in South Carolina and Georgia were near zero in 2011, representing a negligible proportion of the total bluefish landings along the Atlantic Coast. Therefore, this analysis assumed that no vessel activity for these two states took place in 2011. In recent years, approximately 2,000 party/charter vessels may have been active in the bluefish fishery and/or have caught bluefish.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

Description of the Steps Taken To Minimize Economic Impact on Small Entities

Specification of commercial quota, recreational harvest levels, and possession limits is constrained by the conservation objectives of the FMP, under the authority of the Magnuson-Stevens Act. The 2013 commercial quota contained in this final rule is 12 percent lower than the 2012 quota, but significantly higher than actual 2012 bluefish landings. All affected states will receive decreases in their individual commercial quota allocation in comparison to their respective 2012 individual state allocations. However, the magnitude of the increase varies depending on the state's relative percent share in the total commercial quota, as specified in the FMP. The 2014 commercial quota contained in this final rule is 4 percent lower than the 2013 quota.

The 2013 and 2014 RHL contained in this final rule is approximately 19 percent lower than the RHL in 2012. The 2013 and 2014 RHL is the same as the total estimated recreational bluefish harvest for 2013 and 2014, and therefore it does not constrain recreational bluefish harvest below a level that the fishery is anticipated to achieve. The possession limit for bluefish will remain at 15 fish per person, so there should be no impact on demand for party/charter vessel fishing and, therefore, no impact on revenues earned by party/charter vessels. No negative economic impacts on the recreational fishery are anticipated.

The impacts on revenues associated with the proposed RSA quota were analyzed and are expected to be minimal. Assuming that the full RSA quota 715,819 lb (325 mt) for 2013 and 703,385 lb (319 mt) for 2014 is landed and sold to support the proposed research projects, then all of the participants in the fishery would benefit from the improved fisheries data yielded from each project.

Small Entity Compliance Guide

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, and shall designate such publications as ''small entity compliance guides.'' 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 holders of Federal permits issued for the Atlantic bluefish fishery.

In addition, copies of this final rule and guide (i.e., permit holder letter) are available upon request, and posted on the Northeast Regional Office's Web site at *www.nero.noaa.gov.*

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

Dated: May 2, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2013–10805 Filed 5–6–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 130114034–3422–02]

RIN 0648–BC93

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures for the 2013 Tribal and Non-Tribal Fisheries for Pacific Whiting

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule for the 2013 Pacific whiting fishery under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP), the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the Pacific Whiting Act of 2006. This final rule establishes the tribal allocation of 63,205 metric tons of Pacific whiting for 2013, and final allocations of Pacific whiting to the non-tribal fishery for 2013.

DATES: Effective May 7, 2013.

FOR FURTHER INFORMATION CONTACT: Kevin C. Duffy (Northwest Region, NMFS), phone: 206–526–4743, fax: 206–526–6736 and email: *kevin.duffy@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

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

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

Background

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

Commerce, in consultation with the Secretary of State, has the authority to accept or reject this recommendation.

The Joint Technical Committee (JTC) met three times over the last six months to prepare the 2013 stock assessment for Pacific hake (whiting). The assessment presents a single base-case model using nine years of an acoustic survey biomass index as well as catches to estimate the scale of the current hake stock. The 2012 acoustic-trawl survey result was a relative biomass 1,380,000 mt, an increase of 2.5 times the 2011 survey biomass of 521,000 mt, which is the lowest in the time series. The age-composition data from the aggregated fisheries (1975–2012) and the acoustic survey contribute to the assessment model's ability to resolve strong and weak cohorts. The survey and the fishery were dominated by age 2 (63.7 percent survey; 34.6 percent fishery) and 4 (16.1 percent survey; 34.5 percent) year old fish from the 2010 and 2008 year classes, with differences due to the different selectivity of young fish to the survey vs. the fishery. Both sources indicate a strong 2008 cohort in the 2011 and 2012 data (age 4 hake), and a strong 2010 cohort in the 2012 data (age 2 hake), which may partially explain the recent increase in the survey index.

The median estimated female biomass is 1,503,000 mt at the beginning of 2013 and is expected to be stable to increasing through 2015 due to an expected very large 2010 year class and the above average 2008 year class. This level of estimated spawning biomass has not been seen since 1993. The 2012 survey verified the strength of the 2008 year class and finds that the 2010 year class seems even stronger, but there is uncertainty in the 2010 year class strength because it has only been observed once by the survey. Agreement between the most recent acoustic survey and commercial fishery age composition data as well as the most recent acoustic survey biomass index engenders greater confidence in the 2013 assessment estimates than if there was no survey data from 2012.

