pound vessel limits for lingcod. In addition, the shorebased trawl allocations at § 660.140(d)(1)(ii)(D), Subpart D, no longer split lingcod at 42° N. lat. and instead present lingcod in terms of a coastwide value.

Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Secretarial Amendment 1, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

NMFS prepared a DEIS and FEIS for the 2011–2012 groundfish harvest specifications and management measures, which this action implements in part. The DEIS includes a RIR and an IRFA;

the FEIS includes a FRFA. The Environmental Protection Agency published a notice of availability for the final EIS associated with this action on March 11, 2011 (76 FR 13401). A record of decision was signed on April 26, 2011. A copy of the DEIS and/or FEIS is available online at http://www.pcouncil.org/.

NMFS also prepared a FRFA for this action to assess its impact on small entities. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), summarizes the significant issues raised by the public comments in response to the IRFA, responds to those comments, and summarizes of the analyses completed to support the action. A copy of the FRFA is available from NMFS (see ADDRESSES) and a summary of the FRFA, per the requirements of 5 U.S.C. 604(a), follows:

On May 11, 2011 NMFS published a final rule establishing the harvest specifications and management measures for most species off the U.S. West Coast for the years 2011 and 2012. When a rule impacts small entities, the Regulatory Flexibility Act requires that the agency issuing the rule assess that impact as well as alternatives to the rule. The FEIS and RIR/IRFA associated with the May 2011 rule analyze a range of alternatives that were considered by the Council and NMFS, including the effects of setting allowable harvest levels necessary to rebuild the seven groundfish species that were previously declared overfished. An eighth species, petrale sole,

was declared overfished in 2010 and this action includes a new rebuilding plan for this species along with the ACLs and management measures consistent with the adopted rebuilding plan. Associated rebuilding analyses for all eight species estimate the time to rebuild under various levels of harvest.

NMFS considered various alternatives to the proposed action including a No Action alternative. The No Action alternative would maintain the status quo in the fishery prior to NMFS' implementing the emergency rules. NMFS also considered three other alternatives that presented "low," "intermediate," and ''high'' options for overfished species ACLs. The Council's preferred alternative, Alternative 3, was also considered. The Council-preferred alternative was a mixture of ''high'' and ''intermediate'' alternatives. From the Council preferred alternative, NMFS crafted its preferred alternative by reducing the ACL values for two overfished species.

The Council initially considered a wider range of alternatives, but ultimately rejected from further analysis alternatives allowing harvest levels higher than what is generally consistent with current policies for rebuilding overfished stocks and a ''no fishing'' scenario (F=0). Section 2.4 of the FEIS describes six integrated alternatives including No Action, the Council's FPA, NMFS' preferred alternative, and three other alternatives (including the Council's Preliminary

Preferred Alternative, which is similar to the Council's FPA). NMFS finds that the F=0 and Alternatives 1A, 1B, and 2, while resulting in shorter rebuilding times for most of the overfished species, lead to projected major decreases in commercial revenues and recreational activity. Allowing too many communities to suffer commercial or recreational losses greater than 10 percent fails to take into account the needs of fishing communities, as NMFS is required to do under the MSA. Alternative 3, the Council FPA, and NMFS' preferred alternative all reduce the impacts to communities to less than 10 percent, but they differ in their impacts on rebuilding times. Alternative 3 reduces rebuilding times from status quo for many of the overfished species, but does not reduce the rebuilding time for yelloweye rockfish, and results in only minor reductions for cowcod and darkblotched and rockfish. The Council's FPA improves upon Alternative 3 by reducing the rebuilding time for darkblotched rockfish by two years while maintaining Alternative 3's small positive increases in commercial revenues and recreational activity. The NMFS preferred alternative improves over the Council FPA by further reducing the rebuilding times of cowcod and yelloweye by three years and ten years, respectively.

Comparing the action alternatives with the No Action alternative allows an evaluation of the economic implications to

groundfish sectors, ports, and fishing communities. Alternative 2011–2012 groundfish management measures are designed to provide opportunities to harvest healthy target species within the constraints of alternative ACLs for overfished species.

The integrated alternatives allow estimation of target species catch under the suite of ACLs for overfished species, both to demonstrate if target species ACLs are projected to be exceeded, and to estimate related socioeconomic impacts. The Council reviewed these analyses and read and heard testimony from Council advisors, fishing industry representatives, representatives from non-governmental organizations, and the general public before deciding the Council's FPA in June 2010. The Council's final preferred management measures are intended to stay within all the final recommended harvest levels for groundfish species decided by the Council at their April and June 2010 meetings. NMFS reviewed these analyses, read and heard testimony from Council advisors, fishing industry representatives, representatives from non-governmental organizations, the general public, and considered legal obligations to comply with a court order (NRDC v. Locke) before deciding NMFS' preferred alternative in February 2011. The NMFS preferred management measures are intended to stay within all the final recommended harvest levels for groundfish species that were part of the NMFS preferred alternative.

NMFS' preferred alternative represents efforts to address the directions provided by the Ninth Circuit Court of Appeals. These directions emphasize the need to rebuild stocks in as short a time as possible, while taking into account: (1) The status and biology of the stocks; (2) the needs of fishing communities; and (3) interactions of depleted stocks within the marine ecosystem. By taking into account the ''needs of fishing communities,'' NMFS simultaneously takes into account the ''needs of small businesses,'' as fishing communities rely on small businesses as a source of economic activity and income.

After adjusting each alternative to have the same level of whiting harvest, there are no differences in ex-vessel revenue or recreational trip projections between the Council's FPA and the NMFS preferred alternative. For both 2011 and 2012, the combined total annual ex-vessel revenue associated with the NMFS preferred alternative, including at-sea whiting, is expected to be about $90 million, compared with the No-Action level of $82 million. (Note that ex-vessel revenue is just one indicator of the commercial value of the fishery. For example, ex-vessel revenues understate the wholesale, export, and retail revenues earned from the fishery. Data on these other indicators is either incomplete or unavailable.)

