



Billing Code 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 660

[Docket No. 140905757-6999-02]

RIN 0648-BE42

**Fisheries off West Coast States; Pacific Coast Groundfish Fishery Management Plan;
Commercial Sablefish Fishing Regulations and Electronic Fish Tickets**

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

ACTION: Final rule.

SUMMARY: This final rule revises fishery monitoring and equipment requirements for all commercial groundfish fisheries. In particular, it establishes a requirement for submitting electronic fish tickets (EFT) in the limited entry fixed gear fisheries and open access fisheries. This final rule also: revises administrative procedures for limited entry permits, providing greater flexibility and efficiencies for limited entry groundfish fishery participants; requires vessels registered to Vessel Monitoring Systems (VMS) to make an initial declaration report; and makes administrative changes and clarifying edits to improve consistency of the regulations with past Pacific Fishery Management Council (Council) actions and with the Pacific Coast Groundfish Fishery Management Plan (FMP). This action improves monitoring and administration of the limited entry sablefish primary fishery, and addresses unforeseen issues arising out of the evolution of commercial sablefish fisheries and subsequent regulations.

DATES: This rule is effective [*INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER*], except for the amendments to § 660.212(a)(3) through (5) and § 660.312(a)(3) through (5), which will be effective January 1, 2017.

ADDRESSES: Background information and documents are available at the Pacific Fishery Management Council's Web site at <http://www.pcouncil.org/>. NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is summarized in the Classification section of this final rule. Copies of the FRFA and the Small Entity Compliance Guide are available from William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way, NE., Seattle, WA 98115-0070; or by phone at 206-526-6150. Copies of the Small Entity Compliance Guide are also available on the West Coast Regional Office Web site at <http://www.westcoast.fisheries.noaa.gov/>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way, NE., Seattle, WA 98115-0070, and to OMB by e-mail to OIRA_Submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Gretchen Hanshew, 206-526-6147, gretchen.hanshew@noaa.gov

SUPPLEMENTARY INFORMATION:

Summary of Major Actions

This final rule improves the timeliness and accuracy of sablefish catch reporting in the limited entry fixed gear fisheries and open access fisheries, provides more flexibility and efficiencies for harvesters in the Shorebased Individual Fishing Quota (IFQ) Program and limited entry fixed gear fisheries, and implements several administrative and clarifying changes to

monitoring and permitting provisions of regulations for all of the limited entry and open access commercial groundfish fisheries on the West Coast.

This final rule contains eight major actions, along with related minor clarifications and non-substantive changes. The first action is a new requirement for electronic fish tickets to be submitted for all commercial landings of sablefish delivered to Washington, Oregon and California fish buyers. The second action provides qualified vessel owners an opportunity to apply for an exemption to the ownership limitation of three permits in the limited entry sablefish primary fishery. The third action allows a single vessel to be simultaneously (jointly) registered to multiple limited entry permits, one of which may have a trawl gear endorsement. The fourth action prohibits vessels that have been granted an at-sea processing exemption for sablefish in the limited entry fixed gear fishery from processing sablefish at sea when that vessel is participating in the Shorebased IFQ Program. The fifth action clarifies that, consistent with FMP Amendment 6, sablefish catch in incidental open access fisheries is counted against the open access allocation, and is not deducted from the commercial harvest guideline. The sixth action requires any vessel that has a VMS registered with NMFS Office of Law Enforcement (OLE) to submit a declaration report with OLE. The seventh action updates and simplifies equipment requirements for electronic fish tickets. The eighth action clarifies existing regulatory language prohibiting the retention of groundfish species taken in the limited entry fixed gear fishery beyond the allowable quota. In addition, the action includes housekeeping changes that are intended to better align the regulations with defined terms, and to provide clarity and consistency between paragraphs.

Background

The groundfish fisheries in the exclusive economic zone (EEZ) off the west coast of the United States are managed under the FMP. The FMP was prepared by the Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as amended by the Consolidated Appropriations Act of 2004 (Pub. L. 108-199, section 801). Regulations implementing provisions of the FMP are located at 50 CFR Part 660, Subparts C through G.

This final rule includes several actions that revise regulations for commercial fisheries that harvest sablefish. These regulatory changes apply to the Shorebased IFQ Program, the limited entry fixed gear fishery, which includes the limited entry sablefish primary fishery and the daily trip limit (DTL) fishery, and the open access fishery. A more detailed description of the fisheries affected by this rulemaking, and the major provisions of this action, is contained in the June 1, 2016, proposed rule (81 FR 34947).

1. Electronic Fish Ticket Requirement

This final rule includes a Federal electronic fish ticket submittal requirement for all commercial groundfish deliveries that include sablefish. An electronic fish ticket is a web-based form used to send groundfish landing data to the Pacific States Marine Fisheries Commission (PSMFC). Electronic fish tickets are used to collect information similar to the information required in state fish receiving tickets or landing receipts (henceforth referred to as paper tickets), but do not replace or change any state requirements. This requirement will improve the timeliness and accuracy of catch data for monitoring harvest relative to applicable tier limits in the limited entry fixed gear sablefish fishery and trip limits in the limited entry fixed gear and open access DTL fisheries. Electronic fish tickets have been required for IFQ species since the start of the Shorebased IFQ Program in 2011, and have allowed vessel owners/operators, buyers

and dealers, and fishery managers timely access to catch information. This final rule expands the use of electronic fish tickets to the limited entry fixed gear and open access fisheries, and is expected to have similar benefits regarding timely access to catch data.

2. Exemption to Limited Entry Sablefish Permit Ownership Limitation

Regulations (§ 660.25(b)(3)(iv)(C)) state that no individual person, partnership, or corporation in combination may have ownership interest in or hold more than three permits with sablefish endorsements either simultaneously or cumulatively over the primary season (hereby referred to as “ownership limitation”). This ownership limitation was intended to prevent concentration of harvest privileges in the Pacific coast sablefish primary fishery. However, this restriction has led to unforeseen complications because many persons, partnerships and corporations have harvest privileges in both the Alaska IFQ sablefish fishery and the Pacific coast sablefish fishery. Under the existing regulations, Alaska IFQ holders are required to have a partial ownership interest in a vessel that fishes for their IFQ. These IFQ holders are deemed to hold any Pacific Coast permits with sablefish endorsements associated with a vessel in which they have an ownership interest. This has resulted in Alaska IFQ holders being “limited out” in the Pacific Coast sablefish primary fishery, even though they do not benefit from the permits associated with the vessels in which they have an interest. The Council recommended, and NMFS is implementing through this final rule, a process by which vessel owners who meet certain qualifying criteria may petition NMFS for a limited exemption to the ownership limitation, as described in detail in the preamble to the proposed rule

3. Joint Registration

Originally, the license limitation program (LLP), implemented through Amendment 6 to the FMP (57 FR 54001, November 16, 1992, see also the EA under **ADDRESSES** for more

information on the LLP), allowed vessels to register both a trawl and fixed gear (longline and fishpot) endorsed permit at the same time. Subsequently, regulations were modified and no longer allow vessels to register multiple limited entry permits unless the permits are sablefish-endorsed and stacked for use in the limited entry fixed gear sablefish primary fishery. This restriction was put in place to keep trawl and fixed gear fisheries temporally separated to meet enforcement and monitoring needs. In 2004, a vessel monitoring program was implemented that allowed vessels to identify which fishery they were participating in through a declaration system, which eliminated the need for temporal separation. As part of FMP Amendment 20 trailing actions, in April 2012 the Council recommended that vessels registered to a limited entry trawl permit be allowed to simultaneously register to a limited entry fixed gear permit, also called “joint registration.” This final rule implements joint registration and clarifies how fishery-specific regulations still apply to vessels that are jointly registered. Joint registration is permitted in one of two configurations, which are described in additional detail in the June 1, 2016, proposed rule (81 FR 34947):

- 1) Configuration A: One trawl permit and one, two, or three sablefish endorsed permits.
- 2) Configuration B: One trawl permit and one limited entry fixed gear permit.

Registering a vessel to a limited entry permit with a specific endorsement often triggers certain requirements in the groundfish regulations. Joint registration is not intended to change fishing operations of groundfish fisheries or change requirements that are applicable to vessels because of the type of the endorsement(s) on the limited entry permit to which they are registered, unless otherwise described above and in the June 1, 2016, proposed rule (81 FR 34947).

4. Restrictions on At-Sea Processing of Sablefish

Processing of groundfish at-sea is prohibited for vessels fishing in the Shorebased IFQ Program or limited entry fixed gear fishery, unless exempted from that prohibition. One such exemption applies to certain vessels fishing in the limited entry fixed gear sablefish primary fishery. Those exempted vessels may freeze sablefish at-sea during the limited entry fixed gear sablefish primary fishery.

When trawl rationalization was implemented in 2011, the Council recommended that at-sea processing of groundfish in the Shorebased IFQ Program be prohibited, with limited exemptions. Regulations at § 660.112 (b)(1)(xii) prohibit at-sea processing of groundfish, and also list the exemptions that have been granted to date, including an exemption from the prohibition of at-sea processing that applies in the sablefish primary fishery. As written, those regulations grant vessels with an exemption from the prohibition of at-sea processing in the sablefish primary fishery when fishing in the Shorebased IFQ Program. However, regulations at § 660.25(b)(6)(i) only allow the sablefish at-sea processing exemption when the vessel is registered to a sablefish-endorsed limited entry permit.

Currently, because vessels cannot be registered to a sablefish-endorsed limited entry permit and a trawl-endorsed permit at the same time, Shorebased IFQ vessels cannot take advantage of the sablefish at-sea processing exemption. However, this rule's joint registration provisions would allow a vessel to register to a trawl endorsed and a sablefish endorsed limited entry permit simultaneously. If the exemption at § 660.112(b)(1)(xii)(B) is not removed, joint registration could allow vessels with an exemption from the at-sea processing prohibition for the sablefish primary fishery to also process sablefish at sea in the Shorebased IFQ Program. Consistent with the Council's recommendation, this rule removes the exemption to the

prohibition of at-sea processing (at § 660.112(b)(1)(xii)(B)) that extended the limited entry fixed gear exemption in § 660.25(b)(6)(i) to vessels fishing sablefish in the Shorebased IFQ Program. Also, in light of joint registration, a clarifying sentence is added to § 660.25(b)(6)(i), stating that the at-sea processing exemption only applies to at-sea processing of sablefish caught in the limited entry fixed gear sablefish primary fishery.

