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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 190913-0028]

RIN 0648-BJ21

**Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast
Groundfish Fishery; 2019-2020 Biennial Specifications and Management Measures;
Correction**

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

ACTION: Final rule; correcting amendments.

SUMMARY: This action contains corrections to the final rules related to 2019-2020 Biennial Harvest Specifications and Management Measures for groundfish harvested in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California published on December 12, 2018, and May 10, 2019. These corrections are necessary so the regulations accurately implement the Pacific Fishery Management Council's intent.

DATES: This correction is effective [*INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Brian Hooper, phone: 206-526-6117 or e-mail: *brian.hooper@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS published a final rule on December 12, 2018, (83 FR 63970), that implemented the 2019–2020 harvest specifications and management

measures for groundfish harvested in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California. That final rule was effective January 1, 2019. After publication of the final rule, the need for four corrections was noted by NMFS.

This action corrects: (1) the definition of groundfish for nearshore rockfish south of 40°10' N. latitude; (2) the depth restrictions in the Cowcod Conservation Area; (3) language describing the use of small footrope gear inside the Columbia and Klamath River Salmon Conservation Zones; and (4) the 2019 yellowtail rockfish allocations north of 40°10' N latitude.

Corrections

The final rule for the 2019–2020 groundfish harvest specifications and management measures (83 FR 63970; December 12, 2018) contained an error in the amendatory instructions for the definition of “Groundfish” in 50 CFR 660.11. In adding new subparagraphs to describe stock complex changes, the portion of the definition for nearshore rockfish south of 40°10' N. latitude was inadvertently deleted. This rule restores the deleted text. The substance of the text is unchanged from what was previously in the regulations.

The final rule contained a revision to the depth boundary within which commercial fixed gear and recreational gear is allowed to operate in the Western Cowcod Conservation Area. Fishing was permitted shoreward of the 20 fathom (fm) (36.6 m) depth contour prior to the 2019-2020 biennial harvest specifications final rule. The final rule revised the depth boundary to allow fishing shoreward of the 40 fm (73 m) depth contour. In the regulations for this change at §§ 660.230(d)(10)(ii) and 660.330(d)(11)(ii), NMFS did not explicitly describe how the 40 fm (73 m) depth contour is delineated, or cross reference the depth contour definition in existing regulations. This rule corrects these regulations to note that a coordinate list describing the 40 fm (73 m) depth contour can be found in § 660.71.

The final rule also contained an error at § 660.130(c)(2)(iii) when describing use of small footrope gear inside the Columbia and Klamath River Salmon Conservation Zones. In the rule, NMFS inadvertently substituted the word “required” for “prohibited” when describing the use of selective flatfish trawl (SFFT), a type of small footrope trawl gear, in the area. The final rule for a separate action, revising Federal regulations that restricted the use and configuration of bottom and midwater trawl gear for vessels fishing under the Pacific Coast Groundfish Fishery's Trawl Rationalization Program (83 FR 62269; December 3, 2018), also erroneously used the word “required” rather than “prohibited.” Language describing the use of small footrope trawl gear, inside the Columbia and Klamath River Salmon Conservation Zones is being corrected to state that small footrope trawl gears other than SFFT are “prohibited,” consistent with the Pacific Fishery Management Council’s intent for regulations in this area.

The final rule for Annual Specifications and Management Measures for the 2019 Tribal and Non-Tribal Fisheries for Pacific Whiting (84 FR 20578; May 10, 2019) inadvertently changed the yellowtail rockfish allocation north of 40°10' N latitude at Table 1b to Part 600, Subpart C. The Pacific Whiting specifications final rule incorrectly stated the yellowtail rockfish fishery harvest guideline (HG) as 4,951.9 metric tons (mt), as well as the trawl and non-trawl allocations as 4,357.7 mt and 594.2 mt respectively. To be consistent with the yellowtail rockfish allocations established in the final rule for the 2019–2020 groundfish harvest specifications and management measures (83 FR 63970), this rule corrects the fishery HG to 5,233.9 mt, as well as the trawl and non-trawl allocations to 4,605.8 mt and 678.1 mt respectively.