This rule will regulate small businesses that harvest groundfish. According to the Small Business Administration, a

small commercial fish harvesting business is one that has annual receipts under $4 million, and a small charter boat business is one that has annual receipts under $7 million. This rule will affect about 2,600 small entities, which are generally vessels that either target groundfish or harvest groundfish as bycatch and that participate in the fishery. These vessels are associated with the limited entry fixed gear fishery, the open access fishery, the charter boat fleet, the tribal fleet or the trawl fleet. To determine the number of small entities potentially affected by this rule, NMFS reviewed analyses of fish ticket data and limited entry permit data, available employment data provided by processors, information on the charterboat and Tribal fleets, and industry responses to a survey on vessel ownership. The IRFA estimates that implementation of NMFS preferred alternative will affect about 2,600 small entities. These small entities are those that are directly regulated by this rule that is being promulgated to support implementation of NMFS preferred alternative. These entities are associated with those vessels that either target groundfish or harvest groundfish as bycatch. Consequently, these are the vessels, other than catcher-processors, that participate in the limited entry portion of the fishery, the open access fishery, the charter boat fleet, and the tribal fleets. Catcher/processors also operate in the Alaska pollock fishery,

and all are associated with larger companies such as Trident and American Seafoods. Therefore, it is assumed that all catcher/processors are "large" entities.

Best estimates of the limited entry groundfish fleet are taken from the NMFS Limited Entry Permits Office. As of June 2010, there are 399 limited entry permits including 177 endorsed for trawl (172 trawl only, 4 trawl and longline, and 1 trawl and trap-pot); 199 endorsed for longline (191 longline only, 4 longline and trap-pot, and 4 trawl and longline); 32 endorsed for trap-pot (27 trap-pot only, 4 longline and trap-pot, and 1 trawl and trap-pot). Of the longline and trap-pot permits, 164 are sablefish endorsed. Of these endorsements 130 are "stacked" (e.g. more than one permit registered to a single vessel) on 50 vessels. Ten of the limited entry trawl endorsed permits are used or owned by catcher/processor companies associated with the whiting fishery. The remaining 389 entities are assumed to be small businesses based on a review of sector revenues and average revenues per entity. The open access or nearshore fleet, depending on the year and level of participation, is estimated to be about 1,300 to 1,600 vessels. Again, these are assumed to be "small entities." The tribal fleet includes about 53 vessels, and the charter boat fleet includes 525 vessels that are also assumed to be "small entities."

The effect of this rule on small entities will be increased ex-vessel revenues. As mentioned above, for both 2011 and 2012, the combined total annual ex-vessel revenue associated with the NMFS preferred alternative, including at-sea whiting, is expected to be about $90 million, compared with the No-Action level of $82 million.

NMFS received 4 letters of comment on this rule. None of these letters addressed the IRFA. There are no additional projected reporting, record-keeping, and other compliance requirements of this rule not already envisioned within the scope of current requirements. References to collections-of-information made in this action are intended to properly cite those collections in Federal regulations, and not to alter their effect in any way. No Federal rules have been identified that duplicate, overlap, or conflict with this action.

NMFS issued Biological Opinions under the Endangered Species Act (ESA) on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999 pertaining to the effects of the Pacific Coast groundfish PCGFMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California

coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California,northern California, southern California). These biological opinions have concluded that implementation of the PCGFMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS issued a Supplemental Biological Opinion on March 11, 2006 concluding that neither the higher observed bycatch of Chinook in the 2005 whiting fishery nor new data regarding salmon bycatch in the groundfish bottom trawl fishery required a reconsideration of its prior ‘‘no jeopardy’’ conclusion. NMFS also reaffirmed its prior determination that implementation of the Groundfish PCGFMP is not likely to jeopardize the continued existence of any of the affected ESUs. Lower Columbia River coho (70 FR 37160, June 28, 2005) and Oregon Coastal coho (73 FR 7816, February 11, 2008) were recently relisted as threatened under the ESA. The 1999 biological opinion concluded that the bycatch of salmonids in the Pacific whiting fishery were almost

entirely Chinook salmon, with little or no bycatch of coho, chum, sockeye, and steelhead.

NMFS has reinitiated consultation on the fishery to address newly listed species including Pacific eulachon and green sturgeon, and other non-salmonid listed species (marine mammals, sea birds, and turtles). NMFS will be completing a consultation on listed marine species specifically for this 2012 action by the end of January 2012, and expects that consultation on seabirds will be completed prior to late summer of 2012. Although not anticipated, in the event the consultations identify either reasonable and prudent alternatives to address jeopardy concerns or reasonable and prudent measures to minimize incidental take, NMFS would exercise necessary authorities in coordination to the extent possible with the Pacific Fishery Management Council to put such additional alternatives or measures in place for the 2012 fishery.

After reviewing the available information, NMFS has concluded that, consistent with sections 7(a)(2) and 7(d) of the ESA, this action will not jeopardize any listed species, would not adversely modify any designated critical habitat, and will not result in any irreversible or irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures. Further, NMFS has concluded that take of

any marine species that will be covered by the opinion to be issued in early 2012 is very unlikely to occur prior to completion of that opinion, and that take of listed seabirds is unlikely to occur in 2012. NMFS expects to complete the process leading to any necessary authorization of incidental taking of ESA-listed marine mammals under section 101(a)(5)(E) of the Marine Mammal Protection Act concurrent with the 2012 biological opinion.

Pursuant to Executive Order 13175, this final rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the PCGFMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council is be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, regulations implementing the PCGFMP establish a procedure by which the tribes with treaty fishing rights in the area covered by the PCGFMP request new allocations or regulations specific to the tribes, in writing, before the first of the two meetings at which the Council considers groundfish management measures. The regulations at 50 CFR 660.324(d) further state ''the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.''

NMFS finds good cause to partially waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective on January 1, 2012, because the delay is contrary to the public interest. As discussed above, this rule implements harvest specifications and management measures for 2012. The 2012 groundfish harvest specifications and management measures are intended to rebuild overfished stocks as quickly as possible, taking into account the appropriate factors, as required by the MSA and are based on the best available fishery information, scientific information, and stock assessments. If this final rule is not effective by January 1, 2012, specifications and management measures for 2012 would not be consistent with the MSA or based on the best available information. Further, QP issuance is based on the year specific harvest specifications which are contained in this rule, and must be distributed to participants in the trawl fishery prior to the start of the fishing year, which is January 1, 2012. If the rule is not effective on January 1, 2012, fishery participants will be afforded QP based on the incorrect harvest specifications. Depending on the species this would mean QP would be issued either over or under the correct 2012 specifications. Because NMFS does not have a mechanism to take QP back if it was issued over the correct 2012 specifications this could mean QP issuance would be delayed until the 2012

specifications were in place. This would cause some fishermen to wait to fish, resulting in lost profits, yet this delay will provide no concomitant benefit for the harvested species. Because the 30-day period of delay before this rule becomes effective will have negative consequences for the affected fishery, it is contrary to the public interest, and NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective January 1, 2012.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian Fisheries.