During development of this rule, NMFS noted that a similar situation as the one described above may occur with the exemption from the processing-at-sea prohibition for non-whiting groundfish. When a vessel with a non-whiting exemption from that prohibition in the Shorebased IFQ Program is jointly registered, it could utilize that exemption when fishing in non-IFQ fisheries. NMFS proposed a clarifying sentence at § 660.25(b)(6)(ii), stating that the exemption only applies to processing non-whiting groundfish caught in the Shorebased IFQ Program, which is consistent with the Council's recommendation under joint registration with regards to the sablefish at-sea processing exemption. NMFS requested public comment on this issue, and received none. Therefore, the clarifying addition to § 660.25(b)(6)(ii) is included in this final rule. This final rule implements joint registration and does not allow at-sea processing of non-whiting groundfish in non-IFQ fisheries, as the exemption was granted to vessels participating in the Shorebased IFQ Program.

5. Sablefish Allocations North of 36° N. lat.

The allocation structure for sablefish north of 36° N. lat. was established in FMP Amendment 6. In April 2009, the Council recommended final preferred intersector allocations for groundfish species under Amendment 21. The Council and NMFS recommended that no change be made to the Amendment 6 allocation structure for sablefish. However, FMP Amendment 21 and its implementing regulations slightly changed the process for allocating

sablefish north of 36° N. lat. (75 FR 60868, October 1, 2010). This final rule includes regulations aligning sablefish north of 36° N. lat. allocations with the Amendment 6 allocation structure, as recommended by the Council in 2009, and as described in the June 1, 2016 proposed rule (81 FR 34947).

6. Declaration Reports for Vessels Registered to a VMS Unit

In 2004, the Council and NMFS implemented a vessel monitoring program. Since 2004, all commercial fishing vessels that take and retain groundfish in federal waters, or transit through federal waters with groundfish on board, are required to have a working VMS. The VMS, along with a system of fishing declaration reporting requirements, allows for monitoring and enforcement of areas closed to fishing. With this 2004 program, NMFS type-approved hardware and software, or “units,” were installed on vessels in order to meet these new program requirements for the groundfish fishery. When a VMS unit is installed on a vessel, it is registered with NMFS OLE and catalogued.

There are a number of VMS units that have registered with OLE but those vessels have never made a declaration report. This final rule includes regulation changes at § 660.13(d) that require all vessels registered to a VMS unit to submit a declaration report. Vessels registered to a VMS unit are required to submit a declaration report, regardless of fishing activities. Obtaining a declaration report from these vessels will give OLE the information necessary to monitor the activities of these vessels relative to the applicable regulations. This final rule also revises fisher declarations at § 660.13(d)(5)(iv)(A)(24) to include “other.” This category will include on-the-water activities that may not be fishing (e.g. scientific research activities). NMFS anticipates vessels may make a declaration of “other” if they are not fishing.

7. Equipment Requirements for Electronic Fish Tickets

As described in the proposed rule, a new interface has been developed that uses the internet for both entry and submission of electronic fish ticket data. The changes to regulations at § 660.15(d) in this rule reflect the move to a web-based electronic fish ticket for all first receivers. Note that an internet connection is necessary for all steps for completion of an electronic fish ticket, from creating the new ticket through submission. To reflect these changes, the definition of “electronic fish ticket” at § 660.11 is also revised to reflect the web-based form used to send electronic fish ticket information to the PSMFC.

8. Prohibitions Regarding “Take and Retain”

NMFS is replacing “taking, retaining” with “taking and retaining,” consistent with the Council’s recommendations under PCGFMP Amendment 14 and described in the 2016 proposed rule. With the exception of the sablefish primary fishery, in commercial groundfish fisheries vessels may “take” more than a single cumulative trip limit of a species while fishing for other species, but they may not retain any species above its cumulative trip limit. The phrase “taking, retaining” in this context is not clear. Therefore, to better align prohibitions for enforcing trip limits with the definition of “trip limit,” to improve enforceability of trip limit prohibitions, and to bring consistency to regulations that apply to commercial groundfish fisheries, prohibitions at §§ 660.12(a)(6), 660.212(a)(2), and 660.212(d)(1) and (2) are revised from “take, retain” to “take and retain.”

9. Related Minor Clarifications and Non-Substantive Changes

There are several outdated regulations, mis-specified cross-references, inconsistencies in terminology, and areas in need of clarification throughout the groundfish regulations that pertain to commercial sablefish fishing. For the reasons stated in the proposed rule, this rule implements

all of the updates, corrections, clarifications and non-substantive edits described in the proposed rule.

Response to Comments

During the comment period of the proposed rule, NMFS received two comment letters from participants in the fishing industry in support of the proposed regulation changes to allow joint registration of trawl and non-trawl permits and the limited exemption from ownership limitation restrictions. NMFS also received a letter of comment regarding VMS equipment requirements on board fishing vessels, which are not revised in this rule, are outside the scope of this action, and, therefore, are not discussed further here. NMFS addresses other comments below:

Comment 1: Information on an electronic fish ticket will not immediately become available to quota managers because the data will need to be entered by data entry personnel who do not work over the weekend.

Response: This is an automated system, and availability of submitted electronic fish ticket data does not rely on action by system administrators. Upon submission of the electronic fish ticket by first receivers, catch information is immediately available to vessel operators, enforcement, and federal and state fishery managers.

Comment 2: The time requirement for submitting a fish ticket under the new regulation is inconsistent with some California state fish ticket and transport ticket regulations.

Response: California Department of Fish and Wildlife is in the process of developing a monitoring system that incorporates electronic tickets. While the electronic fish tickets required by this provision contain similar information as submitted on state tickets, it does not replace or

change the state requirements (§ 660.11). Furthermore, any vessels participating in federal fisheries are subject to federal regulations (§ 660.2).

Comment 3: NMFS should acknowledge that interruption of internet service, equipment failures, etc. may make electronic fish tickets impractical.

Response: NMFS has implemented a system in which a web browser on any electronic device can be used to create and submit electronic fish tickets. Therefore, even allowing for possible, temporary interruptions in service or equipment problems, 24 hours is deemed an appropriate amount of time to complete the fish ticket.

Comment 4: In some situations, the fish have been both landed and transported by the vessel operator, and no paperwork has been completed because the fish buyer has not yet taken possession of them.

Response: The trigger for written documentation of the landing is not the point at which the fish buyer or the first receiver takes possession of the fish. Written documentation of the fish offloaded from a vessel is required once the fish are removed from the vessel. Any fish removed from a vessel is considered a “landing,” per the definition at § 660.11. If the fish removed from the vessel will not have an electronic fish ticket submitted prior to transport, the fish must be accompanied by a dock ticket (or a transportation ticket for vessels landing into California) with the information needed to complete the electronic fish ticket, per regulations at §§ 660.213 and 660.313. It is the responsibility of the vessel operator or other person taking possession of the fish upon landing to comply with the requirements to complete the dock ticket or transportation ticket.

Comment 5: Regulations for the landing of fish and requirements of the new rule will unfairly impact first receivers that are not located at a processing plant.

Response: Regulations implemented in this rule were explicitly drafted to address the fact that some first receivers are not located at processing plants, by allowing for use of dock tickets. If the first receiver is taking possession of fish outside of regular business hours, a co-signed dock ticket meets the need for documentation of agreement between the first receiver and vessel operator regarding the specifics of the landing. The dock ticket must include the electronic fish ticket number, which can be generated remotely via any device with a web browser and internet connection (e.g. mobile phone), and the rest of the fish ticket can be completed and submitted from dock ticket data within 24 hours.

Comment 6: The requirement of electronic fish tickets will cause hardship to first receivers that must purchase and maintain the hardware and software needed to submit electronic fish tickets.

Response: The improved timeliness of catch data will increase the ability to manage the fishery to the benefit of all participants, offsetting the cost of equipment needed to complete electronic fish tickets. The electronic ticket portal is web-based, and can be accessed from any electronic device (such as a computer, tablet, or mobile phone) with an internet browser, allowing for increased accessibility with multiple ways to meet reporting requirements. NMFS notes that requirements for electronic fish ticket submission will include the ability of first receivers to request a temporary waiver from these requirements, enabling them to submit paper tickets on a temporary basis. Temporary waivers will be granted on a case-by-case basis by NMFS, per regulations at §§ 660.213 and 660.313.

Comment 7: Those responsible for filling out fish tickets may not have the training and technical knowledge to do so, and may be assisted by fishermen or others as is currently done for paper tickets.

Response: NMFS is providing a written compliance guide, and PSMFC staff will be available to provide training to help ensure that all first receivers are able to perform the duties required in this rule. See **ADDRESSES** for details on where to find these materials. Also, even though the first receiver must sign the fish ticket, regulations implemented in this final rule do not prohibit a first receiver from seeking technical assistance from a third party.

Changes from the Proposed Rule

The electronic fish ticket requirements in the proposed and final rule offer a new, more flexible option that allows for vessels fishing in the sablefish primary fishery to apportion their sablefish from a single landing against multiple tier limits (if the vessel is registered to multiple sablefish endorsed permits), or against their the remainder of their tier limit(s) and applicable daily trip limits. During development of the proposed rule, it was thought that the electronic fish ticket system requirements were such that, in these situations, separate and distinct electronic fish tickets would need to be filled out and submitted for each part of the landing. For example, the first ticket for the delivery would document the sablefish pounds counting toward “Permit 13, Tier 2” and a second ticket for the same delivery would document the sablefish pounds counting toward “Permit 21, Tier 3.” Therefore, if a vessel operator chose to apportion their sablefish as described above, proposed regulations required multiple fish tickets to be filled out. Each fish ticket is estimated to take approximately 10 minutes to complete and submit.

