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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 131119977-4381-02]

RIN 0648-BD75

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures for the 2014 Tribal and non-Tribal Fisheries for Pacific Whiting

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule for the 2014 Pacific whiting fishery under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP), the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the Pacific Whiting Act of 2006. This final rule announces the 2014 U.S. TAC, establishes the tribal allocation of 55,336 metric tons of Pacific whiting for 2014, establishes a set-aside for research and bycatch of 1,500 metric tons, and announces the final allocations of Pacific whiting to the non-tribal fishery for 2014.

DATES: Effective [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Kevin C. Duffy (Northwest Region, NMFS), phone: 206-526-4743, and e-mail: kevin.duffy@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is accessible via the Internet at the Office of the Federal Register Web site at https://www.federalregister.gov. Background information and documents are available at the NMFS West Coast Region Web site at http://www.westcoast.fisheries.noaa.gov/fisheries/management/whiting/pacific_whiting.html and at the Pacific Fishery Management Council's website at http://www.pcouncil.org/.

Copies of the final environmental impact statement (FEIS) for the 2013-2014 Groundfish Specifications and Management Measures are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503-820-2280.

Background

This rule announces the Total Allowable Catch (TAC) for whiting, expressed in metric tons (mt). This is the third year that the TAC for Pacific whiting has been determined under the terms of Agreement with Canada on Pacific Hake/Whiting (the Agreement) and the Pacific Whiting Act of 2006 (the Whiting Act), 16 U.S.C. 7001–7010. The Agreement and the Act establish bilateral bodies to implement the terms of the Agreement, each with various responsibilities, including: the Joint Management Committee (JMC), which is the decision-making body; the Joint Technical Committee (JTC), which conducts the stock assessment; the Scientific Review Group (SRG), which reviews the stock assessment; and the Advisory Panel (AP), which provides stakeholder input to the JMC (The Agreement, Art. II–IV; 16 U.S.C. 7001–7005). The Agreement establishes a default harvest policy (F-40 percent with a 40/10 adjustment) and allocates 73.88 percent of the TAC to the United States and 26.12 percent of the

TAC to Canada. The bilateral JMC is primarily responsible for developing a TAC recommendation to the Parties (United States and Canada). The Secretary of Commerce, in consultation with the Secretary of State, has the authority to accept or reject this recommendation.

The bilateral Joint Technical Committee (JTC) prepared the stock assessment document "Status of Pacific hake (whiting) stock in U.S. and Canadian waters in 2014 with a management strategy evaluation" that was completed on February 28, 2014. This assessment presents a single base-case model that depends primarily upon 10 years of an acoustic survey biomass index as well as catches for information on the scale of the current whiting stock. The 2013 survey biomass estimate presented in the 2014 assessment is 2.4 million metric tons, which is within 5 percent of the all-time high survey biomass estimate in 2003, 1.8 times the 2012 survey biomass estimate, and 4.6 times the 2011 biomass estimate. Based on all 2013 data, the assessment estimates that the stock is at 95.9 percent of unfished levels. The age-composition data from the aggregated fisheries (1975-2013) and the acoustic survey contribute to the assessment model's ability to resolve strong and weak cohorts. Both sources indicate a strong 2008 cohort (age-5 whiting), and an exceptionally strong 2010 cohort (age-3 whiting) contributing to recent increases in the survey index.

The JTC provided tables showing catch alternatives for 2014. Using the default F-40 percent harvest rule identified in the Agreement [Paragraph 1 of Article III], the median catch for 2014 would provide for a coastwide TAC of 872,424 mt. In order to provide some context to the final TAC decision, the JTC provided the median results of model runs as compared to various parameters. The probability that the fishing intensity would be above the target in 2014 is 50 percent with a catch of 825,000 mt. Using the lowest 10 percent of model estimates, there is an

equal probability that the spawning biomass will be above or below 40 percent of unfished equilibrium spawning biomass with a 2014 catch near 425,000 mt. The model predicts that the probability of dropping below 10 percent of unfished biomass in 2014 is effectively zero, and that the maximum probability of the spawning stock biomass dropping below 40 percent in 2014 is 13 percent for all catch levels considered.

Until cohorts are five or six years old, the model's ability to resolve cohort strength is poor. For many of the recent above average cohorts (2005, 2006, and 2008), the size of the year class was overestimated when it was age two, compared to updated estimates as the cohort aged and more observations were available from the fishery and survey. Given this trend and an uncertain 2010 year class, additional forecast decision tables were presented last year and a conservative estimate of the 2010 year class (the lower 10 percent of the model estimated recruitment) was used to set the 2013 bilateral TAC. Survey and fishery dependent data from 2013 reveal a strong likelihood that the 2010 year class is of above average size, but there is still some uncertainty about how much above average. Because of this, the decision tables presented in 2014 continued to depict a scenario using the lower 10 percent of the estimated 2010 recruitment, along with the middle 80 percent and upper 10 percent 2010 recruitment scenarios.

The Scientific Review Group (SRG) met in Seattle, WA, on February 18- 21, 2014, to review the draft stock assessment document prepared by the JTC. The SRG noted that the 2013 acoustic trawl survey resulted in a relative biomass estimate of 2,420,000 mt, a substantial increase from the 2012 survey biomass of 1,380,000 mt. The survey and the fishery were dominated by age 3 fish (76.2 percent survey; 66.9 percent fishery by numbers) from the 2010 year class, with differences due to the different selectivity of young fish to the survey vs. the fishery. The median estimated female biomass is 1,720,000 mt at the beginning of 2014, the

largest in the time series since 1992. There is agreement between the most recent acoustic survey and commercial fishery age composition data, as well as the most recent acoustic survey biomass index. This alignment of data from separate sources engenders greater confidence in the 2014 assessment result.

Because of the substantial increase in the biomass compared to 2012, the SRG explored the results in more detail. They requested a sensitivity run of the model that excluded extrapolations of biomass outside the survey area. This run resulted in a 127,000 mt decrease in the harvest applying the default policy. The SRG also reviewed results of the Management Strategy Evaluation (MSE) in the assessment document. They noted that the MSE provides insight into the risks and long-term implications of strictly implementing the default harvest control rule, and suggests goals and objectives of the fishery be clarified to guide the MSE. The SRG also noted that the MSE estimates the added value of an annual survey (versus biennial) to be relatively low. However, in some circumstances, an annual survey would be very informative.

The SRG noted that, according to the model, an equal probability of being above or below the default F-40 percent harvest rate specified in the Agreement could be achieved with a catch of 825,000 mt in 2014 and 660,000 mt in 2015. They also noted that a 2014 catch of up to 500,000 mt is estimated to maintain the stock above B_{40} at the start of 2015. The SRG and the JTC recommended an available harvest level range of 336,000 – 626,000 mt to the JMC for 2014.

At its March 18-20, 2014, meeting, the Joint Management Committee (JMC) reviewed the advice of the Joint Technical Committee (JTC), the Scientific Review Group (SRG), and the Advisory Panel (AP), and agreed on a TAC recommendation for transmittal to the Parties.

Paragraph 1 of Article III of the Agreement directs the default harvest rate to be used unless scientific evidence demonstrates that a different rate is necessary to sustain the offshore whiting resource. The JMC noted that there is still some uncertainty about the strength of the 2010 year class, acknowledged the overall stock is dominated by the 2010 year class, and that there is currently no evidence of large recruitments in more recent year classes. Because of these factors, the JMC did not apply the default harvest rate under the Agreement to determine a TAC for 2014. They chose to recommend a TAC of 425,000 mt for 2014, which is less than half of what the TAC would be by using the default harvest rate. This conservative approach that focused on uncertainty of the 2010 year class strength, coupled with no evidence of large recruitments in more recent year classes, was also endorsed by the AP.