Until cohorts are five or six years old, the model's ability to resolve cohort strength is poor. For many of the recent above average cohorts (2005, 2006, and 2008), the size of the year class was overestimated when it was age 2, compared to updated estimates as the cohort aged and more observations were available from the fishery and survey. Given that there is some uncertainty in the estimate of the 2010 year class, and that the size of this year class has a strong effect on a projected 2013 catch, the JTC developed additional forecast decision tables reflecting a low, medium, and high range of recruitment for the 2010 year class. Using the more conservation-minded low-recruitment state of nature, there is an equal probability that the spawning stock biomass in 2014 will be less or greater than the spawning biomass in 2013 with a catch between 300,000 and 350,000 mt. There is an equal probability that the spawning biomass will be below 40 percent of unfished equilibrium spawning biomass with a 2013 catch near 400,000 mt.

The JTC provided tables showing the outcome and probabilities of various events under different catch alternatives for 2013. For the base case median recruitment, the probability that the spawning stock biomass in 2014 remains above the 2013 level is 50 percent with a catch of 603,000 mt, the probability that the fishing intensity is above target in 2013 is 50 percent with a catch of 626,364 mt, and the probability that the predicted 2014 catch target is the same as a set value in 2013 is 50 percent for a set value of 696,000 mt in 2013. There is a less than 12 percent probability that the spawning stock biomass will drop below 40 percent in 2014 for all catch levels considered. This information indicates probabilities at projected catch levels that were significantly higher than the TAC levels recommended by the JMC, reinforcing the conservative nature of the proposed fishing regime in 2013.

The two cohorts that will likely be supporting the 2013 fishery will be ages 3 and 5. Cohorts in this age range are near their peak biomass and potential maximum contribution to lifetime yield. Because of this, an argument could be made to fish the stock harder because the contribution to the population from these age classes will start to decline in future years. However, there is still considerable risk in fishing them too hard until the absolute size of these cohorts is verified, particularly the 2010 year class, which is still very young and thus not yet well characterized. A conservative estimate of the 2010 year class strength (using only the lower 10 percent of the model estimated recruitment) reduces the strength from a median estimate of 11.6 billion recruits (a near record size) to 6.9 billion recruits, which is near the size of the 1970 and 1999 recruitments.

The Scientific Review Group (SRG) met in Vancouver, British Columbia, on February 19–22, 2013, to review the draft stock assessment document prepared by the JTC. The SRG endorsed the assessment and recommended that it be used for management advice. Along with the JTC, the SRG recommended (for consideration by the JMC) a range of 336,000—626,000 mt as plausible harvest levels in 2013. The upper end would implement the default harvest policy in the Agreement and would allow some continued biomass growth into 2014 if the current assessment result is accurate. The lower level, using only the lower 10 percent of the model estimated recruitment, would still not exceed the harvest policy even if the 2010 year class is only 51 percent of its current estimate.

At its March 18–19, 2013 meeting, the JMC reviewed the advice of the JTC, SRG, and AP, and agreed on a TAC recommendation for transmittal to the Parties. The JMC focused on the conservative estimate of the 2010 year class strength (using only the lower 10 percent of the model estimated recruitment) and the SRG suggested target catch of 336,200 mt, based primarily on concerns that this lower bound may indeed reflect the true state of nature. This conservative approach resulted in a TAC recommendation of 336,200 mt, with adjustments upwards for uncaught Pacific whiting in 2012, as allowed by the Agreement, for a coastwide adjusted TAC of 365,112 mt for 2013. The TAC recommendation is expected to sustain the offshore hake/whiting resource in the event that the 2010 year class is not as large as expected, while still allowing a substantial increase in TAC compared to 2012.

The recommendation for an adjusted United States TAC of 269,745 mt for 2013 (73.88 percent of the coastwide TAC) is consistent with the best available science, provisions of the Agreement, and the Whiting Act. The recommendation was transmitted via letter to the Parties on March 19, 2013. NMFS, under delegation of authority from the Secretary of Commerce, approved the TAC recommendation of 269,745 mt for U.S. fisheries on April 15, 2013.

Tribal Fishery Allocation

This final rule establishes the tribal allocation of Pacific whiting for 2013. NMFS issued a proposed rule for the allocation and management of the 2013 tribal Pacific whiting fishery on March 5, 2013 (78 FR 14259). This action finalizes the allocation and management measures.

Since 1996, NMFS has been allocating a portion of the U.S. TAC of Pacific whiting to the tribal fishery using the process established in 50 CFR 660.50(d)(1). According to the formula found in that section, the tribal allocation is subtracted from the total U.S. Pacific whiting TAC and the

remainder, less a deduction of 2,500 mt for research and bycatch in non-groundfish fisheries (for 2013 only), is allocated to the non-tribal sectors. The tribal Pacific whiting fishery is managed separately from the non-tribal whiting fishery, and is not governed by the limited entry or open access regulations or allocations.