Since publication of the proposed rule, there has been further exploration of how to document portions of a single sablefish delivery against either multiple tier limits or against both tier limits and DTL limits without having to duplicate some of the information by requiring submittal of multiple electronic fish tickets. A mechanism has been developed that allows catch of sablefish to be apportioned within a single electronic fish ticket when a vessel operator wishes

to take advantage of the flexibility to apportion sablefish catch between permits (i.e. among sablefish tiers associated with the permits registered for use with the vessel) or between fisheries (i.e. among sablefish tiers harvested in the sablefish primary fishery and the DTL fishery). Utilizing this updated approach in the electronic fish ticket system, the requirement included in the proposed rule at § 660.213(e)(2)(iii) to submit multiple electronic fish tickets for a single delivery is unnecessary.

Therefore, in this final rule, NMFS is removing the requirement at § 660.213(e)(2)(iii) to submit multiple electronic fish tickets when a vessel operator wishes to take advantage of the flexibility to apportion sablefish catch between permits or between fisheries (as described above). This final rule provides vessel operators with the same flexibilities and gives fishery managers the same permit and landing information as the proposed regulations. However, the regulations at § 660.213(e)(2)(iii) in this final rule are anticipated to relieve first receivers of some of the recordkeeping and reporting burden by slightly reducing the total number of electronic fish tickets required. As noted above, it is unknown how many vessel operators in the sablefish primary fishery will elect to use this new flexibility, therefore it is not possible to estimate exactly how much time may be saved by first receivers. However, this change from the proposed rule relieves a restriction, and is anticipated to benefit vessel operators and first receivers.

The second change from the proposed rule pertains to the definition of “sablefish landing” included in that rule at §§ 660.211 and 660.311. The proposed rule would have required electronic fish tickets be submitted by first receivers of all the groundfish on board the vessel if that groundfish included any amount of sablefish. During development of the final rule, it became apparent that given the definition of “sablefish landing” the proposed rule language

could be interpreted as requiring a first receiver of fish from a landing that included sablefish to submit an electronic fish ticket regardless of whether that first receiver was buying any sablefish. If a scenario arose where the sablefish landing were divided, all of the sablefish were sold to one first receiver, and the rest of the groundfish were sold to a second first receiver, the second first receiver, who did not take possession of any sablefish, would be required to submit an electronic fish ticket for those non-sablefish groundfish species. This would be because as proposed, the electronic fish ticket requirement would have applied to any “sablefish landing,” or any landing that includes any amount of sablefish harvested in the limited entry fixed gear fishery. “Landing” is defined at § 660.11 and means the transfer or offloading of fish from any vessel. Once transfer of fish begins, all fish aboard the vessel are counted as part of the landing. Therefore, all the fish on board the vessel, even if sold to multiple first receivers, are all counted as part of the same landing. Therefore, a vessel meets the definition of having a “sablefish landing” when they have any amount of sablefish on board and begins the transfer of any fish from the vessel. In the above described situation, under proposed electronic fish ticket regulations and the definition of “sablefish landing,” both of the first receivers of fish from the sablefish landing would be required to submit an electronic fish ticket, regardless of whether the first receiver is taking possession of any amount of sablefish.

The Council’s recommendation was to capture all of the landings of sablefish for more accurate and timely accounting of sablefish harvest against applicable limits in the limited entry fixed gear and open access fisheries. Implementing an electronic fish ticket requirement for first receivers of non-sablefish groundfish deliveries was not intended and does not meet this purpose. Therefore, the proposed definitions of “sablefish landing” (as included in the proposed rule at §§ 660.211 and 660.311) are not included in this final rule.

Instead, regulations at §§ 660.212 and 660.312 are revised to clarify that, if the landing is split, only the portion of the landing (or a delivery/offload) that includes some amount of sablefish must be reported on an electronic fish ticket. With this revision, first receivers of a delivery that includes any amount of sablefish must report that entire delivery (both sablefish and non-sablefish groundfish) on an electronic fish ticket. First receivers of a delivery that does not include any sablefish would not be required to report via electronic fish ticket. These revisions better align with the Council's intent to improve the timeliness of sablefish catch data.

Classification

NMFS has determined that this action is consistent with the FMP, the Magnuson Stevens Conservation and Management Act, and other applicable laws.

The Office of Management and Budget (OMB) has determined that this action is not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

A final regulatory flexibility analysis (FRFA) was prepared and incorporates the initial regulatory flexibility analysis (IRFA). A summary of the significant issues raised by the public comments in response to the IRFA, and NMFS responses to those comments, and a summary of the analyses completed to support the action are included below. NMFS also prepared a Regulatory Impact Review (RIR) for this action. A copy of the RIR/FRFA is available from NMFS (see **ADDRESSES**). A summary of the FRFA, per the requirements of 5 U.S.C. 604(a) follows:

The Small Business Administration (SBA) has established size criteria for all major industry sectors in the US, including fish harvesting and fish processing businesses. A business primarily involved in finfish harvesting is classified as a small business if it is independently

owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$20.5 million for all its affiliated operations worldwide (13 CFR Part 121; August 17, 2015). For commercial shellfish harvesters, the other qualifiers apply and the receipts threshold is \$5.5 million. For other commercial marine harvesters, for-hire businesses, and marinas, the other qualifiers apply and the receipts threshold is \$7.5 million. A business primarily involved in seafood processing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual employment not in excess of 500 employees for all its affiliated operations worldwide. For seafood dealers/wholesalers, the other qualifiers apply and the employment threshold is 100 employees. A small organization is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Small governmental jurisdictions are governments of cities, counties, towns, townships, villages, school districts, or special districts, with populations less than 50,000.

On December 29, 2015, NMFS issued a final rule establishing a small business size standard of \$11 million in annual gross receipts for all businesses primarily engaged in the commercial fishing industry (North American Industry Classification System or NAICS 11411) for Regulatory Flexibility Act (RFA) compliance purposes only (80 FR 81194, December 29, 2015). The \$11 million standard became effective on July 1, 2016, and is to be used in all NMFS rules subject to the RFA after July 1, 2016, in place of the U.S. SBA standards (described above) of \$20.5 million, \$5.5 million, and \$7.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors of the U.S. commercial fishing industry.

Pursuant to the RFA, and prior to July 1, 2016, an initial regulatory flexibility analysis was developed for this regulatory action using SBA's size standards. NMFS has reviewed the analyses prepared for this regulatory action in light of the new size standard. All of the harvesting entities directly regulated by this regulatory action were considered small under the SBA's size standards, and continue to be considered small under the new NMFS standard. Thus, NMFS has determined that the new size standard does not affect analyses prepared for this regulatory action.

No significant issues were raised during public comment, and no changes were made as a result of public comments.

An estimated 99 entities are potentially impacted by this rule, including 77 receivers and up to 22 vessels/permit holding entities. All of these entities are considered small according to both the SBA guidelines and the new NMFS standards described above. This rule is not anticipated to have a substantial or significant economic impact on small entities, or place small entities at a disadvantage to large entities.

Addition of an exemption to the ownership limitation and joint registration are expected to positively benefit directly impacted small entities.

It is assumed that all first receivers have access to a personal computer or other hardware/device. However, to reduce the potential impacts on first receivers should there be a system failure, a waiver may be granted by NMFS that temporarily exempts a first receiver from the reporting requirements and allow reasonable time to resolve the electronic fish ticket system problem. The duration of the waiver will be determined on a case-by-case basis. First receivers that are granted a temporary waiver from the requirement to submit electronic fish tickets must

submit on paper the same data as are required on electronic fish tickets within 24 hours of the date received during the period that the waiver is in effect.

Implementation of an electronic fish ticket improves the accuracy and timeliness of landing data and provides managers with the real time data necessary to do inseason management of the primary and daily trip limit (DTL) fisheries. It also provides enforcement with the permit-specific landings data necessary to monitor overages in the primary (tier) and DTL sablefish fisheries, and could aid in enforcement of the owner-on-board requirement.

There are no significant alternatives to the rule that accomplish the stated objectives of applicable statutes and that minimize any of the significant economic impact of the final rule on small entities. However, Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule. The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide will be sent to all limited entry permit owners and holders, and all persons and entities that have requested information on groundfish management actions (i.e. persons and entities on the West Coast groundfish e-mail list serve), and will be posted on the NMFS West Coast Region website at <http://www.westcoast.fisheries.noaa.gov/>. With regards to new electronic fish ticket requirements, outreach and compliance guidance will also be available through the Pacific States Marine Fisheries Commission at <http://pacfin.psmfc.org/>.

Paperwork Reduction Act

This final rule contains the implementation of a Federal requirement for an electronic fish ticket to capture essential fishery catch data for commercial non-trawl sablefish fisheries (every

commercial fishery landing that includes any amount of sablefish) in a timely manner, which is a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). With regards to electronic fish tickets, this requirement has been approved by OMB as a new OMB collection (OMB collection 0648–0738). The public reporting burden is estimated to average 10 minutes per response. With regards to the ownership limitation exemption, this requirement has been approved by OMB as OMB collection 0648-0737. The public reporting burden is estimated to be 45 minutes per response. Send comments on the burden estimates or any other aspects of the collection of information to West Coast Region at the ADDRESSES above, by email to *OIRA_Submission@omb.eop.gov*, or by fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

The PRA (44 USC 3507) requires that agencies inventory and display a current control number assigned by the Director, Office of Management and Budget (OMB), for each agency information collection. § 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule adds requirements for scale test report recording and maintenance, §902.1(b) is revised to reference correctly the section resulting from this final rule.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 660

Fisheries, Fishing, and Indian fisheries.