All of these corrections are consistent with the Pacific Fishery Management Council action for the 2019–2020 groundfish harvest specifications and are minor corrections to correctly implement the Council’s intent in their final action taken in June 2018.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries (AA) finds there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be unnecessary and contrary to public interest. Notice and comment are unnecessary and contrary to the public interest because this action corrects inadvertent errors related to the December 12, 2018, final rule. Immediate correction of the errors is necessary to prevent confusion among participants in the fishery that could result in issues with enforcement of area management. To effectively correct the errors, the changes in this action must be effective upon publication as the fishery has already begun. Thus, there is not sufficient time for notice and comment. In addition, notice and comment is unnecessary because this notice makes only minor changes to correct inadvertent errors related to the December 12, 2018, final rule. These corrections will not affect the results of analyses conducted to support management decisions in the Pacific coast groundfish fishery. These corrections are consistent with the Pacific Fishery Management Council's intent for regulations and the public expects the regulations to be written as in the correction. No change in operating practices in the fishery is required.

For the same reasons stated above, the AA has determined good cause exists to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d). This notice makes only minor corrections to the final rule which was effective January 1, 2019. Delaying effectiveness of these corrections would result in conflicts in the regulations and confusion among fishery participants. Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory

Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no Regulatory Flexibility Analysis is required for this rule and none has been prepared.

This final rule is not significant under Executive Order 12866.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian Fisheries.

Dated: September 16, 2019.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is corrected by making the following correcting amendments:

PART 660—FISHERIES OFF WEST COAST STATES

1. The authority citation for 50 CFR 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, in the definition for “Groundfish”, add paragraph (7)(i)(D) to read as follows:

§ 660.11 General definitions.

* * * * *

Groundfish * * *

(7) * * *

(i) * * *

(D) South of 40° 10' N lat. (Southern California): nearshore rockfish are divided into three management categories:

(1) Shallow nearshore rockfish consists of black and yellow rockfish, *S. chrysomelas*; China rockfish, *S. nebulosus*; gopher rockfish, *S. carnatus*; grass rockfish, *S. rastrelliger*; kelp rockfish, *S. atrovirens*.

(2) Deeper nearshore rockfish consists of black rockfish, *S. melanops*; blue rockfish, *S. mystinus*; brown rockfish, *S. auriculatus*; calico rockfish, *S. dalli*; copper rockfish, *S. caurinus*; deacon rockfish, *S. diaconus*; olive rockfish, *S. serranoides*; quillback rockfish, *S. maliger*; treefish, *S. serriceps*.

(3) California scorpionfish, *Scorpaena guttata*.

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3. Revise Table 1b to part 660, subpart C, to read as follows:

Table 1b to Part 660, Subpart C—2019, Allocations by Species or Species Group (Weight in Metric Tons)

Stocks/Stock Complexes	Area	Fishery HG or ACT a/ b/	Trawl		Non-Trawl	
			%	Mt	%	Mt
Arrowtooth flounder	Coastwide	13,479.1	95%	12,805.1	5%	674.0
Big skate a/	Coastwide	452.1	95%	429.5	5%	22.6
Bocaccio a/	S of 40°10' N. lat.	2,050.9	39%	800.7	61%	1,250.2
Canary rockfish a/d/	Coastwide	1,382.9	72%	999.6	28%	383.3
Chilipepper	S of 40°10' N. lat.	2,451.1	75%	1,838.3	25%	612.8
COWCOD a/b/	S of 40°10' N. lat.	6.0	36%	2.2	64%	3.8
Darkblotched rockfish c/	Coastwide	731.2	95%	694.6	5%	36.6
Dover sole	Coastwide	48,404.4	95%	45,984.2	5%	2,420.2
English sole	Coastwide	9,873.8	95%	9,380.1	5%	493.7
Lingcod	N of 40°10' N. lat.	4,593.0	45%	2,066.9	55%	2,526.2
Lingcod	S of 40°10' N. lat.	1,027.7	45%	462.5	55%	565.2
Longnose skate a/	Coastwide	1,851.7	90%	1,666.5	10%	185.2
Longspine thornyhead	N of 34°27' N. lat.	2,552.6	95%	2,425.0	5%	127.6
Pacific cod	Coastwide	1,093.8	95%	1,039.1	5%	54.7
Pacific whiting g/	Coastwide	362,682.0	100%	362,682.0	0%	0.0
Pacific ocean perch e/	N of 40°10' N. lat.	4,317.6	95%	4,101.7	5%	215.9
Petrale sole	Coastwide	2,587.4	95%	2,458.0	5%	129.4
Sablefish	N of 36° N. lat.	NA		See Table 1c		
Sablefish	S of 36° N. lat.	1,985.8	42%	834.0	58%	1,151.8
Shortspine thornyhead	N of 34°27' N. lat.	1,617.7	95%	1,536.8	5%	80.9
Shortspine thornyhead	S of 34°27' N. lat.	888.8	NA	50.0	NA	838.8
Splitnose rockfish	S of 40°10' N. lat.	1,733.4	95%	1,646.7	5%	86.7
Starry flounder	Coastwide	433.2	50%	216.6	50%	216.6
Widow rockfish f/	Coastwide	11,582.6	91%	10,540.2	9%	1,042.4
YELLOWEYE ROCKFISH	Coastwide	41.9	8%	3.4	92%	38.6
Yellowtail rockfish	N of 40°10' N. lat.	5,233.9	88%	4,605.8	12%	628.1
Minor Shelf Rockfish North a/	N of 40°10' N. lat.	1,977.1	60.2%	1,190.2	39.8%	786.9
Minor Shelf Rockfish South a/	S of 40°10' N. lat.	1,545.9	12.2%	188.6	87.8%	1,357.3
Minor Slope Rockfish North	N of 40°10' N. lat.	1,665.2	81%	1,348.8	19%	316.4
Minor Slope Rockfish South	S of 40°10' N. lat.	723.8	63%	456.0	37%	267.8
Other Flatfish	Coastwide	6,248.5	90%	5,623.7	10%	624.9