Dated: December 7, 2011

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Eric C. Schwaab,

Assistant Administrator for Fisheries,

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

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. Revise § 660.40 to read as follows:

§ 660.40 Overfished species rebuilding plans.

For each overfished groundfish stock with an approved rebuilding plan, this section contains the standards to be used to establish annual or biennial ACLs, specifically the target date for rebuilding the stock to its MSY level and the harvest control rule to be used to rebuild the stock. The harvest control rule is expressed as a "Spawning Potential Ratio" or "SPR" harvest rate.

(a) Bocaccio. Bocaccio south of 40°10′ N. latitude was declared overfished in 1999. The target year for rebuilding the bocaccio stock south of 40°10′ N. latitude to B_{MSY} is 2022. The harvest control rule to be used to rebuild the southern bocaccio stock is an annual SPR harvest rate of 77.7 percent.

(b) Canary rockfish. Canary rockfish was declared overfished in 2000. The target year for rebuilding the canary rockfish stock to B_{MSY} is 2027. The harvest control rule to be used to rebuild the canary rockfish stock is an annual SPR harvest rate of 88.7 percent.

(c) Cowcod. Cowcod was declared overfished in 2000. The target year for rebuilding the cowcod stock south of 40°10′ N.

latitude to B_{MSY} is 2068. The harvest control rule to be used to rebuild the cowcod stock is an annual SPR harvest rate of 82.7 percent.

(d) Darkblotched rockfish. Darkblotched rockfish was declared overfished in 2000. The target year for rebuilding the darkblotched rockfish stock to B_{MSY} is 2025. The harvest control rule to be used to rebuild the darkblotched rockfish stock is an annual SPR harvest rate of 64.9 percent.

(e) Pacific Ocean Perch (POP). POP was declared overfished in 1999. The target year for rebuilding the POP stock to B_{MSY} is 2020. The harvest control rule to be used to rebuild the POP stock is an annual SPR harvest rate of 86.4 percent.

(f) Petrale Sole. Petrale sole was declared overfished in 2010. The target year for rebuilding the petrale sole stock to B_{MSY} is 2016. The harvest control rule is the 25-5 default adjustment, which corresponds to an annual SPR harvest rate of 32.4 percent in 2012.

(g) Widow rockfish. Widow rockfish was declared overfished in 2001. The target year for rebuilding the widow rockfish stock to B_{MSY} is 2010. The harvest control rule is a constant catch of 600 mt, which corresponds to an annual SPR harvest rate of 91.3 percent in 2012.

(h) Yelloweye rockfish. Yelloweye rockfish was declared overfished in 2002. The target year for rebuilding the

yelloweye rockfish stock to B_{MSY} is 2074. The harvest control rule to be used to rebuild the yelloweye rockfish stock is an annual SPR harvest rate of 76.0 percent.

3. Tables 2a and 2b, to Part 660, Subpart C are revised to read as follows:

Table 2a. To Part 660, Subpart C - 2012, and beyond, Specifications of OFL, ABC, ACL, ACT and Fishery Harvest guidelines(weights in metric tons).

Species	Area	OFL	ABC	ACL a/	ACT	Fishery HG
ROUNDFISH:						
Lingcod	N of 42° N. lat. b/	2,251	2,151	2,151		1,880
	S of 42° N. lat. c/	2,597	2,164	2,164		2,157
Pacific Cod d/	Coastwide	3,200	2,222	1,600		1,200
Pacific Whiting e/	Coastwide	e/	e/	e/		e/
Sablefish	N of 36° N. lat. f/	8,623	8,242	5,347	See Table 2c	
	S of 36° N. lat. g/			1,258		1,224
Cabezon	46°16' to 42° N. lat. h/	50	48	48		48
	S of 42° N. lat. i/	176	168	168		168
FLATFISH:						
Dover sole j/	Coastwide	44,826	42,843	25,000		23,410
English sole k/	Coastwide	10,620	10,150	10,150		10,050
Petrale sole l/	Coastwide	1,279	1,222	1,160		1094.6
Arrowtooth flounder m/	Coastwide	14,460	12,049	12,049		9,971
Starry Flounder n/	Coastwide	1,813	1,511	1,360		1,353
Other flatfish o/	Coastwide	10,146	7,044	4,884		4,686
ROCKFISH:						
Pacific Ocean Perch p/	N of 40°10' N. lat.	1,007	962	183	157	144.1
Shortbelly q/	Coastwide	6,950	5,789	50		49
Widow r/	Coastwide	4,923	4,705	600		539.1
Canary s/	Coastwide	622	594	107		0
Chilipepper t/	S of 40°10' N. lat.	1,872	1,789	1,789		1,774
Bocaccio u/	S of 40°10' N. lat.	732	700	274		260.6
Splitnose v/	S of 40°10' N. lat.	1,610	1,538	1,538		1,531
Yellowtail w/	N of 40°10' N. lat.	4,573	4,371	4,371		3,872
Shortspine thornyhead x/	N of 34°27' N. lat.	2,358	2,254	1,556		1,511
	S of 34°27' N. lat.			401		359
Longspine thornyhead y/	N of 34°27' N. lat.	3,483	2,902	2,064		2,020
	S of 34°27' N. lat.			366		363
Cowcod z/	S of 40°10' N. lat.	13	10	3		2.7
Darkblotched aa/	Coastwide	497	475	296		277.3
Yelloweye bb/	Coastwide	48	46	17		11.1
California Scorpionfish cc/	S. of 34°27' N. lat.	132	126	126		124
Black	N of 46°16' N. lat. dd/	435	415	415		401
	S of 46°16' N. lat. ee/	1,169	1,117	1,000		1,000
Minor Rockfish North ff/	Coastwide	3,820	3,414	2,227		2,116
Nearshore	N of 40°10' N. lat.	116	99	99		99
Shelf		2,197	1,948	968		925
Slope		1,507	1,367	1,160		1,092
Minor Rockfish South gg/	Coastwide	4,291	3,712	2,341		2,290
Nearshore	S of 40°10' N. lat.	1,145	990	990		990
Shelf		2,243	1,890	714		701
Slope		903	832	626		599
SHARKS/SKATES/RATFISH/MORID						
Longnose Skate hh/	Coastwide	3,006	2,873	1,349		1,220
Other fish ii/	Coastwide	11,150	7,742	5,575		5,575

a/ ACLs and HGs are specified as total catch values. Fishery harvest guideline (HG) means the harvest guideline or quota after subtracting from the ACL of ACT any allocation for the Pacific Coast treaty Indian tribes, projected research catch, deductions for fishing mortality in non-groundfish fisheries, as necessary, and set-asides for EFPs.