The recommendation for an adjusted United States TAC of 316,206 mt for 2014 (73.88 percent of the coastwide TAC) is consistent with the best available science, provisions of the Agreement, and the Whiting Act. The recommendation was transmitted via letter to the Parties on March 20, 2014. NMFS, under delegation of authority from the Secretary of Commerce, approved the TAC recommendation of 316,206 mt for U.S. fisheries on April 11, 2014.

Tribal Fishery Allocation

This final rule establishes the tribal allocation of Pacific whiting for 2014. NMFS issued a proposed rule for the allocation and management of the 2014 tribal Pacific whiting fishery on February 28, 2014 (79 FR 11385). This action finalizes the allocation and management measures.

Since 1996, NMFS has been allocating a portion of the U.S. TAC of Pacific whiting to the tribal fishery using the process established in § 660.50(d)(1). According to §660.55(b), the tribal allocation is subtracted from the total U.S. Pacific whiting TAC. The tribal Pacific whiting

fishery is managed separately from the non-tribal whiting fishery, and is not governed by the limited entry or open access regulations or allocations.

The proposed rule described the tribal allocation as 17.5 percent of the U.S. TAC, and projected a range of potential tribal allocations for 2014 based on a range of U.S. TACs over the last 10 years, 2004 through 2013 (plus or minus 25 percent to capture variability in stock abundance). This range of TACs is 135,939 mt (2009) to 290,903 mt (2011). Applying the 25 percent variability results in a range of potential TACs from 101,954 mt to 363,629 mt. The resulting range of potential tribal allocations is 17,842 mt to 63,635 mt.

As described earlier in this preamble, the U.S. TAC for 2014 is 316,206 mt. Applying the approach described in the proposed rule, NMFS calculated that the tribal allocation implemented by this final rule is 55,336 (17.5 percent of the U.S. TAC). While the total amount of whiting to which the Tribes are entitled under their treaty right has not yet been determined, and new scientific information or discussions with the relevant parties may impact that decision, the best available scientific information to date suggests that 55,336 mt is within the likely range of potential treaty right amounts.

As with prior tribal whiting allocations, this final rule is not intended to establish any precedent for future Pacific whiting seasons, or for the determination of the total amount of whiting to which the Tribes are entitled under their treaty right. Rather, this rule adopts an interim allocation, pending the determination of the total treaty amount. That amount will be based on further development of scientific information and additional coordination and discussion with and among the coastal tribes and States of Washington and Oregon. The process of determining that amount, begun in 2008, is continuing.

Non-Tribal Allocations

This final rule establishes the non-tribal allocation for the Pacific whiting fishery. The non-tribal allocation was not included in the tribal whiting proposed rule published on February 28, 2014 (79 FR 11385) for two reasons related to timing and process. First, a recommendation on the coastwide TAC for Pacific whiting for 2014, under the terms of the Agreement with Canada, was not available until March 20, 2014. This recommendation for a U.S. TAC was approved by NMFS, under delegation of authority from the Secretary of Commerce, on April 11, 2014. Second, the non-tribal allocation is established following deductions from the U.S. TAC for the tribal allocation (55,336 mt) and set asides for research and incidental catch in non-groundfish fisheries (1,500 mt). The Council establishes the research and bycatch set-aside on an annual basis at its April meeting, based on estimates of scientific research catch and estimated bycatch mortality in non-groundfish fisheries. For 2014, the Council recommended and the West Coast Region approves a research and bycatch set-aside of 1,500 mt. These amounts are not set until the TAC is available. The non-tribal allocation is therefore being finalized in this rule.

The 2014 fishery harvest guideline (HG), or non-tribal allocation, for Pacific whiting is 259,370 mt. This amount was determined by deducting from the total U.S. TAC of 316,206 mt, the 55,336 mt tribal allocation, along with 1,500 mt for research catch and bycatch in non-groundfish fisheries. Regulations at § 660.55(i)(2) allocate the fishery HG among the non-tribal catcher/processor, mothership, and shorebased sectors of the Pacific whiting fishery. The catcher/processor sector is allocated 34 percent (88,186 mt for 2014), the mothership sector is allocated 24 percent (62,249 mt for 2014), and the shorebased sector is allocated 42 percent (108,935 mt for 2014). The fishery south of 42° N. lat. may not take more than 5,447 mt (5

percent of the shorebased allocation) prior to the start of the primary Pacific whiting season north of 42° N. lat.

The 2014 allocations of Pacific Ocean perch, canary rockfish, darkblotched rockfish, and widow rockfish to the whiting fishery were published in a final rule on January 3, 2013 (78 FR 580). The allocations to the Pacific whiting fishery for these species are described in the footnotes to Table 2.b to Part 660, Subpart C-2014.

Comments and Responses

On February 28, 2014, NMFS issued a proposed rule for the allocation and management of the 2014 tribal Pacific whiting fishery. The comment period on the proposed rule closed on March 31, 2014. During the comment period, NMFS received two letters of comment. The U.S. Department of the Interior submitted a letter of "no comment" associated with their review of the proposed rule.

The second letter was received from a commercial fishing organization. In their letter, they state that given past performance in the tribal fishery, and the potential economic harm to the non-tribal fishery, the proposed tribal whiting set aside is too high. They state that if the tribal allocation is set too high, and NMFS is less than effective in using their reapportionment authority to reallocate unused whiting in the tribal fishery to the non-tribal sector, then whiting will be stranded in the 2014 tribal fishery, thereby limiting the non-tribal fishery's ability to maximize harvest. They urge NMFS to aptly and effectively exercise their reapportionment authority in 2014.

Response: In determining the tribal allocation, NMFS must ensure that the tribes have the opportunity to exercise their treaty right, which is "other applicable law" under the Magnuson-Stevens Act. As noted above, the amount requested by the tribes appears to be within

the amount to which they are entitled by treaty, as suggested by the best available science. The allocation to the tribal fishery in 2014 is 17.5 percent of the TAC, versus 23 percent of the TAC in 2013.

As the commenter has noted, the reapportionment process is available to NMFS to address the situation in which the tribes are unable to use their full allocation. NMFS acknowledges that we should exercise our reapportionment authority effectively. To that end, NMFS will monitor both the tribal and non-tribal fishery during the season, and will increase communications with tribal representatives in order to determine, to the extent practicable, the likely harvest levels in the tribal fishery. If circumstances supporting reapportionment under NMFS' regulations arise, NMFS will be prepared to expeditiously reapportion Pacific whiting that was not harvested by the tribal fishery to the non-tribal sector, in order to manage the fishery in a manner consistent with both the implementation of the tribal treaty right and the Magnuson Stevens Act requirements.

Classification

The final Pacific whiting specifications and management measures for 2014 are issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and the Pacific Whiting Act of 2006, and are in accordance with 50 CFR part 660, subparts C through G, the regulations implementing the Pacific Coast Groundfish Fishery Management Plan (PCGFMP). NMFS has determined that this rule is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making the final determination, took into account the data, views, and comments received during the comment period.