Dated: November 15, 2016

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902 and 50 CFR part 660 are amended as follows:

Title 15 — Commerce and Foreign Trade

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, in the table in paragraph (b), under the entry “50 CFR”, revise the entries for “660.13”, “660.15”, “660.17”, “660.25”, “660.113”, and “660.140” to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control No. (All numbers begin with 0648-)
* * * * *	
50 CFR:	
* * * * *	
660.13	-0573, -0619, and -0738
* * * * *	
660.15	-0619 and -0738
* * * * *	
660.17	-0619 and -0738
* * * * *	
660.25	-0203, -0620, and -0737
* * * * *	
660.113	-0271, -0573, -0618, -0619, and -0737
* * * * *	
660.140	-0593, -0619, -0620, and -0737
* * * * *	

Title 50 — Wildlife and Fisheries

PART 660—FISHERIES OFF WEST COAST STATES

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

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

2. In § 660.11:

- a. Revise the definitions for “Base permit” and “Electronic fish ticket”;
- b. Add in alphabetical order the definition for “Joint registration”;
- c. Remove the definition for “Stacking”; and
- d. Add in alphabetical order the definition for “Stacking or stacked”.

The revisions and additions read as follows:

§ 660.11 General definitions.

* * * * *

Base permit means a sablefish-endorsed limited entry permit described at § 660.25(b)(3)(i), subpart C, registered for use with a vessel that meets the permit length endorsement requirements appropriate to that vessel, as described at § 660.25(b)(3)(iii), subpart C.

* * * * *

Electronic fish ticket means a web-based form that is used to send landing data to the Pacific States Marine Fisheries Commission. Electronic fish tickets are used to collect information similar to the information required in state fish receiving tickets or landing receipts, but do not replace or change any state requirements.

* * * * *

Joint registration or jointly registered means simultaneously registering both trawl-endorsed and longline or trap/pot-endorsed limited entry permits for use with a single vessel in one of the configurations described at § 660.25(b)(4)(iv).

* * * * *

Stacking or stacked means registering more than one sablefish-endorsed limited entry permit for use with a single vessel (See § 660.25(b)(4)(iii), subpart C).

* * * * *

3. In § 660.12, revise paragraph (a)(6) to read as follows:

§ 660.12 General groundfish prohibitions.

* * * * *

(a) * * * *

(6) Take and retain, possess, or land more than a single cumulative limit of a particular species, per vessel, per applicable cumulative limit period, except for sablefish taken in the

primary limited entry, fixed gear sablefish season from a vessel authorized to fish in that season, as described at § 660.231, subpart E.

* * * * *

4. In § 660.13, revise paragraph (d) introductory text and paragraphs (d)(5)(ii) and (iii) and (d)(5)(iv)(A)(24) to read as follows:

§ 660.13 Recordkeeping and reporting.

* * * * *

(d) *Declaration reporting requirements*- When the operator of a vessel registers a VMS unit with NMFS OLE, the vessel operator must provide NMFS with a declaration report as specified at paragraph (d)(5)(iv) of this section. The operator of any vessel that has already registered a VMS unit with NMFS OLE but has not yet made a declaration, as specified at paragraph (d)(5)(iv) of this section, must provide NMFS with a declaration report upon request from NMFS OLE.

(5) * * *

(ii) A declaration report will be valid until another declaration report revising the existing gear or fishery declaration is received by NMFS OLE. The vessel operator must send a new declaration report before leaving port on a trip that meets one of the following criteria:

(A) A gear type that is different from the gear type most recently declared for the vessel will be used, or

(B) A vessel will fish in a fishery other than the fishery most recently declared.

(iii) During the period of time that a vessel has a valid declaration report on file with NMFS OLE, it cannot fish with a gear other than a gear type declared by the vessel or fish in a fishery other than the fishery most recently declared.

(iv) * * *

(A) * * *

(24) Other, or

* * * * *

5. In § 660.15, revise paragraphs (a) and (d) to read as follows:

§ 660.15 Equipment requirements.

(a) *Applicability.* This section contains the equipment and operational requirements for scales used to weigh catch at sea, scales used to weigh catch at IFQ first receivers, hardware and software for electronic fish tickets, and computer hardware for electronic logbook software. Unless otherwise specified by regulation, the operator or manager must retain, for 3 years, a copy of all records described in this section and make the records available upon request to NMFS staff or an authorized officer.

* * * * *

(d) *Electronic fish tickets.* First receivers are required to meet the hardware and software requirements below.

(1) *Hardware and software requirements.* A personal computer system, tablet, mobile device, or other device that has software (e.g. web browser) capable of submitting information over the internet, such that submission to Pacific States Marine Fisheries Commission can be executed effectively.

(2) *Internet access.* The first receiver is responsible for maintaining internet access sufficient to access the web-based interface and submit completed electronic fish ticket forms.

(3) *Maintenance.* The first receiver is responsible for ensuring that all hardware and software required under this subsection are fully operational and functional whenever they

receive, purchase, or take custody, control, or possession of groundfish species for which an electronic fish ticket is required. “Functional” means that the software requirements and minimum hardware requirements described at paragraphs (d)(1) and (2) of this section are met and submission to Pacific States Marine Fisheries Commission can be executed effectively by the equipment.

(4) *Improving data quality.* Vessel owners and operators, first receivers, or shoreside processor owners, or managers may contact NMFS to request assistance in improving data quality and resolving issues. Requests may be submitted to: Attn: Electronic Fish Ticket Monitoring, National Marine Fisheries Service, West Coast Region, Sustainable Fisheries Division, 7600 Sand Point Way, NE, Seattle, WA 98115.

6. In § 660.25:

- a. Revise paragraph (b)(1)(v);
- b. Remove paragraph (b)(3)(iv)(B);
- c. Redesignate paragraph (b)(3)(iv)(C) as (b)(3)(iv)(B);
- d. Revise newly redesignated paragraphs (b)(3)(iv)(B)(3) and (4);
- e. Add new paragraph (b)(3)(iv)(C);
- f. Revise paragraphs (b)(3)(v), (b)(4) introductory text, (b)(4)(i)(D), and (b)(4)(iii);
- g. Redesignate paragraphs (b)(4)(iv) through (b)(4)(ix) as (b)(4)(v) through (b)(4)(x);
- h. Add a new paragraph (b)(4)(iv);
- i. Revise newly redesignated paragraphs (b)(4)(v)(A) and (B), (b)(4)(vi)(A) and (B), and (b)(4)(vii)(A); and
- j. Revise (b)(6).

The revisions and additions read as follows:

§ 660.25 Permits.

* * * * *

(b) * * *

(1) * * *

(v) *Initial administrative determination (IAD)*. SFD will make a determination regarding permit endorsements, renewal, replacement, change in permit ownership and change in vessel registration. SFD will notify the permit owner in writing with an explanation of any determination to deny a permit endorsement, renewal, replacement, change in permit ownership or change in vessel registration. The SFD will decline to act on an application for permit endorsement, renewal, replacement, or change in registration of a limited entry permit if the permit is subject to sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858 (a) and implementing regulations at 15 CFR part 904, subpart D, apply.

* * * * *

(3) * * *

(iv) * * *

(B) * * *

(3) A partnership or corporation will lose the exemptions provided in paragraphs (b)(3)(iv)(B)(I) and (2) of this section on the effective date of any change in the corporation or partnership from that which existed on November 1, 2000. A “change” in the partnership or corporation is defined at § 660.11. A change in the partnership or corporation must be reported to SFD within 15 calendar days of the addition of a new shareholder or partner.

(4) Any partnership or corporation with any ownership interest in a limited entry permit with a sablefish endorsement or in the vessel registered to the permit shall document the extent

of that ownership interest with NMFS via the Identification of Ownership Interest Form sent to the permit owner through the annual permit renewal process and whenever a change in permit owner, vessel owner, and/or vessel registration occurs as described at paragraph (b)(4)(v) and (vi) of this section. NMFS will not renew a sablefish-endorsed limited entry permit through the annual renewal process described at paragraph (b)(4)(i) of this section, or approve a change in permit owner, vessel owner, and/or vessel registration unless the Identification of Ownership Interest Form has been completed. Further, if NMFS discovers through review of the Identification of Ownership Interest Form that an individual person, partnership, or corporation owns or holds more than 3 permits and is not authorized to do so under paragraph (b)(3)(iv)(B)(2) of this section, the individual person, partnership or corporation will be notified and the permits owned or held by that individual person, partnership, or corporation will be void and reissued with the vessel status as “unidentified” until the permit owner owns and/or holds a quantity of permits appropriate to the restrictions and requirements described in paragraph (b)(3)(iv)(B)(2) of this section. If NMFS discovers through review of the Identification of Ownership Interest Form that a partnership or corporation has had a change in membership since November 1, 2000, as described in paragraph (b)(3)(iv)(B)(3) of this section, the partnership or corporation will be notified, NMFS will void any existing permits, and reissue any permits owned and/or held by that partnership or corporation in “unidentified” status with respect to vessel registration until the partnership or corporation is able to register ownership of those permits to persons authorized under this section to own sablefish-endorsed limited entry permits.

* * * * *

(C) *Ownership limitation exemption.* As described in (b)(3)(iv)(B) of this section, no individual person, partnership, or corporation in combination may own and/or hold more than

three sablefish-endorsed permits. A vessel owner that meets the qualifying criteria described in paragraph (b)(3)(iv)(C)(1) of this section may request an exemption from the ownership limitation.

(1) Qualifying criteria. The three qualifying criteria for an ownership limitation exemption are: the vessel owner currently has no more than 20 percent ownership interest in a vessel registered to the sablefish endorsed permit, the vessel owner currently has ownership interest in Alaska sablefish individual fishing quota, and the vessel has fished in the past 12-month period in both the West Coast groundfish limited entry fixed gear fishery and the Sablefish IFQ Program in Alaska. The best evidence of a vessel owner having met these qualifying criteria will be state fish tickets or landing receipts from the West Coast states and Alaska. The qualifying vessel owner may seek an ownership limitation exemption for sablefish endorsed permits registered to no more than two vessels.