b/ Lingcod north (Oregon and Washington). A new lingcod stock assessment was prepared in 2009. The lingcod north biomass was estimated to be at 62 percent of its unfished biomass in 2009. The OFL of 2,251 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 2,151 mt was based on a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. Because the stock is above $B_{40\%}$ coastwide, the ACL is set equal to the ABC. ACL is further reduced for the Tribal fishery (250 mt), incidental open access fishery (16 mt) and research catch (5 mt), resulting in a fishery HG of 1,880 mt.

c/ Lingcod south (California). A new lingcod stock assessment was prepared in 2009. The lingcod south biomass was estimated to be at 74 percent of its unfished biomass in 2009. The OFL of 2,597 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 2,164 mt was based on a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 species. Because the stock is above $B_{40\%}$ coastwide, the ACL is set equal to the ABC. An incidental open access set-aside of 7 mt is deducted from the ACL, resulting in a fishery HG of 2,157 mt.

d/ Pacific Cod. The 3,200 mt OFL is based on the maximum level of historic landings. The ABC of 2,222 mt is a 31 percent reduction from the OFL (σ=1.44/P*=0.40) as it's a category 3 species. The 1,600 mt ACL is the OFL reduced by 50 percent as a precautionary adjustment. A set-aside of 400 mt is deducted from the ACL for the Tribal fishery, resulting in a fishery HG of 1,200 mt.

e/ Pacific whiting. A range of ACLs were considered in the EIS (96,968 mt-290,903 mt). A new stock assessment will be prepared prior to final adoption of the Pacific whiting specifications.

f/ Sablefish north. A coastwide sablefish stock assessment was prepared in 2007. The coastwide sablefish biomass was estimated to be at 38.3 percent of its unfished biomass in 2007. The coastwide OFL of 8,623 mt was based on the 2007 stock assessment with a F_{MSY} proxy of $F_{45\%}$. The ABC of 8,242 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. The 40-10 harvest policy was applied to the ABC to derive the coastwide ACL and then the ACL was apportioned north and south of 36° N. lat, using the average of annual swept area biomass (2003-2008) from the NMFS NWFSC trawl survey, between the northern and southern areas with 68 percent going to the area north of 36° N. lat. and 32 percent going to the area south of 36° N. lat. The northern portion of the ACL is 5,347 mt and is reduced by 535 mt for the tribal allocation (10 percent of the ACL north of 36° N. lat.) The 535 mt tribal allocation is reduced by 1.5 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 2c.

g/ Sablefish South. That portion of the coastwide ACL (32 percent) apportioned to the area south of 36° N. lat. is 2,516 mt. An additional 50 percent reduction for uncertainty was made, resulting in an ACL of 1,258 mt. A set-aside of 34 mt is deducted from the ACL for EFP catch (26 mt), the incidental open access fishery (6 mt) and research catch (2 mt), resulting in a fishery HG of 1,224 mt.

h/ Cabezon (Oregon). A new cabezon stock assessment was prepared in 2009. The cabezon biomass in Oregon was estimated to be at 51 percent of its unfished biomass in 2009. The OFL of 50 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 48 mt was based on a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. Because the stock is above $B_{40\%}$ coastwide, the ACL is set equal to the ABC. No set-asides were removed so the fishery HG is also equal to the ACL at 48 mt. Cabezon in waters off Oregon were removed from the "other fish" complex, while cabezon of Washington will continue to be managed within the "other fish" complex.

i/ Cabezon (California) - A new cabezon stock assessment was prepared in 2009. The cabezon south biomass was estimated to be at 48 percent of its unfished biomass in 2009. The OFL of 176 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 168 mt was based on a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. Because the stock is above $B_{40\%}$ coastwide, the ACL is set equal to the ABC. No set-asides were removed so the fishery HG is also equal to the ACL at 168 mt.

j/ Dover sole. A 2005 Dover sole assessment estimated the stock to be at 63 percent of its unfished biomass in 2005. The OFL of 44,826 mt is based on the results of the 2005 stock assessment with an F_{MSY} proxy of $F_{30\%}$. The ABC of 42,843 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45)as it's a category 1 species. Because the stock is above $B_{25\%}$ coastwide, the ACL could be set equal to the ABC. However, the ACL of 25,000 mt is set at a level below the ABC and higher than the maximum historical landed catch. A set-aside of 1,590 mt is deducted from the ACL for the Tribal fishery (1,497 mt), the incidental open access fishery (55 mt) and research catch (38 mt), resulting in a fishery HG of 23,410 mt.

k/ English sole. A stock assessment update was prepared in 2007 based on the full assessment in 2005. The stock was estimated to be at 116 percent of its unfished biomass in 2007. The OFL of 10,620 mt is based on the results of the 2007 assessment update with an F_{MSY} proxy of $F_{30\%}$. The ABC of 10,150 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. Because the stock is above $B_{25\%}$, the ACL was set equal to the ABC. A set-aside of 100 mt is deducted from the ACL for the Tribal fishery (91 mt), the incidental open access fishery (4 mt) and research catch (5 mt), resulting in a fishery HG of 10,050 mt.

l/ Petrale sole. A petrale sole stock assessment was prepared for 2009. In 2009 the petrale sole stock was estimated to be at 12 percent of its unfished biomass coastwide, resulting in the stock being declared as overfished. The OFL of 1,279 mt is based on the 2009 assessment with a $F_{30\%}$ F_{MSY} proxy. The ABC of 1,222 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45)as it's a category 1 species. The 1,160 mt ACL is represents an SPR harvest rate of 32.4 percent. A set-aside of 65 mt is deducted from the ACL for the Tribal fishery (45.4 mt), the incidental open access fishery (1 mt), EFP catch (2 mt) and research catch (17 mt), resulting in a fishery HG of 1,094.6 mt.