NMFS has determined that the tribal whiting fishery conducted off the coast of the State of Washington is consistent, to the maximum extent practicable, with the approved coastal zone management program of the States of Washington and Oregon. NMFS has also determined that the Pacific whiting fishery, both tribal and non-tribal, is consistent, to the maximum extent practicable, with approved coastal zone management programs for the States of Washington and Oregon. The States of Washington and Oregon did not respond to the letters NMFS sent describing its determination of consistency dated February 4, 2014; therefore, consistency is inferred.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), the NMFS Assistant Administrator finds good cause to waive prior public notice and comment and delay in effectiveness the 2014 annual harvest specifications for Pacific whiting, as delaying this rule would be contrary to the public interest. The annual harvest specifications for Pacific whiting must be implemented by the start of the primary Pacific whiting season, which begins on May 15, 2014, or the primary whiting season will effectively remain closed.

Every year, NMFS conducts a Pacific whiting stock assessment in which U.S. and Canadian scientists cooperate. The 2014 stock assessment for Pacific whiting was prepared in early 2014, as the new 2013 data—including updated total catch, length and age data from the U.S. and Canadian fisheries, and biomass indices from the Joint U.S.-Canadian acoustic/midwater trawl surveys—were not available until January, 2014. Because of this late availability of the most recent data for the assessment, and the need for time to conduct the treaty process for determining the TAC using the most recent assessment, it would not be possible to allow for notice and comment before the start of the primary Pacific whiting season on May 15.

A delay in implementing the Pacific whiting harvest specifications to allow for notice and comment would be contrary to the public interest because it would require either a shorter primary whiting season or development of a TAC without the most recent data. A shorter season could prevent the tribal and non-tribal fisheries from attaining their 2014 allocations, which would result in unnecessary short-term adverse economic effects for the Pacific whiting fishing vessels and the associated fishing communities. A TAC determined without the most recent data could fail to account for significant fluctuations in the biomass of this relatively short-lived species. To prevent these adverse effects and to allow the Pacific whiting season to commence, it is in the public interest to waive prior notice and comment.

In addition, pursuant to 5 U.S.C 553(d)(3), the NMFS Assistant Administrator finds good cause to waive the 30-day delay in effectiveness. Waiving the 30-day delay in effectiveness will not have a negative impact on any entities, as there are no new compliance requirements or other burdens placed on the fishing community with this rule. Failure to make this final rule effective at the start of the fishing year will undermine the intent of the rule, which is to promote the optimal utilization and conservation of Pacific whiting. Making this rule effective immediately would also serve the best interests of the public because it will allow for the longest possible Pacific whiting fishing season and therefore the best possible economic outcome for those whose livelihoods depend on this fishery. Because the 30-day delay in effectiveness would potentially cause significant financial harm without providing any corresponding benefits, this final rule is effective upon publication in the Federal Register.

The preamble to the proposed rule and this final rule serve as the small entity compliance guide required by Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. This action does not require any additional compliance from small entities that is not

described in the preamble. Copies of this final rule are available from NMFS at the following Web site:

http://www.westcoast.fisheries.noaa.gov/fisheries/management/whiting/pacific_whiting.html

Executive Order (EO) 12866

The Office of Management and Budget has determined that this final rule is not significant for purposes of Executive Order 12866.

Executive Order 12866 can be found at

http://www.plainlanguage.gov/populartopics/regulations/eo12866.pdf

Regulatory Flexibility Act (RFA)

When an agency proposes regulations, the RFA requires the agency to prepare and make available for public comment an Initial Regulatory Flexibility Act (IRFA) document that describes the impact on small businesses, non-profit enterprises, local governments, and other small entities. The IRFA is to aid the agency in considering all reasonable regulatory alternatives that would minimize the economic impact on affected small entities. After the public comment period, the agency prepares a Final Regulatory Flexibility Analysis (FRFA) that takes into consideration any new information and public comments. This FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments, NMFS' responses to those comments, and a summary of the analyses completed to support the action. NMFS published the proposed rule on February 28, 2014 (79 FR 11385), with a comment period through March 31, 2014. An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The description of this action, its purpose, and its legal basis are described in the preamble to the proposed rule and are not repeated here. The FRFA describes the impacts on small entities, which are defined in the IRFA for this action and not

repeated here. Analytical requirements for the FRFA are described in Regulatory Flexibility Act, section 304(a)(1) through (5), and summarized below. The FRFA must contain: (1) A succinct statement of the need for, and objectives of, the rule; (2) A summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) A description and an estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available; (4) A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (5) A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

This rule establishes the 2014 harvest specifications for Pacific whiting and the allocation of Pacific whiting for the tribal whiting fishery. This rule establishes the initial 2014 Pacific whiting allocations for the tribal fishery and the non-tribal sectors (catcher/processor, mothership, and shoreside), and the amount of Pacific whiting set aside for research and incidental catch in other fisheries. The amount of whiting allocated to these sectors is based on the U.S. TAC. From the U.S. TAC, small amounts of whiting that account for scientific research catch and for bycatch in other fisheries are deducted. The amount of the tribal allocation is also deducted directly from the TAC prior to allocations to the non-tribal sectors. The remainder is

the fishery harvest guideline. This guideline is then allocated among the other three sectors as follows: 34 percent for the C/P Coop Program; 24 percent for the MS Coop Program; and 42 percent for the Shorebased IFQ Program.

In 2013, the total estimated catch of whiting by tribal and non-tribal fishermen was 233,000 mt, or 86 percent of the U.S. TAC (269,745 mt). There was a fall reapportionment of 30,000 mt of Pacific whiting from the tribal to non-tribal sectors (September 18, 2013). The tribal harvest was 4,906 mt, approximately 15 percent of the final tribal allocation of 33,205 mt. In total, non-tribal sectors harvested 98 percent of the final non-tribal allocation of 234,040 mt. This rule increases the U.S. TAC for 2014 to 316,206 mt, and establishes the tribal allocation of 17.5 percent of the U.S. TAC at 55,336 mt. After setting aside 1,500 mt for research catch and bycatch in non-groundfish fisheries, the overall non-tribal allocation for 2014 is 259,370 mt. The initial 2014 allocations to these non-tribal sectors are 27 percent higher than their 2013 initial allocations. The non-tribal allocation is 12 percent higher than the 2013 non-tribal catch.

In 2013, total Pacific whiting ex-vessel revenues earned by tribal and non-tribal fisheries reached about $61 million. If the 2014 TAC is entirely harvested, projected ex-vessel revenues would reach $82 million, based on 2013 ex-vessel prices. (Note that ex-vessel revenues do not take into account wholesale or export revenues or the costs of harvesting and processing whiting into a finished product.)

There were no significant issues raised by the public comments in response to the IRFA. However, there was one comment that referred to small entities. Noting that the highest annual tribal catch has been 34,500 mt, one association representing large fishing companies commented that the proposed tribal allocation is too high. They suggested that NMFS should be more effective in reapportioning tribal whiting to minimize the amount of whiting stranded, as

the reapportioning process allows unharvested tribal allocations to be fished by non-tribal fleets, benefitting both large and small businesses. A detailed response to these comments is included in the comment and response section of this final rule.

This rule establishes a tribal allocation of 55,336 mt, which is lower than the 2013 tribal allocation of 63,205 mt. This allocation is based on NMFS consultations with the tribes upon which tribes discuss their plans with NMFS. This allocation amount is likely within the tribal treaty right to harvest. Applicable law requires NMFS to provide the tribes with the opportunity to harvest their treaty right. Should reapportionment be warranted, after discussions with the tribes, NMFS will determine the appropriate amount of fish to provide to the non-tribal fleets in accordance with applicable law.

