Appendix A—Insurers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements in Each State in Which They Do Business

Allstate Insurance Group
American Family Insurance Group
American International Group
Auto-Owners Insurance Group
CNA Insurance Companies
Erie Insurance Group
Berkshire Hathaway/GEICO Corporation Group
Hartford Insurance Group
Liberty Mutual Insurance Companies
Metropolitan Life Auto & Home Group
Mercury General Group
Nationwide Group
Progressive Group
Safeco Insurance Companies
State Farm Group
St Paul Travelers Companies [1]
USAA Group
Farmers Insurance Group

4. Appendix B to Part 544 is revised to read as follows:

Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States

Alfa Insurance Group (Alabama)
Auto Club (Michigan)
Commerce Group, Inc. (Massachusetts)
Farm Bureau of Idaho Group (Idaho) [1]
Kentucky Farm Bureau Group (Kentucky)
New Jersey Manufacturers Group (New Jersey)
Safety Group (Massachusetts)
Southern Farm Bureau Group (Arkansas, Mississippi)
Tennessee Farmers Companies (Tennessee)

5. Appendix C to Part 544 is revised to read as follows:

Appendix C—Motor Vehicle Rental and Leasing Companies (Including Licensees and Franchisees) Subject to the Reporting Requirements of Part 544

Cendant Car Rental
Dollar Thrifty Automotive Group
EmKay, Inc. 1
Enterprise Rent-A-Car
Enterprise Fleet Services
Hertz Rent-A-Car Division (subsidiary of The Hertz Corporation)
U-Haul International, Inc. (Subsidiary of AMERCO)
Vanguard Car Rental USA

Issued on: March 30, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E7–6519 Filed 4–6–07; 8:45 am]

BILLING CODE 4910–59–P

[1] Indicates a newly listed company, which must file a report beginning with the report due October 25, 2007.

[1] Indicates a newly listed company, which must file a report beginning with the report due October 25, 2007.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 070323069–7069–01;I.D. 031907A]

RIN 0648–AV46

Pacific Coast Groundfish Fishery

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to establish catch accounting requirements for persons who receive, buy, or accept Pacific whiting (whiting) deliveries of 4,000 pounds (lb) (1.18 mt) or more from vessels using mid-water trawl gear during the primary whiting season. This action would improve NMFS's ability to effectively monitor the whiting fishery such that catch of whiting and incidentally caught species, including overfished groundfish species, do not result in a species' optimum yield (OY), harvest guideline, allocations, or bycatch limits being exceeded. This action would also provide for timely reporting of Chinook salmon take as specified in the Endangered Species Act (ESA) Section 7 Biological Opinion for Chinook salmon catch in the Pacific groundfish fishery. This action is consistent with the conservation goals and objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP).

DATES: Comments must be received by April 24, 2007.

ADDRESSES: You may submit comments, identified by I.D. 031907A by any of the following methods:

- E-mail: *HakeProcessors.nwr@noaa.gov*: Include I.D 031907A in the subject line of the message.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: 206–526–6736, Attn: Becky Renko
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070, Attn: Becky Renko

Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action may be obtained from the Northwest Region, NMFS, 7600 Sand Point Way N.E., BIN C15700, Bldg. 1, Seattle, WA 98115–0070. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Northwest Region (see Addresses) and by e-mail to *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285 Send comments on collection-of-information requirements to the NMFS address above and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Washington DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Becky Renko, phone: 206–526–6110, fax: 206–526–6736, or e-mail: *becky.renko@noaa.gov*.

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

SUPPLEMENTARY INFORMATION: The proposed action is to provide for electronic catch accounting and other monitoring improvements for the shore-based sector of the whiting fishery. The proposed action defines requirements for recordkeeping, reporting, catch sorting, and scale use for persons who receive, buy, or accept unsorted deliveries (generally processors or transporters) of 4,000 lb (1.8 mt) or more of whiting from vessels using midwater trawl gear during the primary season for the shore-based sector. This action is intended to address difficulties that occurred during the 2006 whiting season that could compromise the ability to account for the catch of target, incidental and prohibited species, and which could compromise the ability to manage groundfish species OYs, trip limits, bycatch limits, and Chinook salmon take in relation to Biological Opinion specifications.