m/ Arrowtooth flounder. The stock was last assessed in 2007 and was estimated to be at 79 percent of its unfished biomass in 2007. The OFL of 14,460 mt is based on the 2007 assessment with a $F_{30\%}$ F_{MSY} proxy. The ABC of 12,049 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40)as it's a category 2 species. Because the stock is above $B_{25\%}$, the ACL is set equal to the ABC. A set-aside of 2,078 mt is deducted from the ACL for the Tribal fishery (2,041 mt), the incidental open access fishery (30 mt), and research catch (7 mt), resulting in a fishery HG of 9,971 mt.

n/ Starry Flounder. The stock was assessed for the first time in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005. For 2012, the coastwide OFL of 1,813 mt is based on the 2005 assessment with a F_{MSY} proxy of $F_{30\%}$. The ABC of 1,511 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40)as it's a category 2 species. Because the stock is above $B_{25\%}$, the ACL could have been set equal to the ABC. As a precautionary measure, the ACL of 1,360 mt, is a 25 percent reduction from the OFL, which is a 10 percent reduction from the ABC. A set-aside of 7 mt is deducted from the ACL for the Tribal fishery (2 mt) and the incidental open access fishery (5 mt), resulting in a fishery HG of 1,353 mt.

o/ "Other flatfish" are the unassessed flatfish species that do not have individual OFLs/ABC/ACLs and include butter sole, curlfin sole, flathead sole, Pacific sand dab, rex sole, rock sole, and sand sole. The other flatfish OFL of 10,146 mt is based on the summed contribution of the OFLs determined for the component stocks. The ABC of 7,044 mt is a 31 percent reduction from the OFL (σ=1.44/P*=0.40) as all species in this complex are category 3 species. The ACL of 4,884 mt is equivalent to the 2010 OY, because there have been no significant changes in the status or management of stocks within the complex. A set-aside of 198 mt is deducted from the ACL for the Tribal fishery (60 mt), the incidental open access fishery (125 mt), and research catch (13 mt), resulting in a fishery HG of 4,686 mt.

p/ POP. A POP stock assessment update was prepared in 2009, based on the 2003 full assessment, and the stock was estimated to be at 29 percent of its unfished biomass in 2009. The OFL of 1,007 mt for the Vancouver and Columbia areas is based on the 2009 stock assessment update with an $F_{50\%}$ F_{MSY} proxy. The ABC of 962 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45)as it's a category 1 species. The ACL of 183 mt is based on a rebuilding plan with a target year to rebuild of 2020 and an SPR harvest rate of 86.4 percent. An ACT of 157 mt is being established to address management uncertainty and increase the likelihood that total catch remains within the ACL. A set-aside of 12.9 mt is deducted from the ACT for the Tribal fishery (10.9 mt), the incidental open access fishery (0.1 mt), EFP catch (0.1 mt) and research catch (1.8 mt), resulting in a fishery HG of 144.1 mt.

q/ Shortbelly rockfish. A non quantitative assessment was conducted in 2007. The spawning stock biomass of shortbelly rockfish was estimated at 67 percent of its unfished biomass in 2005. The OFL of 6,950 mt was recommended for the stock in 2012 with an ABC of 5,789 mt (σ=0.72 with a P* of 0.40). The 50 mt ACL is slightly higher than recent landings, but much lower than previous OYs in recognition of the stock's importance as a forage species in the California Current ecosystem. A set-aside of 1 mt is deducted from the ACL for research catch, resulting in a fishery HG of 49 mt.

r/ Widow rockfish. The stock was assessed in 2009 and was estimated to be at 39 percent of its unfished biomass in 2009. The OFL of 4,923 mt is based on the 2009 stock assessment with an $F_{50\%}$ F_{MSY} proxy. The ABC of 4,705 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45)as it's a category 1 species. A constant catch of 600 mt, which corresponds to an SPR harvest rate of 91.3 percent in 2012, will be used to rebuild consistent with the rebuilding plan and a target year to rebuild of 2010. A set-aside of 60.9 mt is deducted from the ACL for the Tribal fishery (45 mt), the incidental open access fishery (3.3 mt), EFP catch (11 mt) and research catch (1.6 mt), resulting in a fishery HG of 539.1 mt.

s/ Canary rockfish. A canary rockfish stock assessment update was completed in 2009, based on the full assessment in 2007, and the stock was estimated to

be at 23.7 percent of its unfished biomass coastwide in 2009. The coastwide OFL of 622 mt is based on the new assessment with a F_{MSY} proxy of $F_{50\%}$. The ABC of 594 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45)as it's a category 1 species. The ACL of 107 mt is based on a rebuilding plan with a target year to rebuild of 2027 and a SPR harvest rate of 88.7 percent. A set-aside of 20 mt is deducted from the ACL for the Tribal fishery (9.5 mt), the incidental open access fishery (2 mt), EFP catch (1.3 mt) and research catch (7.2 mt), resulting in a fishery HG of 87 mt. Recreational HGs are being specified as follows: Washington recreational, 2 mt; Oregon recreational 7 mt; and California recreational 14.5 mt.

t/ Chilipepper rockfish. The coastwide chilipepper stock was assessed in 2007 and estimated to be at 71 percent of its unfished biomass coastwide in 2006. Given that chilipepper rockfish are predominantly a southern species, the stock is managed with stock-specific harvest specifications south of 40°10 N. lat. and within minor shelf rockfish north of 40°10 N. lat. South of 40°10 N. lat., the OFL of 1,872 mt is based on the 2007 assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,789 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. Because the biomass is estimated to be above 40 percent of the unfished biomass, the ACL was set equal to the ABC. The ACL is reduced by the incidental open access fishery (5 mt), and research catch (9 mt), resulting in a fishery HG of 1,774 mt.