It should be also noted that under Agreement with Canada on Pacific Hake/Whiting, as described in 77 FR 28501 (May 15, 2012), unharvested fish are not necessarily "stranded." If at the end of the year, there are unharvested allocations, there are provisions for an amount of these fish to be carried over into the next year's allocation process. The Agreement states that "[I]f, in any year, a Party's catch is less than its individual TAC, an amount equal to the shortfall shall be added to its individual TAC in the following year, unless otherwise recommended by the JMC. Adjustments under this sub-paragraph shall in no case exceed 15 percent of a Party's unadjusted individual TAC for the year in which the shortfall occurred." Such an adjustment was made for the 2014 fishery under the Agreement. This adjustment resulted in 13,172 mt being added to the Canadian share, for an adjusted Canadian TAC of 111,794 mt; and 37,258 mt being added to the United States share, for an adjusted United States TAC of 316,206 mt. This results in a coastwide adjusted TAC of 428,000 mt for 2014.

The entities that this rule impacts are catcher vessels in the tribal fishery, and the following in the non-tribal fishery: Catcher vessels delivering to shoreside facilities; catcher vessels delivering to mothership vessels at sea; and catcher/ processor vessels. Under the RFA, the term ‘‘small entities’’ includes small businesses, small organizations, and small governmental jurisdictions. The Small Business Administration has established size criteria for all different industry sectors in the United States, including fish harvesting and fish processing businesses. On June 20, 2013, the SBA issued a final rule revising the small business size standards for several industries effective July 22, 2013 (78 FR 37398; June 20, 2013). This change affects the classification of vessels that harvest groundfish under this program. The rule increased the size standard for Finfish Fishing from $4.0 to $19.0 million, Shellfish Fishing from $4.0 to $5.0 million, and Other Marine Fishing from $4.0 to $7.0 million (Id. at 37400—Table 1). Prior to SBA's recent changes to the size standards for commercial harvesters, a business involved in both the harvesting and processing of seafood products, also referred to as a catcher/processor (C/P), was considered a small business if it met the $4.0 million criterion for commercial fish harvesting operations. Prior NMFS policy was to apply the $4 million Finfish Harvest standard to C/Ps. For purposes of this rulemaking, NMFS is applying the $19 million standard because whiting C/Ps are involved in the commercial harvest of finfish. The size standards for entities that process were not changed. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide.

There are four tribes that can participate in the tribal whiting fishery: The Hoh, Makah, Quileute, and Quinault. The current tribal fleet is composed of 5 trawlers that either deliver to a

shoreside plant or to a contracted mothership. Based on groundfish ex-vessel revenues and on tribal enrollments (the population size of each tribe), the four tribes and their fleets are considered ''small'' entities. This rule would impact vessels in the non-tribal fishery that fish for Pacific whiting. Currently, there are three non-tribal sectors in the Pacific whiting fishery: shorebased Individual Fishing Quota (IFQ) Program—Trawl Fishery; Mothership Coop (MS) Program—Whiting At-sea Trawl Fishery; and catcher-processor (C/P) Coop Program—Whiting At-sea Trawl Fishery. The Shorebased IFQ Program is composed of 138 Quota Share permits/ accounts, 136 vessel accounts, and 42 first receivers. The MS Coop fishery is currently composed of a single coop, with six mothership processor permits, and 36 Mothership/Catcher-Vessel (MS/ CV) endorsed permits, with one permit having two catch history assignments endorsed to it. The C/P Coop Program is composed of 10 C/P permits owned by three companies. Although there are three non-tribal sectors, many companies participate in two or more of these sectors. All mothership catcher-vessel participants participate in the shorebased IFQ sector, while two of the three catcher-processor companies also participate in both the shorebased IFQ sector and in the MS sector. Many companies own several QS accounts. After accounting for cross participation, multiple QS account holders, and for affiliation through ownership, there are 95 entities directly affected by these regulations, 82 of which are considered to be ''small'' businesses.

There are no recordkeeping requirements associated with this final rule.

This final rule directly regulates what entities can harvest whiting. This rule allocates fish between tribal harvesters (harvest vessels are small entities, tribes are small jurisdictions) and to non-tribal harvesters (a mixture of small and large businesses). Tribal fisheries are a mixture of activities that are similar to the activities that non-tribal fisheries undertake. Tribal

harvests are delivered to both shoreside plants and motherships for processing. These processing facilities also process fish harvested by non-tribal fisheries.

The alternatives to the 2014 interim tribal allocation implemented by this rule are the "No-Action" and the "Proposed Action (or preferred alternative)." The preferred alternative, based on discussions with the tribes, is for NMFS to allocate 17 percent of the U.S. total allowable catch for 2014. NMFS did not consider a broader range of alternatives to the proposed allocation. The tribal allocation is based primarily on the requests of the tribes. These requests reflect the level of participation in the fishery that will allow them to exercise their treaty right to fish for whiting. Consideration of amounts lower than the tribal requests is not appropriate in this instance. As a matter of policy, NMFS has historically supported the harvest levels requested by the tribes. Based on the information available to NMFS, the tribal request is within their tribal treaty rights, and the participating tribe has on occasion shown an ability to harvest the amount of whiting requested. A higher allocation would, arguably, also be within the scope of the treaty right. However, a higher allocation would unnecessarily limit the non-tribal fishery.

A no-action alternative was considered, but the regulatory framework provides for a tribal allocation on an annual basis only. Therefore, no action would result in no allocation of Pacific whiting to the tribal sector in 2014, which would be inconsistent with NMFS' responsibility to manage the fishery consistent with the tribes' treaty rights. Given that there is a tribal request for an allocation in 2014, this alternative was rejected.

There are no significant alternatives to the rule that accomplish the stated objectives of applicable statutes and the treaties with the affected tribes that minimize any of the significant economic impact of the proposed rule on small entities. NMFS believes this final rule will not

adversely affect small entities. Sector allocations are higher than sector catches in 2013, so this rule will be beneficial to both large and small entities.

No Federal rules have been identified that duplicate, overlap, or conflict with this action.

The RFA can be found at http://www.archives.gov/federal-register/laws/regulatory-flexibility/ The NMFS Economic Guidelines that describe the RFA and EO 12866 can be found at http://www.nmfs.noaa.gov/sfa/domes_fish/EconomicGuidelines.pdf

NMFS issued Biological Opinions under the 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 FMP 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 FMP for the Pacific Coast groundfish fishery was 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.

On December 7, 2012, NMFS completed a biological opinion concluding that the groundfish fishery is not likely to jeopardize non-salmonid marine species, including listed eulachon, green sturgeon, humpback whales, Steller sea lions, and leatherback sea turtles. The opinion also concludes that the fishery is not likely to adversely modify critical habitat for green sturgeon and leatherback sea turtles. An analysis included in the same document as the opinion concludes that the fishery is not likely to adversely affect green sea turtles, olive ridley sea turtles, loggerhead sea turtles, sei whales, North Pacific right whales, blue whales, fin whales, sperm whales, Southern Resident killer whales, Guadalupe fur seals, or the critical habitat for Steller sea lions.