The shore-based whiting fishery needs to have a catch reporting system in place that: provides timely reporting of catch data so that whiting, overfished species and Chinook salmon can be adequately monitored and accounted for inseason; and, specifies catch sorting and weight requirements necessary to maintain the integrity of fish ticket values used to manage groundfish species OYs, trip limits, and bycatch

limits. This proposed rule is part of an ongoing process to develop a maximized retention program for the shoreside whiting sector. The rule is intended to address shoreside monitoring that will be implemented in 2007 in conjunction with the issuance of exempted fishing permits (EFPs) to vessels. At its April 2007 meeting, the Council will consider recommending a rulemaking for 2008 and beyond for a related action titled ''A Maximized Retention and Monitoring Program for the Whiting Shoreside Fishery.''

Each year since 1992, EFPs have been issued to vessels in the whiting shoreside fishery to allow unsorted catch to be retained and landed at shoreside processing facilities. The EFPs have specified the terms and conditions that participating vessels must follow to be included in the EFP program. The EFPs have routinely required vessels to deliver EFP catch to state-designated processors. Designated processors were identified by each of the states and were processors that had signed written agreements that specified the standards and procedures they agreed to follow when receiving EFP catch.

The whiting fishery is managed under a ''primary'' season structure where vessels harvest whiting until the sector allocation is reached and the fishery is closed. This is different from most West Coast groundfish fisheries, which are managed under a ''trip limit'' structure, where catch limits are specified by gear type and species (or species group) and vessels can land catch up to the specified limits. Incidental catch of groundfish in the whiting fishery, however, is managed under a trip limit structure. Vessels fishing under the whiting EFPs are allowed to land unsorted catch at shoreside processing facilities, including species in excess of the trip limits and species such as salmon that would otherwise be illegal to have on board the vessel. Without an EFP, groundfish regulations at 50 CFR 660.306(a)(2) and (a)(6) require vessels to sort their catch at sea and discard as soon as practicable all prohibited species (including salmon and halibut), protected species, and groundfish species in excess of cumulative limits at sea.

Overall management of the salmon and groundfish fisheries has significantly changed since the early 1990's, when EFPs were first used in the whiting fishery. Since the beginning of the shore-based whiting fishery in 1992, new salmon Evolutionarily Significant Unit (ESUs) have been listed under the ESA, and several groundfish species that are incidentally taken in the whiting fishery have been declared overfished. In addition, ''bycatch limit'' management of overfished species has been used to allow the whiting fishery full access to the whiting OY. With the bycatch limit management approach, a bycatch limit amount is specified for an overfished species and the whiting fishery is allowed incidental catch of that species up to that amount. If a bycatch limit for any one of the species limits is reached before the whiting allocations are attained, all non-tribal commercial sectors of the whiting fishery must be closed.

The Shoreside Whiting Observation Program (SHOP), a coordinated monitoring effort by the States of Oregon, Washington, and California, was established to provide catch data from vessels fishing under the EFPs. Although the program's structure and priorities have changed over the years, the SHOP has had the primary responsibility of monitoring the shore-based whiting fishery and providing catch data to NMFS for management of the fishery. In 2006, SHOP experienced ongoing difficulties in obtaining timely catch reports from some designated processors. Delays in catch reports can compromise the ability to adequately monitor the catch of whiting, bycatch limits, and in particular the bycatch limits for the overfished species that are most frequently encountered in the whiting fishery. Having the ability to closely monitor bycatch limits and close the whiting fishery if a limit is reached prevents the whiting fishery from affecting the other groundfish fisheries and reduces the risk of exceeding overfished species OYs.

In 2007, the shore-based whiting fishery will be managed under an EFP, similar to what was in place in 2006. Therefore, NMFS believes that it is necessary to implement this rule to prevent catch accounting difficulties experienced in 2006. During 2007, NMFS and the Council will continue to develop the Maximized Retention and Monitoring Program for the whiting Shoreside Fishery, which is intended to be implemented by regulation before the 2008 fishery.