u/ Bocaccio. A bocaccio stock assessment was prepared in 2009 from Cape Mendocino to Cape Blanco (43° N. lat.). Bocaccio rockfish are managed with stock-specific harvest specifications south of 40°10 N. lat. and within minor shelf rockfish north of 40°10 N. lat. The bocaccio stock was estimated to be at 28 percent of its unfished biomass in 2009. The OFL of 732 mt is based on the new stock assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 700 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45)as it's a category 1 species. The 274 mt ACL is based on a rebuilding plan with a target year to rebuild of 2022 and a SPR harvest rate of 77.7 percent. A set-aside of 13.4 mt is deducted from the ACL for the incidental open access fishery (0.7 mt), EFP catch (11 mt) and research catch (1.7 mt), resulting in a fishery HG of 260.6 mt.

v/ Splitnose rockfish. A new coastwide assessment was prepared in 2009 that estimated the stock to be at 66 percent of its unfished biomass in 2009. Splitnose in the north is managed under the minor slope rockfish complex and in the south (south of 40°10' N. lat.), with species-specific harvest specifications. The 1,610 mt OFL south of 40°10 N. lat. is based on the 2009 assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,538 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. Because the unfished biomass is estimated to be above 40 percent of the unfished biomass, the ACL is set equal to the ABC. A set-aside of 7 mt is deducted from the ACL for research catch, resulting in a fishery HG of 1,531 mt.

w/ Yellowtail rockfish. A yellowtail rockfish stock assessment was last prepared in 2005 for the Vancouver, Columbia, Eureka areas. Yellowtail rockfish was estimated to be at 55 percent of its unfished biomass in 2005. The OFL of 4,573 mt is based on the 2005 stock assessment with the F_{MSY} proxy of $F_{50\%}$. The ABC of 4,371 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. The ACL was set equal to the ABC, because the stock is above $B_{40\%}$. A set-aside of 499 mt is deducted from the ACL for the Tribal fishery (490 mt), the incidental open access fishery (3 mt), EFP catch (2 mt) and research catch (4 mt), resulting in a fishery HG of 3,872 mt.

x/ Shortspine thornyhead. A coastwide stock assessment was conducted in 2005 and the stock was estimated to be at 63 percent of its unfished biomass in 2005. A coastwide OFL of 2,358 mt is based on the 2005 stock assessment with a $F_{50\%}$ F_{MSY} proxy. The coastwide ABC of 2,254 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. For the portion of the stock that is north of 34°27' N. lat., the ACL is 1,556 mt, 66 percent of the coastwide OFL. A set-aside of 45 mt is deducted from the ACL for the Tribal fishery (38 mt), the incidental open access fishery (2 mt), and research catch (5 mt), resulting in a fishery HG of 1,511 mt for the area north of 34°27' N. lat. For that portion of the stock south of north of 34°27' N. lat. the ACL is 401 mt which is 34 percent of the coastwide OFL for the portion of the biomass found south of 34°27' N. lat reduced by 50 percent as a precautionary adjustment. A set-aside of 42 mt is deducted from the ACL for the incidental open access fishery (41 mt), and research catch (1 mt), resulting in a fishery HG of 359 mt for the area south of 34°27' N. lat. The sum of the northern and southern area ACLs (1,957 mt) is a 13 percent reduction from the coastwide ABC.

y/ Longspine thornyhead. A coastwide stock assessment was conducted in 2005 and the stock was estimated to be at 71 percent of its unfished biomass in 2005. A coastwide OFL of 3,483 mt is based on the 2005 stock assessment with a $F_{50\%}$ F_{MSY} proxy. The ABC of 2,902 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 species. For the portion of the stock that is north of 34°27' N. lat., the ACL is 2,064 mt, and is 79 percent of the coastwide OFL for the biomass in that area. A set-aside of 44 mt is deducted from the ACL for the Tribal fishery (30 mt), the incidental open access fishery (1 mt), and research catch (13 mt), resulting in a fishery HG of 2,020 mt. For that portion of the stock south of 34°27' N. lat. the ACL is 366 mt and is 21 percent of the coastwide OFL reduced by 50 percent as a precautionary adjustment. A set-aside of 3 mt is deducted from the ACL for the incidental open access fishery (2 mt), and research catch (1 mt), resulting in a fishery HG of 363 mt. The sum of the northern and southern area ACLs (2,430 mt) is a 16 percent reduction from the coastwide ABC.

z/ Cowcod. A stock assessment update was prepared in 2009 and the stock was estimated to be 5 percent bounded between 4 and 21 percent of its unfished biomass in 2009. The OFLs for the Monterey and Conception areas were summed to derive the south of 40°10 N. lat. OFL of 13 mt. The ABC for the area south of 40°10' N. lat. is 10 mt. The assessed portion of the stock in the Conception Area was considered category 2, with a Conception Area contribution to the ABC of 5 mt, which is a 17 percent reduction from the OFL (σ=0.72/P*=0.35). The unassessed portion of the stock in the Monterrey area was considered a category 3 stock, with a contribution to the ABC of 5 mt, which is a 29 percent reduction from the OFL (σ=1.44/P*=0.40). A single ACL of 3 mt is being set for both areas combined. The ACL of 3 mt is based on a rebuilding plan with a target year to rebuild of 2068 and an SPR rate of 82.7 percent. The amount anticipated to be taken during research activity is 0.1 mt and the amount expected to be taken during EFP activity is 0.2 mt, which results in a fishery HG of 2.7 mt.

aa/ Darkblotched rockfish. A stock assessment update was prepared in 2009, based on the 2007 full assessment, and the stock was estimated to be at 27.5 percent of its unfished biomass in 2009. The OFL is projected to be 497 mt and is based on the 2009 stock assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 475 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45)as it's a category 1 species. The ACL of 296 mt is based on a rebuilding plan with a target year to rebuild of 2025 and an SPR harvest rate of 64.9 percent. A

set-aside of 18.7 mt is deducted from the ACL for the Tribal fishery (0.1 mt), the incidental open access fishery (15 mt), EFP catch (1.5) and research catch (2.1 mt), resulting in a fishery HG of 277.3 mt.

bb/ Yelloweye rockfish. The stock was assessed in 2009 and was estimated to be at 20.3 percent of its unfished biomass in 2009. The 48 mt coastwide OFL was derived from the base model in the new stock assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 46 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. The 17 mt ACL is based on a rebuilding plan with a target year to rebuild of 2074 and an SPR harvest rate of 76 percent. A set-aside of 5.9 mt is deducted from the ACL for the Tribal fishery (2.3 mt), the incidental open access fishery (0.2 mt), EFP catch (0.1 mt) and research catch (3.3 mt) resulting in a fishery HG of 11.1 mt. Recreational HGs are being established as follows: Washington recreational, 2.6; Oregon recreational 2.4 mt; and California recreational 3.1 mt.