(2) Application and issuance process for an ownership limitation exemption. The SFD will make the qualifying criteria and application instructions available online at www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html. A vessel owner who believes that they may qualify for the ownership limitation exemption must submit evidence with their application showing how their vessel has met the qualifying criteria described at paragraph (b)(3)(iv)(C)(1) of this section. The vessel owner must also submit a Sablefish Permit Ownership Limitation Exemption Identification of Ownership Interest form that includes disclosure of percentage of ownership in the vessel and disclosure of individual shareholders in any entity. Paragraph (i) of this section sets out the relevant evidentiary standards and burden of proof. Applications may be submitted at any time to NMFS at: NMFS West Coast Region, Sustainable Fisheries Division, ATTN: Fisheries Permit Office—Sablefish Ownership Limitation

Exemption, 7600 Sand Point Way NE., Seattle, WA 98115. After receipt of a complete application, the SFD will issue an IAD in writing to the applicant determining whether the applicant qualifies for the exemption. If an applicant chooses to file an appeal of the IAD, the applicant must follow the appeals process outlined at paragraph (g) of this section and, for the timing of the appeals, at paragraph (g)(4)(ii) of this section.

(3) *Exemption status.* If at any time a change occurs relative to the qualifying criteria described at paragraph (b)(3)(iv)(C)(I), the vessel owner to whom the ownership limitation exemption applies must notify NMFS within 30 calendar days. If such changes mean the vessel owner no longer meets the qualifying criteria, the ownership limitation exemption becomes automatically null and void 30 calendar days after the date the vessel owner no longer meets the qualifying criteria. At any time, NMFS may request that the vessel owner submit a new exemption application. If NMFS at any time finds the vessel owner no longer meets the qualifying criteria described at paragraph (b)(3)(iv)(C)(I) of this section NMFS will issue an IAD, which may be appealed, as described at paragraph (g) of this section.

(v) *MS/CV endorsement.* An MS/CV endorsement on a trawl limited entry permit conveys a conditional privilege that allows a vessel registered to it to fish in either the coop or non-coop fishery in the MS Coop Program described at § 660.150, subpart D. The provisions for the MS/CV-endorsed limited entry permit, including eligibility, renewal, change of permit ownership, vessel registration, combinations, accumulation limits, fees, and appeals are described at § 660.150. Each MS/CV endorsement has an associated catch history assignment (CHA) that is permanently linked as originally issued by NMFS and which cannot be divided or registered separately to another limited entry trawl permit. Regulations detailing this process and MS/CV-endorsed permit combinations are outlined in § 660.150(g)(2), subpart D.

* * * * *

(4) *Limited entry permit actions*—renewal, combination, stacking, joint registration, change of permit owner or vessel owner, and change in vessel registration—

(i) * * *

(D) Limited entry permits with sablefish endorsements, as described at paragraph (b)(3)(iv) of this section, will not be renewed until SFD has received complete documentation of permit ownership as required under paragraph (b)(3)(iv)(B)(4) of this section.

* * * * *

(iii) *Stacking limited entry permits*. “Stacking” limited entry permits, as defined at § 660.11, refers to the practice of registering more than one sablefish-endorsed permit for use with a single vessel. Only limited entry permits with sablefish endorsements may be stacked. Up to 3 limited entry permits with sablefish endorsements may be registered for use with a single vessel during the sablefish primary season described at § 660.231, subpart E. Privileges, responsibilities, and restrictions associated with stacking permits to fish in the sablefish primary fishery are described at § 660.231, subpart E and at paragraph (b)(3)(iv) of this section.

(iv) *Joint registration of limited entry permits*—(A) *General*. “Joint registration” of limited entry permits, as defined at § 660.11, is the practice of simultaneously registering both trawl-endorsed and longline or trap/pot-endorsed limited entry permits for use with a single vessel.

(B) *Restrictions*. Subject to vessel size endorsements in paragraph (b)(3)(iii), any limited entry permit with a trawl endorsement and any limited entry permit with a longline or trap/pot endorsement may be jointly registered for use with a single vessel but only in one of the following configurations:

(1) a single trawl-endorsed limited entry permit and one, two or three sablefish-endorsed fixed gear (longline and/or fishpot endorsed) limited entry permits; or

(2) a single trawl-endorsed limited entry permit and one longline-endorsed limited entry permit for use with a single vessel.

(v) * * *

(A) *General.* Change in permit owner and/or vessel owner applications must be submitted to NMFS with the appropriate documentation described at paragraphs (b)(4)(viii) and (ix) of this section. The permit owner may convey the limited entry permit to a different person. The new permit owner will not be authorized to use the permit until the change in permit owner has been registered with and approved by NMFS. NMFS will not approve a change in permit owner for a limited entry permit with a sablefish endorsement that does not meet the ownership requirements for such permit described at paragraph (b)(3)(iv)(B) of this section. NMFS will not approve a change in permit owner for a limited entry permit with an MS/CV endorsement or an MS permit that does not meet the ownership requirements for such permit described at § 660.150(g)(3), and § 660.150(f)(3), respectively. NMFS considers the following as a change in permit owner that would require registering with and approval by NMFS, including but not limited to: Selling the permit to another individual or entity; adding an individual or entity to the legal name on the permit; or removing an individual or entity from the legal name on the permit. A change in vessel owner includes any changes to the name(s) of any or all vessel owners, as registered with USCG or a state. The new owner(s) of a vessel registered to a limited entry permit must report any change in vessel ownership to NMFS within 30 calendar days after such change has been registered with the USCG or a state licensing agency.

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

* * * * *

(vi) * * *

(A) *General.* A permit may not be used with any vessel other than the vessel registered to that permit. For purposes of this section, a permit change in vessel registration occurs when, through SFD, a permit owner registers a limited entry permit for use with a new vessel. Permit change in vessel registration applications must be submitted to SFD with the appropriate documentation described at paragraph (b)(4)(viii) of this section. Upon receipt of a complete application, and following review and approval of the application, the SFD will reissue the permit registered to the new vessel. Applications to change vessel registration on limited entry permits with sablefish endorsements will not be approved until SFD has received complete documentation of permit ownership as described at paragraph (b)(3)(iv)(B)(4) and as required under paragraph (b)(4)(viii) of this section. Applications to change vessel registration on limited entry permits with trawl endorsements or MS permits will not be approved until SFD has received complete EDC forms as required under § 660.114, subpart D.

(B) *Application.* Change in vessel registration applications must be submitted to NMFS with the appropriate documentation described at paragraphs (b)(4)(viii) and (ix) of this section. At a minimum, a permit owner seeking to change vessel registration of a limited entry permit shall submit to NMFS a signed application form and his/her current limited entry permit before the first day of the cumulative limit period in which they wish to fish. If a permit owner provides

a signed application and current limited entry permit after the first day of a cumulative limit period, the permit will not be effective until the succeeding cumulative limit period. NMFS will not approve a change in vessel registration until it receives a complete application, the existing permit, a current copy of the USCG 1270, and other required documentation.

* * * * *

(vii) * * *

(A) *General.* A permit owner may designate the vessel registration for a permit as “unidentified,” meaning that no vessel has been identified as registered for use with that permit. No vessel is authorized to use a permit with the vessel registration designated as “unidentified.” A vessel owner who removes a permit from his vessel and registers that permit as “unidentified” is not exempt from VMS requirements at § 660.14, unless specifically authorized by that section. When a permit owner requests that the permit's vessel registration be designated as “unidentified,” the transaction is not considered a change in vessel registration for purposes of this section. Any subsequent request by a permit owner to change from the “unidentified” status of the permit in order to register the permit with a specific vessel will be considered a change in vessel registration and subject to the restriction on frequency and timing of changes in vessel registration.

* * * * *

(6) *At-sea processing exemptions—(i) Sablefish at-sea processing exemption.* No new applications for sablefish at-sea processing exemptions will be accepted. As specified at § 660.212(d)(3), subpart E, vessels are prohibited from processing sablefish at sea that were caught in the sablefish primary fishery without a sablefish at-sea processing exemption. Any sablefish at-sea processing exemptions were issued to a particular vessel and that permit and vessel owner

who requested the exemption. The exemption is not part of the limited entry permit. The exemption cannot be registered with any other vessel, vessel owner, or permit owner for any reason. The exemption only applies to at-sea processing of sablefish caught in the sablefish primary fishery. The sablefish at-sea processing exemption will expire upon registration of the vessel to a new owner or if the vessel is totally lost, as defined at § 660.11.

(ii) *Non-whiting at-sea processing exemption.* No new applications for non-whiting at-sea processing exemptions will be accepted. As specified at § 660.112(b)(1)(xii), subpart D, vessels are prohibited from processing non-whiting groundfish at sea that were caught in the Shorebased IFQ Program without a non-whiting at-sea processing exemption. Any non-whiting at-sea processing exemptions were issued to a particular vessel and that permit and/or vessel owner who requested the exemption. The exemption is not part of the limited entry permit. The exemption is not transferable to any other vessel, vessel owner, or permit owner for any reason. The exemption only applies to at-sea processing of non-whiting groundfish caught in the Shorebased IFQ Program. The non-whiting at-sea processing exemption will expire upon registration of the vessel to a new owner or if the vessel is totally lost, as defined at § 660.11.

* * * * *

7. In § 660.55, revise paragraph (f) introductory text and paragraphs (h)(1) and (2) to read as follows:

§ 660.55 Allocations.

* * * * *

(f) *Catch accounting.* Catch accounting refers to how the catch in a fishery is monitored against the allocations described in this section. For species with trawl/nontrawl allocations, catch of those species are counted against the trawl/nontrawl allocations as explained in

paragraph (f)(1) of this section. For species with limited entry/open access allocations in a given biennial cycle, catch of those species are counted against the limited entry/open access allocations as explained in paragraph (f)(1)(ii) of this section.

* * * * *

(h) * * *

(1) *Tribal/nontribal allocation.* The sablefish allocation to Pacific coast treaty Indian tribes is identified at § 660.50(f)(2). The remainder is available to the nontribal fishery (limited entry, open access (directed and incidental), and research).

(2) *Between the limited entry and open access fisheries.* The allocation of sablefish after tribal deductions is further reduced by the estimated total mortality of sablefish in research and recreational fisheries; the remaining yield (commercial harvest guideline) is divided between open access and limited entry fisheries. The limited entry fishery allocation is 90.6 percent of the commercial harvest guideline. The open access allocation is 9.4 percent of the commercial harvest guideline and includes incidental catch in non-groundfish fisheries, or incidental open access.