This proposed rule would require persons called ''first receivers'' who receive, buy, or accept whiting deliveries of 4,000 lb (1.8 mt) or more from vessels using mid-water trawl gear during the primary whiting season (generally, these are whiting shoreside processing facilities, but also include entities that truck whiting to other facilities) to have and use a NMFS-approved electronic fish ticket program and to send daily catch reports to the Pacific States Marine Fish Commission (PSMFC). The electronic fish tickets are used to collect information similar to the information currently required in state fish receiving tickets or landing receipts (state fish tickets). The daily reports would be used to track catch allocations, bycatch limits and prohibited species catch. First receivers would provide the computer hardware, software (Microsoft Office with Access 2003 or later,) and internet access necessary to support the electronic fish ticket program and daily e-mail transmissions. Electronic fish tickets must be submitted within 24 hours from the date the catch is received upon landing. Because 2007 will be the first year that the electronic fish ticket program will be used, the proposed action includes waiver provisions and defines alternative means for submitting fish tickets to meet the daily reporting needs of the fishery, should there be performance issues with software or other system failures beyond a receiver's control.

Federal regulations would not replace any state recordkeeping or reporting requirements. Regulations at 50 CFR 660.303 would continue to require vessels to make and/or file, retain, or make available any and all reports (i.e., logbooks, fish tickets, etc.) of groundfish harvests and landings as required by the applicable state law. At this time, only the State of Oregon allows printed and signed copies of the electronic fish tickets to be submitted as the official state fish ticket. The States of Washington and California could continue to require the submission of paper forms as issued by the state.

In addition to the sorting requirements specified at §§ 660.306(a)(7) and 660.370(h)(6)(i), sorting requirements would be specified for whiting catch received by first receivers, since these deliveries may contain groundfish in excess of trip limits, unmarketable groundfish, prohibited species, and protected species that are not addressed by current groundfish regulations. In addition, Federal groundfish regulations would be revised to require that deliveries from vessels participating in the whiting shoreside fishery must be adequately sorted by species or species group and the catch weighed following offloading from the vessel and prior to transporting the catch. If sorting and weighing requirements specified in Federal regulation are more specific than state fish ticket requirements, the first receivers would be required to record the species that are sorted and weighed on all electronic fish ticket submissions.

First receivers would be required to report, on electronic fish tickets, actual

and accurate weights derived from scales. Though there are considerable differences in the requirements between states, each state has requirements for scale performance and testing established by state agencies for weights and measures. How these requirements apply to seafood processors varies between states.

Classification

NMFS has determined that the proposed rule is consistent with the FMP and has preliminarily determined that the rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the RFA (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. A copy of the IRFA is available from NMFS (see ADDRESSES). A summary of the analysis follows:

The whiting shoreside fishery has been managed under an EFPs since 1992. However, an EFP is supposed to be a short-term, temporary and exploratory response to issues that potentially should be addressed by permanent regulations. The proposed action (Alternative 2) would be the first step towards replacing the EFP with permanent regulations as it would put in place new Federal catch accounting requirements. Although EFPs will continue to be issued in 2007, the proposed regulations are intended to supplement EFP activities with regulations that mainly affect the processors or other first receivers of whiting EFP catch. The proposed regulations will require the submission of electronic fish tickets within 24 hours of landing, the sorting of catch at time of offload and prior to transporting catch from the port of fish landing, the use of state approved scales with appropriate accuracy ranges for the amount of fish being weighed, and that all weights reported on the electronic fish tickets be from such scales. The proposed Federal regulations mirror or enhance existing state regulations and associated paper-based fish ticket systems or put into Federal regulation provisions associated with current EFP management. This action is expected to provide more timely reporting and improved estimates of the catch of whiting, ESA listed salmon species, and overfished groundfish species. The whiting shoreside fishery needs to have a catch reporting system in place to: adequately track the incidental take of Chinook salmon as required in the ESA Section 7 Biological Opinion for Chinook salmon catch in the whiting fishery; and to track the catch of target and overfished groundfish species such that the fishing industry is not unnecessarily constrained and that the sector allocation and bycatch limits are not exceeded. This action is intended to address catch accounting concerns that occurred during the 2006 season that compromised the ability to account for the catch of target, incidental and prohibited species.