cc/ California Scorpionfish south was assessed in 2005 and was estimated to be at 80 percent of its unfished biomass in 2005. The OFL of 132 mt is based on the new assessment with a harvest rate proxy of $F_{50\%}$. The ABC of 126 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. Because the stock is above $B_{40\%}$, the ACL is set equal to the ABC. A set-aside of 2 mt is deducted from the ACL for the incidental open access fishery, resulting in a fishery HG of 124 mt.

dd/ Black rockfish north (Washington). A stock assessment was prepared in 2007 for black rockfish north of 45°56'N. lat.(Cape Falcon, Oregon). The biomass in this area was estimated to be at 53 percent of its unfished biomass in 2007. The OFL from the assessed area is based on the 2007 assessment with a harvest rate proxy of $F_{50\%}$. The resulting OFL for the area north of 46°16' N. lat. (the Washington/Oregon border) is 435 mt, which is 97 percent of the OFL from the assessed area. The ABC of 415 mt for the area north of 46°16' N. lat. is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. The ACL was set equal to the ABC, since the stock is above $B_{40\%}$. A set-aside of 14 mt for the Tribal fishery results in a fishery HG of 401 mt.

ee/ Black rockfish south (Oregon and California). A 2007 stock assessment was prepared for black rockfish south of 45°56' N. lat. (Cape Falcon, Oregon) to the southern limit of the stock's distribution in Central California. The biomass in the south was estimated to be at 70 percent of its unfished biomass in 2007. The OFL from the assessed area is based on the 2007 assessment with a harvest rate proxy of $F_{50\%}$. Three percent of the OFL from the stock assessment prepared for black rockfish north of 45°56' N. lat. is added to the OFL from the assessed area south of 45°56'. The resulting OFL for the area south of 46°16' N. lat. is 1,169 mt. The ABC of 1,117 mt for the south is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. The ACL was set at 1,000 mt, which is a constant catch strategy designed to keep the stock biomass above $B_{40\%}$. The black rockfish ACL in the area south of 46°16' N. lat., is subdivided with separate HGs being set for the area north of 42° N. lat. (580 mt/58 percent) and for the area south of 42° N. lat. (420 mt/42 percent).

ff/ Minor rockfish north is comprised of three minor rockfish sub-complexes: nearshore, shelf, and slope. The OFL of 3,820 mt is the sum of OFLs for nearshore (116 mt), shelf (2,197 mt) and slope (1,507 mt) north sub-complexes. Each sub-complex OFL is the sum of the OFLs of the component species within the complex. The ABCs for the minor rockfish complexes and sub-complexes are based on a sigma value of 0.36 for category 1 stocks

(splitnose and chilipepper rockfish), 0.72 for category 2 stocks (greenstriped rockfish and blue rockfish in California) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting minor rockfish north ABC, which is the summed contribution of the ABCs for the contributing species in each sub-complex (nearshore, shelf, and slope) is 3,414 mt. The ACL of 2,227 mt for the complex is the sum of the sub-complex ACLs. The sub-complex ACLs are the sum of the component stock ACLs, which are less than or equal to the ABC contribution of each component stock. There are no set-asides for the nearshore sub-complex, thus the fishery HG is equal to the ACL, which is 99 mt. The set-aside for the shelf sub-complex is 43 mt - Tribal fishery (9 mt), the incidental open access fishery (26 mt), EFP catch (4 mt) and research catch (4 mt), resulting in a shelf fishery HG of 925 mt. The set-aside for the slope sub-complex is 68 mt - Tribal fishery (36 mt), the incidental open access fishery (19 mt), EFP catch (2) and research catch (11 mt), resulting in a slope fishery HG of 1,092 mt.

gg/ Minor rockfish south is comprised of three minor rockfish sub-complexes: nearshore, shelf, and slope. The OFL of 4,291 mt is the sum of OFLs for nearshore (1,145 mt), shelf (2,243 mt) and slope (903 mt) south sub-complexes. Each sub-complex OFL is the sum of the OFLs of the component species within the complex. The ABCs for the minor rockfish complexes and sub-complexes are based on a sigma value of 0.36 for category 1 stocks (gopher rockfish north of Point Conception, blackgill), 0.72 for category 2 stocks (blue rockfish in the assessed area, greenstriped rockfish, and bank rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting minor rockfish south ABC, which is the summed contribution of the ABCs for the contributing species in each sub-complex, is 3,712 mt. The ACL of 2,341 mt for the complex is the sum of the sub-complex ACLs. The sub-complex ACLs are the sum of the component stock ACLs, which are less than or equal to the ABC contribution of each component stock. There are no set-asides for the nearshore sub-complex, thus the fishery HG is equal to the ACL, which is 990 mt. The set-asides for the shelf sub-complex is 13 mt for the incidental open access fishery (9 mt), EFP catch (2 mt) and research catch (2 mt), resulting in a shelf fishery HG of 701 mt. The set-asides for the slope sub-complex is 27 mt for the incidental open access fishery (17 mt), EFP catch (2 mt) and research catch (8 mt), resulting in a slope fishery HG of 599 mt.

hh/ Longnose skate. A stock assessment update was prepared in 2007 and the stock was estimated to be at 66 percent of its unfished biomass. The OFL of 3,006 mt is based on the 2007 stock assessment with an F_{MSY} proxy of $F_{45\%}$. The ABC of 2,873 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. The ACL of 1,349 is the 2010 OY and represents a 50 percent increase in the average 2004-2006 catch mortality (landings and discard mortality). The set-asides for longnose skate is 129 mt for the tribal fishery (56 mt), incidental open access fishery (65 mt), and research catch (8 mt), resulting in a fishery HG of 1,220 mt.

ii/ "Other fish" contains all unassessed groundfish FMP species that are neither rockfish (family Scorpaenidae) nor flatfish. These species include big skate, California skate, leopard shark, soupfin shark, spiny dogfish, finescale codling, Pacific rattail, ratfish, cabezon off Washington, and kelp greenling. The OFL of 11,150 mt is the 2010 MSY harvest level minus the 50 mt contribution made for cabezon off Oregon, which is a newly assessed stock to be managed with stock-specific specifications. The ABC of 7,742 mt is a 31 percent reduction from the OFL (σ=1.44/P*=0.40) as all of the stocks in the "other fish" complex are category 3 species. The ACL of 5,575 mt is equal to the 2010 OY, minus half of the OFL contribution for Cabezon off of Oregon (25

mt). The fishery HG is equal to the ACL.