* * * * *

8. In § 660.60:

a. Revise paragraphs (h)(7) introductory text, (h)(7)(i) introductory text, (h)(7)(ii)(A), (h)(7)(ii)(B)(1) introductory text, and (h)(7)(ii)(B)(2); and

b. Add paragraphs (h)(7)(ii)(B)(3) and (h)(7)(iii).

The revisions and additions read as follows:

§ 660.60 Specifications and management measures.

* * * * *

(h) * * *

* * * * *

(7) *Crossover provisions.* Crossover provisions apply to three activities: Fishing on different sides of a management line, or fishing in both the limited entry and open access fisheries, or fishing in both the Shorebased IFQ Program and the limited entry fixed gear fishery. NMFS uses different types of management areas for West Coast groundfish management, such as the north-south management areas as defined in § 660.11. Within a management area, a large ocean area with northern and southern boundary lines, trip limits, seasons, and conservation areas follow a single theme. Within each management area, there may be one or more conservation areas, defined at §§ 660.11 and 660.70 through 660.74. The provisions within this paragraph apply to vessels fishing in different management areas. Crossover provisions also apply to vessels that fish in both the limited entry and open access fisheries, or that use open access non-trawl gear while registered to limited entry fixed gear permits. Crossover provisions also apply to vessels that are jointly registered, as defined at § 660.11, fishing in both the Shorebased IFQ Program and the limited entry fixed gear fishery during the same cumulative limit period. Fishery specific crossover provisions can be found in subparts D through F of this part.

(i) *Fishing in management areas with different trip limits.* Trip limits for a species or a species group may differ in different management areas along the coast. The following crossover provisions apply to vessels fishing in different geographical areas that have different cumulative or “per trip” trip limits for the same species or species group, with the following exceptions. Such crossover provisions do not apply to: IFQ species (defined at § 660.140(c), subpart D) for vessels that are declared into the Shorebased IFQ Program (see § 660.13(d)(5)(iv)(A), for valid

Shorebased IFQ Program declarations); species that are subject only to daily trip limits; or to trip limits for black rockfish off Washington, as described at §§ 660.230(e) and 660.330(e).

* * * * *

(ii) * * *

(A) *Fishing in limited entry and open access fisheries with different trip limits.* Open access trip limits apply to any fishing conducted with open access gear, even if the vessel has a valid limited entry permit with an endorsement for another type of gear. Except such provisions do not apply to IFQ species (defined at § 660.140(c), subpart D) for vessels that are declared into the Shorebased IFQ Program (see § 660.13(d)(5)(iv)(A) for valid Shorebased IFQ Program declarations). A vessel that fishes in both the open access and limited entry fisheries is not entitled to two separate trip limits for the same species. If a vessel has a limited entry permit registered to it at any time during the trip limit period and uses open access gear, but the open access limit is smaller than the limited entry limit, the open access limit may not be exceeded and counts toward the limited entry limit. If a vessel has a limited entry permit registered to it at any time during the trip limit period and uses open access gear, but the open access limit is larger than the limited entry limit, the smaller limited entry limit applies, even if taken entirely with open access gear.

(B) * * *

(1) *Vessel registered to a limited entry trawl permit.* To fish with open access gear, defined at § 660.11, a vessel registered to a limited entry trawl permit must make the appropriate fishery declaration, as specified at § 660.14(d)(5)(iv)(A). In addition, a vessel registered to a limit entry trawl permit must remove the permit from their vessel, as specified at §

660.25(b)(4)(vi), unless the vessel will be fishing in the open access fishery under one of the following declarations specified at § 660.13(d):

* * * * *

(2) *Vessel registered to a limited entry fixed gear permit(s).* To fish with open access gear, defined at § 660.11, subpart C, a vessel registered to a limit entry fixed gear permit must make the appropriate open access declaration, as specified at § 660.14(d)(5)(iv)(A). Vessels registered to a sablefish-endorsed permit(s) fishing in the sablefish primary season (described at § 660.231, subpart E) may only fish with the gear(s) endorsed on their sablefish-endorsed permit(s) against those limits.

(3) *Vessel jointly registered to more than one limited entry permit.* Vessels jointly registered (under the provisions at § 660.25(b)(4)(iv)(B)) may fish with open access gear (defined at § 660.11) if they meet the requirements of both paragraphs (h)(7)(ii)(B)(1) and (2) of this section.

(iii) *Fishing in both the Shorebased IFQ Program and the limited entry fixed gear fishery for vessels that are jointly registered.*

(A) *Fishing in the Shorebased IFQ Program and limited entry fixed gear fishery with different trip limits.* If a vessel fishes in both the Shorebased IFQ Program and the limited entry fixed gear fishery during a cumulative limit period, they are subject to the most restrictive trip limits for non-IFQ species.

(B) *Fishing in the Shorebased IFQ Program and the limited entry fixed gear sablefish primary fishery with different trip limits.* If a vessel is jointly registered and one or more of the limited entry permits is sablefish endorsed, any sablefish landings made by a vessel declared into the limited entry fixed gear fishery after the start of the sablefish primary fishery count towards

the tier limit(s), per regulations at § 660.232(a)(2), subpart E. Any sablefish landings made by a vessel declared into the Shorebased IFQ Program must be covered by quota pounds, per regulations at § 660.112(b), subpart D, and will not count towards the tier limit(s).

9. In § 660.112:

- a. Revise paragraphs (a)(3)(i) and (ii);
- b. Remove paragraph (b)(1)(xii)(B); and
- c. Redesignate paragraph (b)(1)(xii)(C) as (b)(1)(xii)(B).

The revisions read as follows:

§ 660.112 Trawl fishery—prohibitions.

* * * * *

(a) * * *

(3) * * *

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

(ii) Falsify or fail to make and/or file, retain or make available any and all reports of groundfish landings, containing all data, and in the exact manner, required by the regulation at § 660.13, subpart C, or § 660.113.

* * * * *

10. In § 660.113:

- a. Revise paragraphs (a)(2) and (b)(4)(ii)(A);
- b. Remove paragraphs (b)(4)(ii)(B) and (C) and redesignate paragraphs (b)(4)(ii)(D) through (F) as (b)(4)(ii)(B) through (D);

c. Revise newly redesignated paragraphs (b)(4)(ii)(C)(5) introductory text and (b)(4)(ii)(C)(6); and

d. Revise paragraphs (b)(4)(iii) and (v).

The revisions read as follows:

§ 660.113 Trawl fishery—recordkeeping and reporting.

* * * * *

(a) * * *

(2) All records used in the preparation of records or reports specified in this section or corrections to these reports must be maintained for a period of not less than three years after the date of landing and must be immediately available upon request for inspection by NMFS or authorized officers or others as specifically authorized by NMFS. Records used in the preparation of required reports specified in this section or corrections to these reports that are required to be kept include, but are not limited to, any written, recorded, graphic, electronic, or digital materials as well as other information stored in or accessible through a computer or other information retrieval system; worksheets; weight slips; preliminary, interim, and final tally sheets; receipts; checks; ledgers; notebooks; diaries; spreadsheets; diagrams; graphs; charts; tapes; disks; or computer printouts. All relevant records used in the preparation of electronic fish ticket reports or corrections to these reports, including dock tickets, must be maintained for a period of not less than three years after the date of landing and must be immediately available upon request for inspection by NMFS or authorized officers or others as specifically authorized by NMFS.

(b) * * *

(4) * * *

(ii) * * *

(A) Include, as part of each electronic fish ticket submission, the actual scale weight for each groundfish species as specified by requirements at § 660.15(c), and the vessel identification number. Use, and maintain in good working order, hardware, software, and internet access as specified at § 660.15(d).

* * * * *

(C) * * *

(5) Prior to submittal, three copies of the printed, signed, electronic fish ticket must be produced by the IFQ first receiver and a copy provided to each of the following:

* * * * *

(6) After review and signature, the electronic fish ticket must be submitted within 24 hours of the completion of the offload, as specified in paragraph (b)(4)(ii)(B) of this section.

* * * * *

(iii) *Revising a submission.* In the event that a data error is found, electronic fish ticket submissions must be revised by resubmitting the revised form electronically. Electronic fish tickets are to be used for the submission of final data. Preliminary data, including estimates of fish weights or species composition, shall not be submitted on electronic fish tickets.

* * * * *

(v) *Reporting requirements when a temporary waiver has been granted.* IFQ first receivers that have been granted a temporary waiver from the requirement to submit electronic fish tickets must submit on paper the same data as is required on electronic fish tickets within 24 hours of the date received during the period that the waiver is in effect. Paper fish tickets must be sent by facsimile to NMFS, West Coast Region, Sustainable Fisheries Division, 206-526-6736 or

by delivering it in person to 7600 Sand Point Way, NE., Seattle, WA 98115. The requirements for submissions of paper tickets in this paragraph are separate from, and in addition to existing state requirements for landing receipts or fish receiving tickets.

* * * * *

§ 660.114 [Amended]

11. Amend § 660.114(b) by removing the words “§ 660.25(b)(4)(v)” wherever they appear and adding in their place the words “§ 660.25(b)(4)(vi)”.

12. In § 660.212, revise paragraph (a)(2), add paragraphs (a)(3) through (5), and revise paragraphs (b) and (d)(1) and (2) to read as follows:

§ 660.212 Fixed gear fishery—prohibitions.

* * * * *

(a) * * *

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

(3) Transport fish, if that fish includes any amount of sablefish, away from the point of landing before being sorted and weighed by federal groundfish species or species group, and recorded for submission on an electronic fish ticket under § 660.213(e). (If fish will be transported to a different location for processing, all sorting and weighing to federal groundfish species groups must occur before transporting the fish away from the point of landing).

(4) Mix fish from more than one landing, where one or more of the landings includes any sablefish, prior to the fish being sorted and weighed for reporting on an electronic fish ticket under § 660.213(e).