In 2006 there were 23 processors that purchased whiting from fishermen with ten of these processors purchasing from 4 lb (2 kg) to 8,000 lb (3,629 kg) of whiting. The other thirteen processors all processed at least 1 million lb (454 mt) of whiting each. During 2006 these thirteen processors purchased 280 million lb (127,007 mt) of whiting worth $17.4 million ex-vessel, and 110 million lb (49,896 mt) of other fish and shellfish worth $78.5 million. Over the 2000–2006 period there were seventeen different facilities that processed at least 1 million lb (454 mt) in any one year. These processors can be classified into ''Main'' and ''Other'' plants. Over this period there were eight ''Main'' processors that processed 1 million lb (454 mt) in at least seven of the eight years during this period. Because of entry and exit of the processors, the composition of the ''Other'' processor group changes significantly in most years. In 2005, there were no ''Other'' processors while in 2006, five new processors entered, only one of which had operated before. Over the 2000–2006 period, the ''Main'' processors typically harvest 90 to 100 percent of the whiting.

The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S. including fish harvesting entities, for-hire entities, fish processing businesses, and fish dealers. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in the field of operation (including its affiliates) and if it has combined annual receipts not in excess of $3.5 million for all its affiliated operations worldwide. For-hire vessels are considered small entities, if they have annual receipts not in excess of $6 million. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations world wide. Finally, a wholesale business servicing the fishing industry (fish dealer) is a small business if it employs 100 or few persons on a full time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

The SBA has established ''principles of affiliation'' to determine whether a business concern is ''independently owned and operated.'' In general, business concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party controls or has the power to control both. The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. Individuals or firms that have identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships, are treated as one party with such interests aggregated when measuring the size of the concern in question. The SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern's size.

Based on the SBA criteria and a review of West Coast processor company websites, state employment websites, newspaper articles, personal communications, and the ''Research Group'' publications (2006), it appears that the thirteen major whiting processors can be grouped into nine businesses under the SBA criteria based on analysis of affiliates. Three of the nine businesses generated at least $500 million in sales in 2003. One of these businesses reported employing 4,000 people, and it is presumed that the other two companies have employment levels much higher than 500 employees. Four of the nine businesses have employment estimates that range from 100–250 employees, while the remainder appear to be in the 50–100 range (because of missing data, one of these relatively small businesses may have less than 50 employees). In terms of the SBA size standard of 500 employees, there are six ''small'' businesses that participated in the shorebased whiting processing sector in 2006. Annual sales information for these ''small'' businesses is

unavailable. Total ex-vessel revenues (the value of the fish purchased from fisherman) is available. In 2006, these six businesses purchased approximately $40 million in whiting and other fish and shellfish from West Coast fishermen. This compares to the $60 million in whiting and other fish and shellfish purchased by the three large businesses.

In sizing up all the potential impacts, implementation of these rules will require firms to bear minimal costs in reporting data electronically that they already are required to report on paper. In terms of equipment purchases, it is expected that there will be few if any instances where processors have to purchase computers or software because this is equipment that most business already have. It is also not expected that processors will need to purchase scale equipment as the presumption about this rule is that it enhances existing state regulations that already require processors to use scales in conducting their businesses but may not specifically require the use of scale weights in reporting fisheries data to state agencies. There may be some interest by a few small processors to weigh and count fish at locations other than the point of first landing, but these instances appear to be few.

In light of the recent economic improvement going on in the whiting fisheries, the proposed regulations are reasonable and affordable and do not appear to place small businesses at a competitive disadvantage to large businesses. The major benefits of this program from a conservation and management context is an allowance for more liberal management to obtain better and quicker data for use in quota monitoring and a potential reduction in costs of monitoring, and to move management measures for monitoring whiting from a temporary ''EFP'' to formal regulations. In the short term, from an industry and fishing community perspective, better management of the whiting shoreside fishery minimizes the risk that sector quotas and bycatch limits are not exceeded in ways that may lead to closure of other fisheries thus affecting other small businesses. In the medium term, the proposed rule will aid development of an Individual Fishing Quota (IQ) catch accounting system. IQs are expected to increase profitability in the fishing industry and improve the sustainability of fishing communities. In the long term, the entire fishing industry and its communities including associated small businesses will benefit by reducing the risk of overfishing and increasing the potential that the rebuilding schedules for the overfished species are maintained, thus increasing the chances that current levels of groundfish ex-vessel revenues of $70 million can be restored to levels above $100 million which were consistently seen in the early to mid 1990's. There were no other alternatives to the proposed action that would have accomplish the stated objectives. Under Status Quo, general catch sorting requirements and prohibited actions would continue to be specified for limited entry trawl vessel; each state would continue to specify requirements for landing reports.