Steller sea lions and humpback whales are protected under the Marine Mammal Protection Act (MMPA). Impacts resulting from fishing activities proposed in this rule are discussed in the FEIS for the 2013-2014 groundfish fishery specifications and management measures. West coast pot fisheries for sablefish are considered Category II fisheries under the MMPA's List of Fisheries, indicating occasional interactions. All other west coast groundfish fisheries, including the trawl fishery, are considered Category III fisheries under the MMPA, indicating a remote likelihood of or no known serious injuries or mortalities to marine mammals. MMPA section 101(a)(5)(E) requires that NMFS authorize the taking of ESA-listed marine

mammals incidental to U.S. commercial fisheries if it makes the requisite findings, including a finding that the incidental mortality and serious injury from commercial fisheries will have negligible impact on the affected species or stock. As noted above, NMFS concluded in its biological opinion for the groundfish fisheries that these fisheries were not likely to jeopardize Steller sea lions or humpback whales. The eastern distinct population segment of Steller sea lions was delisted under the ESA on November 4, 2013 (78 FR 66140). On September 4, 2013, based on its negligible impact determination dated August 28, 2013, NMFS issued a permit for 3 years to authorize the incidental taking of humpback whales by the sablefish pot fishery (78 FR 54553).

On November 21, 2012, the U.S. Fish and Wildlife Service (FWS) issued a biological opinion concluding that the groundfish fishery will not jeopardize the continued existence of the short-tailed albatross. The FWS also concurred that the fishery is not likely to adversely affect the marbled murrelet, California least tern, southern sea otter, bull trout, nor bull trout critical habitat.

Pursuant to Executive Order 13175, this final rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the FMP. Consistent with the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council is a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, NMFS has coordinated specifically with the tribes interested in the whiting fishery regarding the issues addressed by this rule.

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: May 6, 2014.

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is 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. and 16 U.S.C. 773 et seq.

2. In § 660.50, paragraph (f)(4) is revised to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f)* * *

(4) Pacific whiting. The tribal allocation for 2014 is 55,336 mt.

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3. Table 2a, to part 660, subpart C, is revised to read as follows:

Table 2a. To Part 660, Subpart C- 2014, and Beyond, Specifications of OFL, ABC, ACL, ACT and Fishery Harvest guidelines(weights in metric tons).

Species	Area	OFL	ABC	ACL a/	Fishery HG b/
Arrowtooth flounder c/	Coastwide	6,912	5,758	5,758	3,671
Black d/ e/	N of 46°16' N. lat.	428	409	409	395
	S of 46°16' N. lat.	1,166	1,115	1,000	1,000
Bocaccio f/	S of 40°10' N. lat.	881	842	337	328.6
Cabezon g/ h/	46°16' to 42° N. lat.	49	47	47	47
	S of 42° N. lat.	165	158	158	158
California scorpionfish i/	S of 34°27' N. lat.	122	117	117	115
Canary rockfish j/	Coastwide	741	709	119	101.5
Chilipepper k/	S of 40°10' N. lat.	1,722	1,647	1,647	1,423
Cowcod l/	S of 40°10' N. lat.	12	9	3	2.9
Darkblotched rockfish m/	Coastwide	553	529	330	309.2
Dover sole n/	Coastwide	77,774	74,352	25,000	23,410
English sole o/	Coastwide	5,906	5,646	5,646	5,543
Lingcod p/ q/	N of 40° 10' N. lat.	3,162	2,878	2,878	2,600
	S of 40° 10' N. lat.	1,276	1,063	1,063	1,054
Longnose skate r/	Coastwide	2,816	2,692	2,000	1,928
Longspine thornyhead s/	N of 34°27' N. lat.	3,304	2,752	1,958	1,912
	S of 34°27' N. lat.			347	344
Minor nearshore rockfish north t/	N of 40°10' N. lat.	110	94	94	94
Minor shelf rockfish north u/	N of 40°10' N. lat.	2,195	1,932	968	903
Minor slope rockfish north v/	N of 40°10' N. lat.	1,553	1,414	1,160	1,098
Minor nearshore rockfish south w/	S of 40°10' N. lat.	1,160	1,001	990	990
Minor shelf rockfish south x/	S of 40°10' N. lat.	1,913	1,620	714	668.0
Minor slope rockfish south y/	S of 40°10' N. lat.	685	622	622	601
Other fish z/	Coastwide	6,802	4,697	4,697	4,520
Other flatfish aa/	Coastwide	10,060	6,982	4,884	4,682
Pacific cod bb/	Coastwide	3,200	2,221	1,600	1,191
Pacific ocean perch (POP) cc/	N of 40° 10' N. lat.	838	801	153	136.5
Pacific whiting dd/	Coastwide	825,000	dd/	dd/	259,370
Petrale sole ee/	Coastwide	2,774	2,652	2,652	2,418.0
Sablefish ff/ gg/	N of 36° N. lat.	7,158	6,535	4,349	See Table 1c
	S of 36° N. lat.			1,560	1,555
Shortbelly hh/	Coastwide	6,950	5,789	50	48
Shortspine thornyhead ii/	N of 34°27' N. lat.	2,310	2,208	1,525	1,466
	S of 34°27' N. lat.			393	351
Splitnose jj/	S of 40°10' N. lat.	1,747	1,670	1,670	1,658
Starry flounder kk/	Coastwide	1,834	1,528	1,528	1,521
Widow ll/	Coastwide	4,435	4,212	1,500	1,411
Yelloweye rockfish mm/	Coastwide	51	43	18	12.2
Yellowtail nn/	N of 40°10' N. lat.	4,584	4,382	4,382	3,681

a/ ACLs, ACTs and HGs are specified as total catch values.

b/Fishery harvest guidelines means the harvest guideline or quota after subtracting from the ACL or ACT Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs.

c/ 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 6,912 mt is based on the 2007 assessment with an $F_{30\%}$ F_{MSY} proxy. The ABC of 5,758 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. Because the stock is above $B_{25\%}$, the ACL is set equal to the ABC. 2,087.39 mt is deducted from the ACL for the Tribal fishery (2,041 mt), the incidental open access fishery (30 mt), and research catch (16.39 mt), resulting in a fishery HG of 3,671 mt.

d/ Black rockfish north (Washington). A stock assessment was prepared for black rockfish north of 45°46' N. lat. (Cape Falcon, Oregon) in 2007. The biomass in the north 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. is 428 mt and is 97 percent of the OFL from the assessed area based on the area distribution of historical catch. The ABC of 409 mt for the north is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL was set equal to the ABC since the stock is above $B_{40\%}$. 14 mt is deducted from the ACL for the Tribal fishery, resulting in a fishery HG of 395 mt.

e/ Black rockfish south (Oregon and California). A stock assessment was prepared for black rockfish south of 45°46 N. lat. (Cape Falcon, Oregon) to Central California in 2007. 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 $F_{50\%}$ plus 3 percent of the OFL from the stock assessment prepared for black rockfish north of 45°46' N. lat. The resulting OFL for the area south of 46°16 N. lat. is 1,166 mt. The ABC of 1,115 mt and is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The 2013 and 2014 ACL is 1,000 mt, which maintains the constant catch strategy designed to keep the stock biomass above $B_{40\%}$. There are no deductions from the ACL thus the fishery HG is equal to the ACL. The black rockfish ACL, in the area south of 46°16' N. lat. (Columbia River), is subdivided with separate HGs being set for waters off Oregon (580 mt/58 percent) and for waters off California (420 mt/42 percent).