(5) Process, sell, or discard any fish, if that fish includes any amount of sablefish, that has not been accounted for on an electronic fish ticket under § 660.213(e).

(b) *Recordkeeping and reporting.* (1) Fail to comply with all recordkeeping and reporting requirements at § 660.13, subpart C; including failure to submit information, or submission of inaccurate or false information on any report required at § 660.13(d), subpart C, and § 660.213.

(2) Falsify or fail to make and/or file, retain or make available any and all reports of groundfish landings that include sablefish, containing all data, and in the exact manner, required by the regulation at § 660.13, subpart C, or § 660.213.

* * * * *

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

(2) Take and retain, possess or land sablefish in the sablefish primary season, described at § 660.231(b), unless the owner of the limited entry permit registered for use with that vessel and authorizing the vessel to fish in the sablefish primary season is on board that vessel. Exceptions to this prohibition are provided at § 660.231(b)(4)(i) and (ii).

* * * * *

13. In § 660.213, revise paragraph (d)(1) and add paragraph (e) to read as follows:

§ 660.213 Fixed gear fishery—recordkeeping and reporting.

* * * * *

(d) * * *

(1) Any person landing groundfish must retain on board the vessel from which groundfish are landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable state law throughout the cumulative limit period during which a landing occurred and for 15 days thereafter. All relevant records used in the preparation of electronic fish ticket reports or corrections to these reports, including dock tickets, must be maintained for a period of not less than three years after the date of landing and must be immediately available upon request for inspection by NMFS or authorized officers or others as specifically authorized by NMFS.

* * * * *

(e) *Electronic fish ticket.* The first receiver, as defined at § 660.11, subpart C, of fish, if that fish includes any amount of sablefish, from a limited entry fixed gear vessel, is responsible for compliance with all reporting requirements described in this paragraph. Per requirements at § 660.212(a), all fish, if that fish includes any amount of sablefish, must be reported via electronic fish ticket. When used in this paragraph, submit means to transmit final electronic fish ticket information via web-based form or, if a waiver is granted, by paper form. When used in this paragraph, record means the action of documenting electronic fish ticket information in any written format.

(1) *Required information.* All first receivers must provide the following types of information: Date of landing, vessel that made the landing, vessel identification number, limited entry permit number(s), name of the vessel operator, gear type used, receiver, actual weights of species landed listed by species or species group including species with no value, condition landed, number of salmon by species, number of Pacific halibut, ex-vessel value of the landing

by species, fish caught inside/outside 3 miles or both, and any other information deemed necessary by the Regional Administrator (or designee) as specified on the appropriate electronic fish ticket form.

(2) *Submissions.* The first receiver must:

(i) Include, as part of each electronic fish ticket submission, the actual scale weight for each groundfish species as specified by requirements at § 660.15(c), the vessel identification number, and the limited entry permit number. Use and maintain, for the purposes of submitting electronic fish tickets, equipment as specified at § 660.15(d).

(ii) Submit a completed electronic fish ticket(s) no later than 24 hours after the date of landing, unless a waiver of this requirement has been granted under provisions specified at paragraph (e)(4) of this section.

(iii) Sablefish from a single landing in the limited entry fixed gear sablefish primary fishery may be counted against more than one stacked permit, or against a tier limit(s) and the cumulative trip limit in the DTL fishery. For vessels with stacked limited entry sablefish permits, defined at § 660.12, sablefish may be divided for the purposes of apportioning the sablefish amongst the remaining tier limits associated with each of the stacked permits; in that instance the electronic fish ticket(s) must record all pertinent limited entry permit numbers and apportion sablefish landed against each tier limit. Per regulations at § 660.232(a)(2) a vessel may apportion sablefish catch between the remainder of its tier limit(s) and against the applicable DTL limits; in that instance the electronic fish ticket must be used to apportion sablefish landed against the tier(s) from the sablefish landed against cumulative trip limits of the DTL fishery. If sablefish is apportioned in either of the ways described in this paragraph, the electronic fish ticket must meet the process and submittal requirements specified in paragraphs (e)(iv) and (v) of this section. In

addition, the owner-on-board, unless exempted under regulations at § 660.231(a)(4), must review and sign documentation of the landing, as described in paragraphs (e)(2)(iv) and (v) of this section.

(iv) If electronic fish tickets will be submitted prior to processing or transport, follow these process and submittal requirements:

(A) After completing the landing, the electronic fish ticket information must be recorded immediately.

(B) Prior to submittal of the electronic fish ticket, the information recorded for the electronic fish ticket must be reviewed by the vessel operator who delivered the fish and the port sampler, if one is present. If required by regulations at § 660.231(a)(4), the owner-on-board must also review the information recorded on the electronic fish ticket prior to submittal.

(C) After review, the receiver and the vessel operator must sign a printed hard copy of the electronic fish ticket or, if the landing occurs outside of business hours, the original dock ticket. If required by regulations at § 660.231(a)(4), the owner-on-board must also sign a printed copy of the electronic fish ticket or, if the landing occurs outside of business hours, the original dock ticket.

(D) Prior to submittal, three copies of the signed electronic fish ticket must be produced by the receiver and a copy provided to each of the following:

- (1) The vessel operator and/or the owner-on-board,
- (2) The state of origin if required by state regulations, and
- (3) The first receiver.

(E) After review and signature, the electronic fish ticket must be submitted within 24 hours after the date of landing, as specified in paragraph (e)(2)(ii) of this section.

(v) If electronic fish tickets will be submitted after transport, follow these process and submittal requirements:

(A) The vessel name, limited entry permit number, and the electronic fish ticket number must be recorded on each dock ticket related to that landing.

(B) Upon completion of the dock ticket, but prior to transfer of the landing to another location, the dock ticket information that will be used to complete the electronic fish ticket must be reviewed by the vessel operator who delivered the fish. If the electronic fish ticket will report landings of sablefish in the sablefish primary fishery, the owner-on-board, unless exempted under regulations at § 660.231(a)(4), must review the information recorded on the dock ticket prior to transfer of the landing to another location.

(C) After review, the first receiver and the vessel operator must sign the original copy of each dock ticket related to that landing. If a dock ticket includes landings of sablefish in the sablefish primary fishery, the owner-on-board, unless exempted under regulations at § 660.231(a)(4), must sign the original copy of that dock ticket.

(D) Prior to submittal of the electronic fish ticket, three copies of the signed dock ticket must be produced by the first receiver and a copy provided to each of the following:

- (1) The vessel operator and/or the owner-on-board,
- (2) The state of origin if required by state regulations, and
- (3) The first receiver.

(E) Based on the information contained in the signed dock ticket, the electronic fish ticket must be completed and submitted within 24 hours of the completion of the landing, as specified in paragraph (e)(2)(ii) of this section.

(F) Three copies of the electronic fish ticket must be produced by the first receiver and a copy provided to each of the following:

- (1) The vessel operator and/or the owner-on-board,
- (2) The state of origin if required by state regulations, and
- (3) The first receiver.

(3) *Revising a submission.* In the event that a data error is found, electronic fish ticket submissions must be revised by resubmitting the revised form electronically. Electronic fish tickets are to be used for the submission of final data. Preliminary data, including estimates of fish weights or species composition, shall not be submitted on electronic fish tickets.

(4) *Waivers for submission.* On a case-by-case basis, a temporary written waiver of the requirement to submit electronic fish tickets may be granted by the Assistant Regional Administrator or designee if he/she determines that circumstances beyond the control of a receiver would result in inadequate data submissions using the electronic fish ticket system. The duration of the waiver will be determined on a case-by-case basis.

(5) *Reporting requirements when a temporary waiver has been granted.* Receivers that have been granted a temporary waiver from the requirement to submit electronic fish tickets must submit on paper the same data as is required on electronic fish tickets within 24 hours of the date received during the period that the waiver is in effect. Paper fish tickets must be sent by facsimile to NMFS, West Coast Region, Sustainable Fisheries Division, 206-526-6736 or by delivering it in person to 7600 Sand Point Way, NE., Seattle, WA 98115. The requirements for submissions of paper tickets in this paragraph are separate from, and in addition to existing state requirements for landing receipts or fish receiving tickets.

14. In § 660.231, revise paragraphs (a), (b)(1) through (3), and (b)(4) introductory text to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(a) *Sablefish endorsement.* In addition to requirements pertaining to fishing in the limited entry fixed gear fishery (described in subparts C and E), a vessel may not fish in the sablefish primary season for the limited entry fixed gear fishery, unless at least one limited entry permit with both a gear endorsement for longline or trap (or pot) gear and a sablefish endorsement is registered for use with that vessel. Permits with sablefish endorsements are assigned to one of three tiers, as described at § 660.25(b)(3)(iv), subpart C.

(b) * * *

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

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

(3) *Cumulative limits.* (i) A vessel fishing in the primary season will be constrained by the sablefish cumulative limit associated with each of the sablefish endorsed 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 sablefish endorsed permits registered for use with that vessel. If a vessel is stacking permits, 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 sablefish endorsed permits may be stacked 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. Per regulations at § 660.12(a)(6), subpart C, all other groundfish landings are subject to per vessel trip limits. In 2015, the following annual limits are in effect: Tier 1 at 41,175 (18,677 kg), Tier 2 at 18,716 lb (8,489 kg), and Tier 3 at 10,695 lb (4,851 kg). For 2016 and beyond, the following annual limits are in effect: Tier 1 at 45,053 lb (20,436 kg), Tier 2 at 20,479 lb (9,289 kg), and Tier 3 at 11,702 lb (5,308 kg).

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

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

(iv) *Incidental Pacific halibut retention north of Pt. Chehalis, WA (46°53.30' N. lat.).*
From April 1 through October 31, vessels authorized to participate in the sablefish primary

fishery, licensed by the International Pacific Halibut Commission for commercial fishing in Area 2A (waters off Washington, Oregon, California), and fishing with longline gear north of Pt. Chehalis, WA (46°53.30' N. lat.) may possess and land up to the following cumulative limits: 110 lb (50 kg) dressed weight of Pacific halibut for every 1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional Pacific halibut in excess of the 110-pounds-per-1,000-pound ratio per landing. “Dressed” Pacific halibut in this area means halibut landed eviscerated with their heads on. Pacific halibut taken and retained in the sablefish primary fishery north of Pt. Chehalis may only be landed north of Pt. Chehalis and may not be possessed or landed south of Pt. Chehalis.