This proposed rule contains collection-of-information requirements approved under OMB control number 0648–0203, as well as a new collection-of-information requirement subject to review and approval under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for preparing and submitting electronic fish tickets is estimated to average ten minutes per individual response for whiting shoreside processors/first receivers in the states of California and Washington, and two minutes per individual response for whiting shoreside processors/first receivers in the State of Oregon, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Northwest Region at the **ADDRESSES** above, and by e-mail to *David__Rostker@omb.eop.gov* or 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. There are no Federal rules that duplicate, overlap, or conflict with this proposed rule.

NMFS issued Biological Opinions under the ESA on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999 pertaining to the effects of the Pacific Coast groundfish FMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions have concluded that implementation of the FMP for the Pacific Coast groundfish fishery was not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS reinitiated a formal section 7 consultation under the ESA in 2005 for both the whiting midwater trawl fishery and the groundfish bottom trawl fishery. The December 19, 1999 Biological Opinion had defined an 11,000 Chinook incidental take threshold for the whiting fishery. During the 2005 whiting season, the 11,000 fish Chinook incidental take threshold was exceeded, triggering reinitiation. Also in 2005, new data from the West Coast Groundfish Observer Program became available, allowing NMFS to complete an analysis of salmon take in the bottom trawl fishery.

NMFS prepared a Supplemental Biological Opinion dated March 11, 2006, which addressed salmon take in both the whiting midwater trawl and groundfish bottom trawl fisheries. In its 2006 Supplemental Biological Opinion, NMFS concluded that catch rates of salmon in the 2005 whiting fishery were consistent with expectations considered during prior consultations. Chinook bycatch has averaged about 7,300 over the last 15 years and has only occasionally exceeded the reinitiation trigger of 11,000. Since 1999, annual Chinook bycatch has averaged about 8,450. The Chinook ESUs most likely affected by the whiting fishery have generally improved in status since the 1999 section 7 consultation. Although these species remain at risk, as

indicated by their ESA listing, NMFS concluded that the higher observed bycatch in 2005 does not require a revision of its prior ''no jeopardy'' conclusion with respect to the fishery. For the groundfish bottom trawl fishery, NMFS concluded that incidental take in the groundfish fisheries is within the overall limits articulated in the Incidental Take Statement of the 1999 Biological Opinion. The groundfish bottom trawl limit from that opinion was 9,000 fish annually. NMFS will continue to monitor and collect data to analyze take levels. NMFS also reaffirmed its prior determination that implementation of the Groundfish FMP, including this current action, is not likely to jeopardize the continued existence of any of the affected ESUs.

Lower Columbia River coho (70 FR 37160, June 28, 2005) and the Southern Distinct Population Segment (DPS) of green sturgeon (71 FR 17757, April 7, 2006) were recently listed as threatened under the ESA. As a consequence, NMFS has reinitiated its Section 7 consultation on the PFMC's Groundfish FMP. After reviewing the available information, NMFS concluded that, in keeping with Section 7(a)(2) of the ESA, the proposed action would not result in any irreversible or irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures.

Pursuant to Executive Order 13175, this proposed rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the FMP. At the Council=s September and November 2006 meetings, NMFS informed the Council, which includes a tribal representative, of the intent to evaluate and implement catch accounting requirements for whiting shoreside processors. This action does not alter the treaty allocation of whiting, nor does it affect the prosecution of the tribal fishery.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: April 3, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 660—FISHERIES OFF WEST COAST STATES

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

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

2. In § 660.302, the definitions for ''Electronic Monitoring System,'' ''Pacific whiting shoreside or shore-based fishery,'' ''Pacific whiting shoreside first receiver,'' and ''Pacific whiting shoreside vessel'' are added to read as follows:

§ 660.302 Definitions.