f/ Bocaccio. A bocaccio stock assessment update was prepared in 2011 for the bocaccio stock between the U.S.-Mexico border and Cape Blanco. The stock is managed with stock-specific harvest specifications south of 40°10' N. lat. and within the minor shelf rockfish complex north of 40°10 N. lat. Historical catch distribution of approximately 6 percent was used to apportion the assessed stock to the area north of 40°10' N. lat. The bocaccio stock was estimated to be at 26 percent of its unfished biomass in 2011. The OFL of 881 mt is based on the 2011 stock assessment STAT model with an F_{MSY} proxy of $F_{50\%}$. The ABC of 842 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The 337 mt ACL is based on a rebuilding plan with a target year to rebuild of 2022 and an SPR harvest rate of 77.7 percent. 8.4 mt is deducted from the ACL for the incidental open access fishery (0.7 mt), EFP catch (6.0 mt) and research catch (1.7 mt), resulting in a fishery HG of 328.6 mt. The California recreational fishery has an HG of 172.5 mt.

g/ Cabezon (Oregon). A cabezon stock assessment was prepared in 2009. The cabezon biomass in waters off Oregon was estimated to be at 52 percent of its unfished biomass in 2009. The OFL of 49 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 47 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 $B_{40\%}$, the ACL is set equal to the ABC. There are no deductions from the ACL so the fishery HG is also equal to the ACL at 47 mt. Cabezon in waters off Oregon were removed from the "other fish" complex in 2011.

h/ Cabezon (California). A cabezon stock assessment was prepared in 2009. The cabezon biomass in waters off California was estimated to be at 48 percent of its unfished biomass in 2009. The OFL of 165 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 158 mt was based on a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{40\%}$, the ACL is set equal to the ABC. There are no deductions from the ACL so the fishery HG is also equal to the ACL at 158 mt.

i/ California scorpionfish was assessed in 2005 and was estimated to be at 80 percent of its unfished biomass in 2005. The OFL of 122 mt is based on the 2005 assessment with a harvest rate proxy of $F_{50\%}$. The ABC of 117 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{40\%}$, the ACL is set equal to the ABC. 2 mt is deducted from the ACL for the incidental open access fishery, resulting in a fishery HG of 115 mt.

j/ Canary rockfish. A canary rockfish stock assessment update was prepared in 2011 and the stock was estimated to be at 24 percent of its unfished biomass coastwide in 2011. The coastwide OFL of 741 mt is based on the new assessment with a F_{MSY} proxy of $F_{50\%}$. The ABC of 709 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 119 mt is based on a rebuilding plan with a target year to rebuild of 2030 and

a SPR harvest rate of 88.7 percent. 17.5 mt is deducted from the ACL for the Tribal fishery (9.5 mt), the incidental open access fishery (2 mt), EFP catch (1.5 mt) and research catch (4.5 mt) resulting in a fishery HG of 101.5 mt. Recreational HGs are being specified: Washington, 3.2; Oregon 11.1 mt; and California 23 mt.

k/ Chilipepper. The coastwide chilipepper stock was assessed in 2007 and estimated to be at 70 percent of its unfished biomass coastwide in 2006. Chilipepper are managed with stock-specific harvest specifications south of 40°10 N. lat. and within the minor shelf rockfish complex north of 40°10' N. lat. Projected OFLs are stratified north and south of 40°10' N. latitude based on the average 1998-2008 assessed area catch, which is 93 percent for the area south of 40°10' N. latitude and 7 percent for the area north of 40°10' N. latitude. South of 40°10' N. lat., the OFL of 1,722 mt is based on the 2007 assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,647 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the unfished biomass is estimated to be above 40 percent of the unfished biomass, the ACL was set equal to the ABC. 224 mt is deducted from the ACL for the incidental open access fishery (5 mt), EFP fishing (210 mt), and research catch (9 mt), resulting in a fishery HG of 1,423 mt.

l/ Cowcod. A stock assessment update prepared in 2009 estimated the stock to be 5 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 12 mt. The ABC for the area south of 40°10' N. lat. is 9 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*=0.40). The unassessed portion of the stock in the Monterey area was considered a category 3 stock, with a contribution to the ABC of 3 mt, which is a 31 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. 0.1 mt is deducted from the ACL for the amount anticipated to be taken during research activity (0.1 mt), resulting in a fishery HG of 2.9 mt.

m/ Darkblotched rockfish. A stock assessment update was prepared in 2011, and the stock was estimated to be at 30.2 percent of its unfished biomass in 2011. The OFL is projected to be 553 mt and is based on the 2011 stock assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 529 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 330 mt is based on a rebuilding plan with a target year to rebuild of 2025 and an SPR harvest rate of 64.9 percent. 20.8 mt is deducted from the ACL for the Tribal fishery (0.1 mt), the incidental open access fishery (18.4 mt), EFP catch (0.2 mt) and research catch (2.1 mt), resulting in a fishery HG of 309.2 mt.

n/ Dover sole. A 2011 Dover sole assessment estimated the stock to be at 83.7 percent of its unfished biomass in 2011. The OFL of 77,774 mt is based on the results of the 2011 stock assessment with an F_{MSY} proxy of $F_{30\%}$. The ABC of 74,352 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. 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. 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.

o/ English sole. A stock assessment update was prepared in 2007. The stock was estimated to be at 116 percent of its unfished biomass in 2007. The OFL of 5,906 mt is based on the results of the 2007 assessment update with an F_{MSY} proxy of $F_{30\%}$. The ABC of 5,646 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{25\%}$, the ACL was set equal to the ABC. 103 mt is deducted from the ACL for the Tribal fishery (91 mt), the incidental open access fishery (7 mt) and research catch (5 mt), resulting in a fishery HG of 5,543 mt.

p/ Lingcod north. A lingcod stock assessment was prepared in 2009. The lingcod biomass off Washington and Oregon was estimated to be at 62 percent of its unfished biomass in 2009. The OFL of 3,162 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 2,878 mt was based on a 4 percent reduction from the OFL (σ=0.36/P*=0.45) for the area north of 42° N. lat. as it's a category 1 stock, and 17 percent reduction from the OFL (σ=0.72/P*=0.40) for the area between 42° N. lat. and 40°10'N. lat. as it's a category 2 stock. The ACL was set equal to the ABC. 277.7 mt is deducted from the ACL for the Tribal fishery (250 mt), the incidental open access fishery (16 mt) and research catch (11.67 mt), resulting in a fishery HG of 2,600 mt.

q/ Lingcod south . A lingcod stock assessment was prepared in 2009. The lingcod biomass off California was estimated to be at 74 percent of its unfished biomass in 2009. The OFL of 1,276 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 1,063 mt was based on a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The ACL was set equal to the ABC. 9 mt is deducted from the ACL for the incidental open access fishery (7 mt) and EFP fishing (2 mt), resulting in a fishery HG of 1,054 mt.