a/ Allocations decided through the biennial specification process.

b/ The cowcod fishery harvest guideline is further reduced to an ACT of 6.0 mt.

c/ Consistent with regulations at §660.55(c), 9 percent (62.5 mt) of the total trawl allocation for darkblotched rockfish is allocated to the Pacific whiting fishery, as follows: 26.3 mt for the Shorebased IFQ Program, 15.0 mt for the MS sector, and 21.3 mt for the C/P sector. The tonnage calculated here for the Pacific whiting IFQ fishery contributes to the total shorebased trawl allocation, which is found at §660.140(d)(1)(ii)(D).

d/ 46 mt of the total trawl allocation of canary rockfish is allocated to the MS and C/P sectors, as follows: 30 mt for the MS sector, and 16 mt for the C/P sector.

e/ Consistent with regulations at §660.55(c), 17 percent (697.3 mt) of the total trawl allocation for Pacific ocean perch is allocated to the Pacific whiting fishery, as follows: 292.9 mt for the Shorebased IFQ Program, 167.4 mt for the MS sector, and 237.1 mt for the C/P sector. The tonnage calculated here for the Pacific whiting IFQ fishery contributes to the total shorebased trawl allocation, which is found at §660.140(d)(1)(ii)(D).

f/ Consistent with regulations at §660.55(c), 10 percent (1,054 mt) of the total trawl allocation for widow rockfish is allocated to the whiting fisheries, as follows: 442.7 mt for the shorebased IFQ fishery, 253 mt for the mothership fishery, and 358.4 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at §660.140(d)(1)(ii)(D).

g/ Consistent with regulations at §660.55(i)(2), the commercial harvest guideline for Pacific whiting is allocated as follows: 34 percent (123,312 mt) for the C/P Coop Program; 24 percent (87,044 mt) for the MS Coop Program; and 42 percent (152,326.5 mt) for the Shorebased IFQ Program. No more than 5 percent of the Shorebased IFQ Program allocation (7,616 mt) may be taken and retained south of 42° N. lat. before the start of the primary Pacific whiting season north of 42° N. lat.

4. In § 660.130, revise paragraph (c)(2)(iii) to read as follows:

§ 660.130 Trawl fishery—management measures.

* * * * *

(c) * * *

(2) * * *

(iii) *Salmon conservation area restrictions.* The use of small footrope trawl, other than selective flatfish trawl gear, is prohibited inside the Klamath River Salmon Conservation Zone (defined at § 660.131(c)(1)) and the Columbia River Salmon Conservation Zone (defined at § 660.131(c)(2)).

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5. In § 660.230, revise paragraph (d)(10)(ii) to read as follows:

§ 660.230 Fixed gear fishery—management measures.

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(d) * * *

(10) * * *

(ii) Fishing for rockfish and lingcod is permitted shoreward of the boundary line approximating the 40 fm (73 m) depth contour within the CCAs when trip limits authorize such fishing and provided a valid declaration report as required at § 660.13(d) has been filed with NMFS OLE. Coordinates for the boundary line approximating the 40 fm (73 m) depth contour are listed in § 660.71.

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6. In § 660.330, revise paragraph (d)(11)(ii) to read as follows:

§ 660.330 Open access fishery—management measures.

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(d) * * *

(11) * * *

(ii) Fishing for rockfish and lingcod is permitted shoreward of the boundary line approximating the 40 fm (73 m) depth contour within the CCAs when trip limits authorize such fishing and provided a valid declaration report as required at § 660.13(d) has been filed with NMFS OLE. Coordinates for the boundary line approximating the 40 fm (73 m) depth contour are listed in § 660.71.

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