* * * * *

Electronic Monitoring System (EMS) means a data collection tool that uses a software operating system connected to an assortment of electronic components, including video recorders, to create a collection of data on vessel activities.

* * * * *

Pacific whiting shoreside first receivers means persons who receive, purchase, take custody, control, or possession of Pacific whiting onshore directly from a Pacific whiting shoreside vessel.

Pacific whiting shoreside or shore-based fishery means Pacific whiting shoreside vessels and Pacific whiting shoreside first receivers.

Pacific whiting shoreside vessel means any vessel that fishes using midwater trawl gear to take, retain, possess and land 4,000 lb (1,814 kg) or more of Pacific whiting per fishing trip from the Pacific whiting shore-based sector allocation for delivery to a Pacific whiting shoreside first receiver during the primary season.

* * * * *

3. In § 660.303, paragraph (a) is revised and paragraph (e) is added to read as follows:

§ 660.303 Reporting and recordkeeping.

(a) This subpart recognizes that catch and effort datanecessary for implementing the PCGFMP are collected by the States of Washington, Oregon, and California under existing state data collection requirements.

* * * * *

(e) *Participants in the Pacific whiting shoreside fishery.* Reporting requirements defined in the following section are in addition to reporting requirements under applicable state law and requirements described at § 660.303(b).

(1) *Reporting requirements for any Pacific whiting shoreside first receiver*—(i) *Responsibility for compliance.* The Pacific whiting shoreside first receiver is responsible for compliance with all reporting requirements described in this paragraph.

(ii) *General requirements.* All records or reports required by this paragraph must: be maintained in English, be accurate, be legible, be based on local time, and be submitted in a timely manner as required in paragraph (e)(1)(iv) of this section.

(iii) *Required information.* All Pacific whiting shoreside first receivers must provide the following types of information: date of landing, delivery vessel, gear type used, first receiver, round weights of species landed listed by species or species group including species catch with no value, number of salmon by species, number of Pacific halibut, and any other information deemed necessary by the Regional Administrator as specified on the appropriate electronic fish ticket form.

(iv) *Electronic fish ticket submissions.* The Pacific whiting shoreside first receiver must:

(A) Sort catch, prior to first weighing, by species or

species groups as specified at § 660.370 (h)(6)(iii).

(B) Include as part of each electronic fish ticket submission, the actual scale weight for each groundfish species as specified by requirements at § 660.373 (j)(2)(i) and the catcher vessel identification number.

(C) Use for the purpose of submitting electronic fish tickets, and maintain in good working order, computer equipment as specified at § 660.373 (j)(2)(ii)(A);

(D) Install, use, and update as necessary, any NMFS-approved software described at § 660.373 (j)(2)(ii)(B);

(E) Submit a completed electronic fish ticket for every landing that includes 4,000 lb (1,814 kg) or more of Pacific whiting (round weight equivalent) no later than 24 hours after the date the fish are received, unless a waiver of this requirement has been granted under provisions specified at paragraph (e)(1)(vii) of this section.

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

(vi) *Retention of records.* [Reserved]

(vii) *Waivers for submission of electronic fish tickets.* On a case-by-case basis, a temporary 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 Pacific whiting shoreside first 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.

(viii) *Reporting requirements when a temporary waiver has been granted.* Pacific whiting shoreside 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, Northwest 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.

(2) [Reserved]

4. In § 660.306, paragraphs (b)(4) and (f)(6) are added to read as follows:

§ 660.306 Prohibitions.

* * * * *

(b) * * *

(4) Fail to comply with all requirements at § 660.303 (d); or to fail to submit, submit inaccurate information, or intentionally submit false information on any report required at § 660.303 (d) when participating in the Pacific whiting shoreside fishery.

* * * * *

(f) * * *

(6) *Pacific whiting shoreside first receivers.* (i) Receive for transport or processing catch from a Pacific whiting shoreside vessel that does not have a properly functioning EMS system as required by Federal regulation or by an EFP, unless a waiver for EMS coverage was granted by NMFS for that trip.