r/ Longnose skate. A stock assessment was prepared in 2007 and the stock was estimated to be at 66 percent of its unfished biomass. The OFL of 2,816 mt is based on the 2007 stock assessment with an F_{MSY} proxy of $F_{45\%}$. The ABC of 2,692 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 2,000 mt is a fixed harvest level that provides greater access to the stock. 72.18 mt is deducted from the ACL for the Tribal fishery (56 mt), incidental open access fishery (3 mt), and research catch (13.18 mt), resulting in a fishery HG of 1,928 mt.
s/ 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 3,304 mt is based on the 2005 stock assessment with a $F_{50\%}$ F_{MSY} proxy. The ABC of 2,752 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. For the portion of the stock that is north of 34°27' N. lat., the ACL is 1,958 mt, and is 79 percent of the coastwide OFL for the biomass found in that area reduced by an additional 25 percent as a precautionary adjustment. 46 mt is deducted from the ACL for the Tribal fishery (30 mt), the incidental open access fishery (3 mt), and research catch (13 mt) resulting in a fishery HG of 1,912 mt. For that portion of the stock south of 34°27' N. lat. the ACL is 347 mt and is 21 percent of the coastwide OFL reduced by 50 percent as a precautionary adjustment. 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 344 mt.
t/ Minor nearshore rockfish north. The OFL of 110 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (blue rockfish in California) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 94 mt is the summed contribution of the ABCs for the component species. The ACL is set equal to the complex ABC. No deductions are made to the ACL, thus the fishery HG is equal to the ACL, which is 94 mt.
u/ Minor shelf rockfish north. The OFL of 2,195 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (greenspotted rockfish between 40°10' and 42° N. lat. and greenstriped rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,932 mt is the summed contribution of the ABCs for the component species. The ACL of 968 mt is the same as the 2012 ACL. 65.24 mt is deducted from the ACL for the Tribal fishery (30 mt), the incidental open access fishery (26 mt), EFP catch (3 mt) and research catch (6.24 mt) resulting in a fishery HG of 902.8 mt.
v/ Minor slope rockfish north. The OFL of 1,553 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the northern minor slope rockfish complex is based on a sigma value of 0.36 for category 1 stocks (splitnose rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,414 mt is the summed contribution of the ABCs for the component species. The ACL of 1,160 mt is the same as the 2012 ACL. 62 mt is deducted from the ACL for the Tribal fishery (36 mt), the incidental open access fishery (19 mt), EFP catch (1 mt) and research catch (6 mt), resulting in a fishery HG of 1,098 mt.
w/ Minor nearshore rockfish south. The OFL of 1,160 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern minor nearshore rockfish complex is based on a sigma value of 0.36 for category 1 stocks (gopher rockfish north of 34°27' N. lat.), 0.72 for category 2 stocks (blue rockfish north of 34°27' N. lat.) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting minor nearshore rockfish south ABC, which is the summed contribution of the ABCs for the component species within the complex, is 1,001 mt. The ACL is the same as the 2012 ACL. There are no deductions from the ACL, resulting in a fishery HG of 990 mt. Blue rockfish south of 42° N. latitude has a species-specific HG of 236 mt.
x/ Minor shelf rockfish south. The OFL of 1,913 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the southern minor shelf rockfish complex is based on a sigma value of 0.72 for category 2 stocks (greenspotted and greenstriped rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,620 mt is the summed contribution of the ABCs for the component species. The ACL of 714 mt is the same as the 2012 ACL. 46 mt is deducted from the ACL for the incidental open access fishery (9 mt), EFP catch (31 mt) and research catch (6 mt), resulting in a shelf fishery HG of 668 mt.

y/ Minor slope rockfish south. The OFL of 685 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern minor slope rockfish complex is based on a sigma value of 0.72 for category 2 stocks (bank and blackgill rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 622 mt is the summed contribution of the ABCs for the component species. The ACL is equal to the ABC. 21 mt is deducted from the ACL for the incidental open access fishery (17 mt), EFP catch (2 mt) and research catch (2 mt), resulting in a slope fishery HG of 601 mt. Blackgill rockfish has species-specific HGs: 27 mt for the limited entry fixed gear fishery; 18 mt for the open access fishery.

z/ "Other fish" is composed entirely of groundfish FMP species that are neither rockfish (family Scorpaenidae) nor flatfish, and most of these species are unassessed, with the exception of spiny dogfish, was assessed in 2011 and is a category 2 stock. The OFL of 6,802 mt is the sum of the OFL contributions for the component species within the complex. The OFL contribution for spiny dogfish is projected from the 2011 assessment using an $F_{45\%}$ F_{MSY} proxy harvest rate. The ABC of 4,697 mt is calculated by applying a P* of 0.40 and a sigma of 1.44 to the OFLs calculated for the category 3 stocks (i.e., all stocks other than spiny dogfish) and a P* of 0.30 and a sigma of 0.72 to the OFL calculated for spiny dogfish. The resulting ABC for the complex is the summed contribution of the ABCs calculated for the component stocks. The ACL is set equal to the ABC. 177 mt is deducted from the ACL for the Tribal fishery (112 mt), the incidental open access fishery (50 mt), EFP catch (3 mt) and research catch (12 mt), resulting in an "other fish" fishery HG of 4,520 mt.

aa/ "Other flatfish" are the unassessed flatfish species that do not have individual OFLs/ABCs/ACLs and include butter sole, curlfin sole, flathead sole, Pacific sand dab, rex sole, rock sole, and sand sole. The other flatfish OFL of 10,060 mt is based on the sum of the OFL contributions of the component stocks. The ABC of 6,982 mt is a 31 percent reduction from the OFL (σ=1.44/P*=0.40) as the complex is composed of category 3 stocks. The ACL of 4,884 mt is the 2011 and 2012 ACL carried forward as there have been no significant changes in the status or management of stocks within the complex. 202 mt is deducted from the ACL for the Tribal fishery (60 mt), the incidental open access fishery (125 mt), and research catch (17 mt), resulting in a fishery HG of 4,682 mt.

bb/ Pacific cod. The 3,200 mt OFL is based on the maximum level of historic landings. The ABC of 2,221 mt is a 31 percent reduction from the OFL (σ=1.44/P*=0.40) as it's a category 3 stock. The 1,600 mt ACL is the OFL reduced by 50 percent as a precautionary adjustment. 409.04 mt is deducted from the ACL for the Tribal fishery (400 mt), research fishing (7.04 mt), and the incidental open access fishery (2.0 mt), resulting in a fishery HG of 1,191 mt.

cc/ Pacific Ocean Perch. A POP stock assessment was prepared in 2011 and the stock was estimated to be at 19.1 percent of its unfished biomass in 2011. The OFL of 838 mt for the area north of 40°10 N. lat. is based on the 2011 stock assessment with an $F_{50\%}$ F_{MSY} proxy. The ABC of 801 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 153 mt is based on a rebuilding plan with a target year to rebuild of 2051 and an SPR harvest rate of 86.4 percent. 16.5 mt is deducted from the ACL for the Tribal fishery (10.9 mt), open access fishery (0.4 mt) and research catch (5.2 mt), resulting in a fishery HG of 136.5 mt.

dd/ Pacific whiting. The most recent stock assessment was prepared in January 2014. The 2014 Fishery Harvest Guideline (Fishery HG) is calculated as follows. U.S. TAC of 316,206 mt minus 55,336 mt for the Tribal allocation minus 1,500 mt for catch in research activities and as non-groundfish bycatch, resulting in a fishery harvest guideline of 259,370 mt. The TAC for Pacific whiting is established under the provisions of the Pacific Hake/Whiting Agreement with Canada and the Pacific Whiting Act of 2006, 16 U.S.C. 7001-7010, and the international exception applies. Therefore, no ABC or ACL values are provided for Pacific whiting. The 2014 OFL of 825,000 mt is based on the 2014 assessment with an F40% FMSY proxy.

ee/ Petrale sole. A petrale sole stock assessment was prepared for 2011. In 2011 the petrale sole stock was estimated to be at 18 percent of its unfished biomass. The OFL of 2,774 mt is based on the 2011 assessment with an $F_{30\%}$ F_{MSY} proxy. The ABC of 2,652 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC. 234 mt is deducted from the ACL for the Tribal fishery (220 mt), the incidental open access fishery (2.4 mt), and research catch (11.6 mt), resulting in a fishery HG of 2,418 mt.