Table 2b. To Part 660, Subpart C - 2012, and beyond, Allocations by Species or Species Group. (Weights in Metric Tons)

Species	Fishery HG	Allocations			
		Trawl		Non-trawl	
		%	Mt	%	Mt
Lingcod					
N of 42° N. lat.	1,880	45%	846	55%	1,034
S of 42° N. lat.	2,157	45%	971	55%	1,186
Pacific cod	1,200	95%	1,140	5%	60
Pacific whiting	See Table 2a	100%	See Table 2a	0%	0
Sablefish					
N of 36° N. lat.	See Table 2c of this subpart				
S of 36° N. lat.	1,224	42%	514	58%	710
FLATFISH:					
Dover sole	23,410	95%	22,240	5%	1,170
English sole	10,050	95%	9,548	5%	503
Petrale sole a/	1,094.6		1,060		35
Arrowtooth flounder	9,971	95%	9,472	5%	499
Starry Flounder	1,353	50%	677	50%	677
Other flatfish	4,686	90%	4,217	10%	469
ROCKFISH:					
Pacific Ocean Perch	144.1	95%	137	5%	7
Widow e/	539.1	91%	491	9%	49
Canary a/ c/	87		34.8		29.8
Chilipepper - S of 40°10 N. Lat.	1,774	75%	1,331	25%	443
Bocaccio - S of 40°10 N. Lat. a/	260.6		60		189.6
Splitnose - S of 40°10 N. Lat.	1,531	95%	1,454	5%	77
Yellowtail - N of 40°10 N. Lat.	3,872	88%	3,407	12%	465
Shortspine thornyhead					
N of 34°27' N. lat.	1,511	95%	1,435	5%	76
S of 34°27' N. lat.	359		50		309
Longspine thornyhead					
N of 34°27' N. lat.	2,020	95%	1,919	5%	101
Cowcod - S of 40°10 N. Lat. a/	2.7		1.8		0.9
Darkblotched d/	277.3	95%	263	5%	14
Yelloweye a/	11.1		0.6		10.5
Minor Rockfish North					
Shelf a/	925	60.20%	557	39.80%	368
Slope	1,092	81%	885	19%	207
Minor Rockfish South					
Shelf a/	701	12.2%	86	87.8%	615
Slope	599	63%	377	37%	222
SHARKS/SKATES/RATFISH/MORIDS/GRENADIERS/KELP GREENLING:					
Longnose Skate a/	1,220	95%	1,159	5%	61

a/ Allocations were decided through the biennial specification process.

b/ The POP trawl allocation is further divided with 12.6 mt for the shorebased IFQ fishery, 7.2 mt for the mothership fishery, and 10.2 mt for the catcher/processor fishery.

c/ The canary rockfish trawl allocation is further divided with 6.2 mt for the shorebased IFQ fishery, 3.6 mt for the mothership fishery, and 5.0 mt for the catcher/processor fishery.

d/ The darkblotched rockfish trawl allocation is further divided with 10.5 mt for the shorebased IFQ fishery, 6.0 mt for the mothership fishery, and 8.5 mt for the catcher/processor fishery.

e/ The widow rockfish trawl allocation is further divided with 107.1mt for the shorebased IFQ fishery, 61.2 mt for the mothership fishery, and 86.7 mt for the catcher/processor fishery.

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4. In § 660.140 revise paragraph (d)(1)(ii)(D) to read as follows:

§ 660.140 Shorebased IFQ Program.

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(d) * * *

(1) * * *

(ii) * * *

(D) For the 2012 trawl fishery, NMFS will issue QP based on the following shorebased trawl allocations:

IFQ Species	**Management Area**	**Shorebased Trawl Allocation (mt)**
Lingcod		1810.65
Pacific cod		1,135.00
Pacific Whiting		TBD
Sablefish	North of 36° N. lat.	2,467.00
Sablefish	South of 36° N. lat.	514.08
Dover sole		22,234.50
English sole		9,542.50
Petrale sole		1,054.60
Arrowtooth flounder		9,462.45
Starry flounder		671.50

Other flatfish		4,197.40
Pacific Ocean perch	North of 40°10' N. lat.	119.50
Widow rockfish		342.62
Canary rockfish		26.20
Chilipepper rockfish	South of 40°10' N. lat.	1,331.25
Bocaccio rockfish	South of 40°10' N. lat.	60.00
Splitnose rockfish	South of 40°10' N. lat.	1,454.45
Yellowtail rockfish	North of 40°10' N. lat.	3,107.36
Shortspine thornyhead	North of 34°27' N. lat.	1,415.45
Shortspine thornyhead	South of 34°27' N. lat.	50.00
Longspine thornyhead	North of 34°27' N. lat.	1,914.00
Cowcod	South of 40°10' N. lat.	1.80
Darkblotched rockfish		248.94
Yelloweye rockfish		0.60

Minor shelf rockfish complex	North of 40°10' N. lat.	522.00
Minor shelf rockfish complex	South of 40°10' N. lat.	86.00
Minor slope rockfish complex	North of 40°10' N. lat.	829.52
Minor slope rockfish complex	South of 40°10' N. lat.	377.37

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5. In § 660.231 paragraph (b)(3)(i) is revised to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(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. During the primary season, each vessel authorized to fish 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 (i.e., stacked permits). 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 this paragraph for the tiers for those permits, except as limited by paragraph (b)(3)(ii) 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 § 660.232, subpart E. In 2011, the following annual limits are in effect: Tier 1 at 47,697 lb (21,635 kg), Tier 2 at 21,680 lb (9,834 kg), and Tier 3 at 12,389 lb (5,620kg). For 2012 and beyond, the following annual limits are in effect: Tier 1 at 46,238 lb (21,017 kg), Tier 2 at 21,017 lb (9553 kg), and Tier 3 at 12,010 lb (5,459 kg).

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