(ii) Fail to sort catch from a Pacific whiting shoreside vessel prior to first weighing after offloading as specified at § 660.370 (h)(6)(iii) for the Pacific whiting fishery.

(iii) Process, sell, or discard groundfish catch that has not been weighed on a scale that is in compliance with requirements at § 660.373 (j)(1)(i) and accounted for on an electronic fish ticket with the identification number for the catcher vessel that delivered the catch.

(iv) Fail to weigh catch landed from a Pacific whiting shoreside vessel prior to transporting any fish from that landing away from the point of landing.

* * * * *

5. In § 660.370, paragraph (h)(6)(iii) is added to read as follows:

§ 660.370 Specifications and management measures.

* * * * *

(h) * * *

(6) * * *

(iii) *Sorting requirements for the Pacific whiting shoreside fishery.* Catch delivered to Pacific whiting shoreside first receivers (including shoreside processing facilities and buying stations that intend to transport catch for processing elsewhere) must be sorted, prior to first weighing after offloading from the vessel and prior to transport away from the point of landing, to the species groups specified in paragraph (h)(6)(i)(A) of this section for vessels with limited entry permits. Prohibited species must be sorted according to the following species groups: Dungeness crab, Pacific halibut, Chinook salmon, Other salmon. Non-groundfish species must be sorted as required by the state of landing.

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6. In § 660.373, paragraph (j) is added to read as follows:

§ 660.373 Pacific whiting (whiting) fishery management.

* * * * *

(j) *Additional requirements for participants in the Pacific Whiting Shoreside fishery*—(1) *Pacific whiting shoreside first receiver responsibilities*—(i) *Weights and measures.* All groundfish weights reported on fish tickets must be recorded from scales with appropriate weighing capacity that ensures accuracy for the amount of fish being weighed. For example: amounts of fish less than 1,000 lb (454 kg) should not be weighed on scales that have an accuracy range of 1,000 lb–7,000 lb (454 - 3,175 kg) and are therefore not capable of accurately weighing amounts less than 1,000 lb (454 kg).

(ii) *Electronic fish tickets*—(A) *Hardware and software requirements.* First receivers using the electronic fish ticket software provided by Pacific States Marine Fish Commission are required to meet the hardware and software requirements below. Those whiting first receivers who have NMFS-approved software compatible with the standards specified by Pacific States Marine Fish Commission for electronic fish tickets are not subject to any specific hardware or software requirements.

(*1*) A personal computer with Pentium 75–MHz or higher. Random Access Memory (RAM) must have sufficient megabyte (MB) space to run the operating system, plus an additional 8 MB for the software application and available hard disk space of 217 MB or greater. A CD-ROM drive with a Video Graphics Adapter(VGA) or higher resolution monitor (super VGA is recommended).

(*2*) Microsoft Windows 2000 (64 MB or greater RAM required), Windows XP (128 MB or greater RAM required) or later operating system.

(*3*) Microsoft Access 2003 or newer for.

(B) *NMFS Approved Software Standards and Internet Access.* The Pacific whiting shoreside first receiver is responsible for obtaining, installing and updating electronic fish tickets software either provided by Pacific States Marine Fish Commission, or compatible with the standards specified by Pacific States Marine Fish Commission and for maintaining internet access sufficient to transmit data files via email.

(C) *Maintenance.* The Pacific whiting shoreside first receiver is responsible for ensuring that all hardware and software required under this subsection are fully operational and functional whenever the Pacific whiting primary season deliveries are accepted.

(2) Pacific whiting shoreside first receivers and processors that receive groundfish species other than Pacific whiting in excess of trip limits from Pacific whiting shoreside vessels fishing under an EFP issued by the Assistant Regional Administrator are authorized to possess the catch.

(3) Vessel owners and operators, or shoreside processor owners, or managers may contact NMFS in writing to request assistance in improving data quality and resolving monitoring issues. Requests may be submitted to: Attn: Frank Lockhart,National Marine Fisheries Service, Northwest Region Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA 98115, or via email to *frank.lockhart@noaa.gov*.

[FR Doc. E7–6643 Filed 4–6–07; 8:45 am]

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