ff/ Sablefish north. A coastwide sablefish stock assessment was prepared in 2011. The coastwide sablefish biomass was estimated to be at 33 percent of its unfished biomass in 2011. The coastwide OFL of 7,158 mt is based on the 2011 stock assessment with an F_{MSY} proxy of $F_{45\%}$. The ABC of 6,535 mt is an 8.7 percent reduction from the OFL (σ=0.36/P*=0.40). The 40-10 harvest policy was applied to the ABC to derive a coastwide ACL value. Then the ACL value was apportioned north and south of 36° N. lat., using the average of annual swept area biomass (2003-2010) from the NMFS NWFSC trawl survey, with 73.6 percent going to the area north of 36° N. lat. and 26.4 percent going to the area south of 36° N. lat. The northern ACL is 4,349 mt and is reduced by 435 mt for the tribal allocation (10 percent of the ACL north of 36° N. lat.). The 435 mt Tribal allocation is reduced by 1.5 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 1c.

gg/ Sablefish south. The ACL for the area south of 36° N. lat. is 1,560 mt (26.4 percent of the calculated coastwide ACL value). 5 mt is deducted from the ACL for the incidental open access fishery (2 mt) and research catch (3 mt), resulting in a fishery HG of 1,555 mt.

hh/ 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 2014 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 and is in recognition of the stock's importance as a forage species in the California Current ecosystem. 2 mt is deducted from the ACL for research catch, resulting in a fishery HG of 48 mt.
ii/ 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 2,310 mt is based on the 2005 stock assessment with a $F_{50\%}$ F_{MSY} proxy. The coastwide ABC of 2,208 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. For the portion of the stock that is north of 34°27' N. lat., the ACL is 1,525 mt. The northern ACL is 66 percent of the coastwide OFL for the portion of the biomass found north of 34°27' N. lat. 59.22 mt is deducted from the ACL for the Tribal fishery (50 mt), the incidental open access fishery (2 mt), and research catch (7.22mt) resulting in a fishery HG of 1,466 mt for the area north of 34°27' N. lat. For that portion of the stock south of 34°27' N. lat. the ACL is 393 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. 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 351 mt for the area south of 34°27' N. lat.
jj/ Splitnose rockfish. A 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 with species-specific harvest specifications south of 40°10' N. lat. The OFLs were apportioned north and south based on the average 1916-2008 assessed area catch resulting in 64.2 percent stock-specific OFL south of 40°10' N. lat, and 35.8 percent for the contribution of splitnose rockfish to the northern minor slope rockfish complex. South of 40°10' N. lat. the OFL of 1,747 mt is based on the 2009 assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,670 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the unfished biomass is estimated to be above 40 percent of the unfished biomass, the ACL is set equal to the ABC. 12 mt is deducted from the ACL for research catch (9 mt) and EFP catch (3 mt), resulting in a fishery HG of 1,658 mt.
kk/ Starry Flounder. The stock was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005. For 2013, the coastwide OFL of 1,834 mt is based on the 2005 assessment with an F_{MSY} proxy of $F_{30\%}$. The ABC of 1,528 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. Because the stock is above $B_{25\%}$, the ACL was set equal to the ABC. 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 1,521 mt.
ll/ Widow rockfish. The stock was assessed in 2011 and was estimated to be at 51.1 percent of its unfished biomass in 2011. The OFL of 4,435 mt is based on the 2011 stock assessment with an $F_{50\%}$ F_{MSY} proxy. The ABC of 4,212 mt is a 5 percent reduction from the OFL (σ=0.41/P*=0.45). A unique sigma of 0.41 was calculated for widow rockfish since the estimated variance in estimated biomass was greater than the 0.36 used as a proxy for other category 1 stocks. A constant catch strategy will be used with an ACL of 1,500 mt. 89.2 mt is deducted from the ACL for the Tribal fishery (60 mt), the incidental open access fishery (89.2 mt), EFP catch (18 mt) and research catch (7.9 mt), resulting in a fishery HG of 1,411 mt.
mm/ Yelloweye rockfish. A stock assessment update was prepared in 2011. The stock was estimated to be at 21.3 percent of its unfished biomass in 2011. The 51 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 43 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The 18 mt ACL is based on a rebuilding plan with a target year to rebuild of 2074 and an SPR harvest rate of 76.0 percent. 5.82 mt is deducted from the ACL for the Tribal fishery (2.3 mt), the incidental open access fishery (0.2 mt), EFP catch (0.02 mt) and research catch (3.3 mt) resulting in a fishery HG of 12.2 mt. Recreational HGs are being established: Washington, 2.9; Oregon, 2.6 mt; and California, 3.4 mt.
nn/ Yellowtail rockfish. A yellowtail rockfish stock assessment update was last prepared in 2005 for the area north of 40°10' N. latitude to the U.S-Canadian border. Yellowtail rockfish was estimated to be at 55 percent of its unfished biomass in 2005. The OFL of 4,584 mt is based on the 2005 stock assessment with the F_{MSY} proxy of $F_{50\%}$. The ABC of 4,382 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL was set equal to the ABC, because the stock is above $B_{40\%}$. 701.49 mt is deducted from the ACL for the Tribal fishery (677 mt), the incidental open access fishery (3 mt), EFP catch (10 mt) and research catch (11.49 mt), resulting in a fishery HG of 3,681mt.

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

§ 660.140 Shorebased IFQ Program.

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(d) * * *

(1) * * *

(ii) * * *

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

Shorebased Trawl Allocations

IFQ Species	**Management Area**	**2013 Shorebased Trawl Allocation (mt)**	**2014 Shorebased Trawl Allocation (mt)**
Arrowtooth flounder		3,846.13	3,467.08
BOCACCIO	South of 40°10' N. lat.	74.90	79.00
CANARY ROCKFISH		39.90	41.10
Chilipepper	South of 40°10' N. lat.	1,099.50	1,067.25
COWCOD	South of 40°10' N. lat.	1.00	1.00
DARKBLOTCHED ROCKFISH		266.70	278.41
Dover sole		22,234.50	22,234.50

English sole		6,365.03	5,255.59
Lingcod	North of 40°10' N. lat.	1,222.57	1,151.68
Lingcod	South of 40°10' N. lat.	494.41	472.88
Longspine thornyhead	North of 34°27' N. lat.	1,859.85	1,811.40
Minor shelf rockfish complex	North of 40°10' N. lat.	508.00	508.00
Minor shelf rockfish complex	South of 40°10' N. lat.	81.00	81.00
Minor slope rockfish complex	North of 40°10' N. lat.	776.93	776.93
Minor slope rockfish complex	South of 40°10' N. lat.	376.11	378.63
Other flatfish complex		4,189.61	4,189.61
Pacific cod		1,125.29	1,125.29
PACIFIC OCEAN PERCH	North of 40°10' N. lat.	109.43	112.28
Pacific Whiting		85,697	108,935
PETRALE SOLE		2,318.00	2,378.00
Sablefish	North of 36° N. lat.	1,828.00	1,988.00
Sablefish	South of 36° N. lat.	602.28	653.10
Shortspine thornyhead	North of 34°27' N. lat.	1,385.35	1,371.12
Shortspine thornyhead	South of 34°27' N. lat.	50.00	50.00
Splitnose rockfish	South of 40°10' N. lat.	1,518.10	1,575.10
Starry flounder		751.50	755.50
Widow rockfish		993.83	993.83
YELLOWEYE ROCKFISH		1.00	1.00
Yellowtail rockfish	North of 40°10' N. lat.	2,635.33	2,638.85

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