(4) *Owner-on-board requirement.* Any person who owns or has ownership interest in a limited entry permit with a sablefish endorsement, as described at § 660.25(b)(3), subpart C, must be on board the vessel registered for use with that permit at any time that the vessel has sablefish on board the vessel that count toward that permit's cumulative sablefish landing limit. This person must carry government issued photo identification while aboard the vessel. This person must review and sign a printed copy of the electronic fish ticket(s) or dock ticket, as described at § 660.213(d), unless this person qualified for the owner-on-board exemption. A permit owner is qualified for the owner-on-board exemption and not obligated to be on board the vessel registered for use with the sablefish-endorsed limited entry permit during the sablefish primary season if:

* * * * *

15. Section 660.232 is revised to read as follows:

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

(a) *Limited entry DTL fisheries both north and south of 36° N. lat.* (1) Before the start of the sablefish primary season, all sablefish landings made by a vessel declared into the limited entry fixed gear fishery and authorized by § 660.231(a) to fish in the sablefish primary season will be subject to the restrictions and limits of the limited entry DTL fishery for sablefish specified in this section and which is governed by routine management measures imposed under § 660.60(c), subpart C.

(2) Following the start of the primary season, all sablefish landings made by a vessel declared into the limited entry fixed gear fishery and authorized by § 660.231(a) to fish in the primary season will count against the primary season cumulative limit(s) associated with the sablefish-endorsed permit(s) registered for use with that vessel. A vessel that is eligible to fish in the sablefish primary season may fish in the DTL fishery for sablefish once that vessels' primary season sablefish limit(s) have been landed, or after the close of the primary season, whichever occurs earlier (as described at § 660.231(b)(1)). If the vessel continues to fish in the limited entry fixed gear fishery for any part of the remaining fishing year, any subsequent sablefish landings by that vessel will be subject to the restrictions and limits of the limited entry DTL fishery for sablefish.

(3) Vessels registered for use with a limited entry fixed gear permit that does not have a sablefish endorsement may fish in the limited entry DTL fishery, consistent with regulations at § 660.230, for as long as that fishery is open during the fishing year, subject to routine management measures imposed under § 660.60(c), Subpart C. DTL limits for the limited entry fishery north and south of 36° N. lat. are provided in Tables 2 (North) and 2 (South) of this subpart.

(b) A vessel that is jointly registered, and has participated or will participate in both the limited entry fixed gear fishery and the Shorebased IFQ Program during the fishing year, is subject to crossover provisions described at § 660.60(h)(7), subpart C.

16. In § 660.312:

- a. Add paragraphs (a)(3) through (5);
- b. Redesignate paragraphs (b) and (c) as (c) and (d); and
- c. Add a new paragraph (b).

The additions read as follows:

§ 660.312 Open access fishery—prohibitions.

* * * * *

(a) * * *

(3) Transport fish, if that fish includes any amount of sablefish, away from the point of landing before being sorted and weighed by federal groundfish species or species group, and recorded for submission on an electronic fish ticket under § 660.313(f). (If fish will be transported to a different location for processing, all sorting and weighing to federal groundfish species groups must occur before transporting the fish away from the point of landing).

(4) Mix fish from more than one landing, where one or more of the landings includes any amount of sablefish, prior to the fish being sorted and weighed for reporting on an electronic fish ticket under § 660.313(f).

(5) Process, sell, or discard any fish if that fish includes any amount of sablefish, that has not been accounted for on an electronic fish ticket under § 660.313(f).

(b) *Recordkeeping and reporting.* (1) Fail to comply with all recordkeeping and reporting requirements at § 660.13, subpart C, including failure to submit information, or submission of inaccurate or false information on any report required at § 660.13(d), subpart C, and § 660.313.

(2) Falsify or fail to make and/or file, retain or make available any and all reports of groundfish landings that include sablefish, containing all data, and in the exact manner, required by the regulation at § 660.13, subpart C, or § 660.313.

* * * * *

17. Section 660.313 is revised to read as follows:

§ 660.313 Open access fishery—recordkeeping and reporting.

(a) *General.* General reporting requirements specified at § 660.13(a) through (c), subpart C, apply to the open access fishery.

(b) *Declaration reports for vessels using nontrawl gear.* Declaration reporting requirements for open access vessels using nontrawl gear (all types of open access gear other than non-groundfish trawl gear) are specified at § 660.13(d), subpart C.

(c) *Declaration reports for vessels using non-groundfish trawl gear.* Declaration reporting requirements for open access vessels using non-groundfish trawl gear are specified at § 660.13(d), subpart C.

(d) *VMS requirements for open access fishery vessels.* VMS requirements for open access fishery vessels are specified at § 660.14, subpart C.

(e) *Retention of records.* Any person landing groundfish must retain on board the vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable state law throughout the cumulative limit period during which a landing

occurred and for 15 days thereafter. All relevant records used in the preparation of electronic fish ticket reports or corrections to these reports, including dock tickets, must be maintained for a period of not less than three years after the date of landing and must be immediately available upon request for inspection by NMFS or authorized officers or others as specifically authorized by NMFS.

(f) *Electronic fish ticket.* The first receiver, as defined at § 660.11, subpart C, of fish, if that fish includes any amount of sablefish, from an open access vessel, is responsible for compliance with all reporting requirements described in this paragraph. Per requirements at § 660.312 (a), all fish, if that fish includes any amount of sablefish, must be reported via electronic fish ticket. When used in this paragraph, submit means to transmit final electronic fish ticket information via web-based form or, if a waiver is granted, by paper form. When used in this paragraph, record means the action of documenting electronic fish ticket information in any written format.

(1) *Required information.* All first receivers must provide the following types of information: Date of landing, vessel that made the landing, vessel identification number, name of the vessel operator, gear type used, receiver, actual weights of species landed listed by species or species group including species with no value, condition landed, number of salmon by species, number of Pacific halibut, ex-vessel value of the landing by species, fish caught inside/outside 3 miles or both, and any other information deemed necessary by the Regional Administrator (or designee) as specified on the appropriate electronic fish ticket form.

(2) *Submissions.* The first receiver must:

(i) Include, as part of each electronic fish ticket submission, the actual scale weight for each groundfish species as specified by requirements at § 660.15(c) and the vessel identification

number. Use and maintain, for the purposes of submitting electronic fish tickets, equipment as specified at § 660.15(d).

(ii) Submit a completed electronic fish ticket no later than 24 hours after the date of landing, unless a waiver of this requirement has been granted under provisions specified at paragraph (f)(4) of this section.

(iii) If electronic fish tickets will be submitted prior to processing or transport, follow these process and submittal requirements:

(A) After completing the landing, the electronic fish ticket information must be recorded immediately.

(B) Prior to submittal of the electronic fish ticket, the information recorded for the electronic fish ticket must be reviewed by the vessel operator who delivered the fish and the port sampler, if one is present.

(C) After review, the receiver and the vessel operator must sign a printed hard copy of the electronic fish ticket or, if the landing occurs outside of business hours, the original dock ticket.

(D) Prior to submittal, three copies of the signed electronic fish ticket must be produced by the receiver and a copy provided to each of the following:

(1) The vessel operator,

(2) The state of origin if required by state regulations, and

(3) The first receiver.

(E) After review and signature, the electronic fish ticket must be submitted within 24 hours after the date of landing, as specified in paragraph (f)(2)(ii) of this section.

(iv) If electronic fish tickets will be submitted after transport, follow these process and submittal requirements:

(A) The vessel name and the electronic fish ticket number must be recorded on each dock ticket related to that landing.

(C) Upon completion of the dock ticket, but prior to transfer of the offload to another location, the dock ticket information that will be used to complete the electronic fish ticket must be reviewed by the vessel operator who delivered the fish.

(D) After review, the first receiver and the vessel operator must sign the original copy of each dock ticket related to that landing.

(E) Prior to submittal of the electronic fish ticket, three copies of the signed dock ticket must be produced by the first receiver and a copy provided to each of the following:

- (1) The vessel operator,
- (2) The state of origin if required by state regulations, and
- (3) The first receiver.

(F) Based on the information contained in the signed dock ticket, the electronic fish ticket must be completed and submitted within 24 hours of the date of landing, as specified in paragraph (f)(2)(ii) of this section.

(G) Three copies of the electronic fish ticket must be produced by the first receiver and a copy provided to each of the following:

- (1) The vessel operator,
- (2) The state of origin if required by state regulations, and
- (3) The first receiver.

(3) *Revising a submission.* In the event that a data error is found, electronic fish ticket submissions must be revised by resubmitting the revised form electronically. Electronic fish

tickets are to be used for the submission of final data. Preliminary data, including estimates of fish weights or species composition, shall not be submitted on electronic fish tickets.

(4) *Waivers for submission.* On a case-by-case basis, a temporary written waiver of the requirement to submit electronic fish tickets may be granted by the Assistant Regional Administrator or designee if he/she determines that circumstances beyond the control of a receiver would result in inadequate data submissions using the electronic fish ticket system. The duration of the waiver will be determined on a case-by-case basis.

(5) *Reporting requirements when a temporary waiver has been granted.* Receivers that have been granted a temporary waiver from the requirement to submit electronic fish tickets must submit on paper the same data as is required on electronic fish tickets within 24 hours of the date of landing during the period that the waiver is in effect. Paper fish tickets must be sent by facsimile to NMFS, West Coast Region, Sustainable Fisheries Division, 206-526-6736 or by delivering it in person to 7600 Sand Point Way, NE., Seattle, WA 98115. The requirements for submissions of paper tickets in this paragraph are separate from, and in addition to existing state requirements for landing receipts or fish receiving tickets.

[FR Doc. 2016-28153 Filed: 11/22/2016 8:45 am; Publication Date: 11/23/2016]