The proposed rule described the tribal allocation as 17.5 percent of the U.S. TAC plus 16,000 mt, and projected a range of potential tribal allocations for 2013 based on a range of U.S. TACs over the last ten years, 2003 through 2012. This range of TACs is 148,200 mt (2003) to 290,903 mt (2011). The resulting range of potential tribal allocations is 41,935 mt to 66,906 mt.

As described earlier in this preamble, the U.S. TAC for 2013 is 269,745 mt. Applying the formula at 50 CFR 660.50(d)(1), NMFS calculated that the tribal allocation implemented by this final rule is 63,205 mt (17.5 percent of the U.S. TAC or 47,205 mt, plus 16,000 mt). While the total amount of whiting to which the Tribes are entitled under their treaty right has not yet been determined, and new scientific information or discussions with the relevant parties may impact that decision, the best available scientific information to date suggests that 63,205 mt (23 percent of the 2013 U.S. TAC) is within the likely range of potential treaty right amounts.

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

Non-Tribal Allocations

This final rule establishes the non-tribal allocation for the Pacific whiting fishery. The non-tribal allocation was not included in the tribal whiting proposed rule published on March 5, 2013 (78 FR 14259) for two reasons related to timing and process. First, a recommendation on the coastwide TAC for Pacific whiting for 2013, under the terms of the Agreement with Canada, was not available until March 19, 2013. This recommendation for a U.S. TAC was approved by NMFS, under delegation of authority from the Secretary of Commerce, on April 15, 2013. Second, the non-tribal allocation is established after deductions from the U.S. TAC for the tribal allocation (63,205 mt) and set asides for research and incidental catch in non-groundfish fisheries (2,500 mt). The non-tribal allocation is therefore being finalized in this rule.

The 2013 fishery harvest guideline (HG) for Pacific whiting is 204,040 mt. This amount was determined by deducting from the total U.S. TAC of 269,745 mt, the 63,205 mt tribal allocation, along with 2,500 mt for research catch and bycatch in non-groundfish fisheries. Regulations at 50 CFR 660.55 (f)(2) allocate the fishery HG among the non-tribal catcher/processor, mothership, and shorebased sectors of the Pacific whiting fishery. The catcher/processor sector is allocated 34 percent (69,373 mt for 2013), the mothership sector is allocated 24 percent (48,970 mt for 2013), and the shorebased sector is allocated 42 percent (85,697 mt for 2013). The fishery south of 42° N. lat. may not take more than 4,284 mt (5 percent of the shorebased allocation) prior to the start of the primary Pacific whiting season north of 42° N. lat.

The 2013 allocations of Pacific Ocean perch, canary rockfish, darkblotched rockfish, and widow rockfish to the whiting fishery were published in a final rule on January 3, 2013 (78 FR 580). The allocations to the Pacific whiting fishery for these species are described in the footnotes to Table 1.b To Part 660, Subpart C–2013.

Comments and Responses

On March 5, 2013, NMFS issued a proposed rule for the allocation and management of the 2013 tribal Pacific whiting fishery. The comment period on the proposed rule closed on April 4, 2013. During the comment period, NMFS received two letters of comment. The U.S. Department of Interior submitted a letter of ''no comment'' associated with their review of the proposed rule.

A letter was received from a commercial fishing organization. In their letter, they state that given past performance in the tribal fishery, the lack of demonstrable fishery operations from the Quileute tribe, and the potential economic harm to the non-tribal fishery, the proposed tribal whiting set aside is too high. They state that the proposed tribal whiting set aside for 2013 is not justified by past fishery performance, and fails in striking an appropriate balance of the treaty rights of the tribes against the Agency's obligation to achieve optimum yield. They suggest that NMFS: Establish a realistic 2013 tribal whiting set aside that is bolstered by fishery plans from each tribe; and aptly and effectively exercise its reapportionment authority.

Response: In determining the tribal allocation, NMFS must ensure that the tribes have the opportunity to exercise their treaty right, which is ''other applicable law'' under the Magnuson-Stevens Act. As noted above, the amount requested by the tribes appears to be within the amount to which they are entitled by treaty, as suggested by the best available science. Although the allocation to the tribal fishery in 2013 is a higher allocation amount than 2012 (63,205 mt versus 48,556 mt), the percent of the TAC allocated to the tribes in 2013 represents approximately 23 percent of the U.S. TAC, versus 26 percent of the U.S. TAC in 2012.

As the commenter has noted, the reapportionment process is available to NMFS to address the situation in which the tribes are unable to use their full allocation. NMFS will monitor both the tribal and non-tribal fishery during the season, and will remain in contact with tribal representatives in order to determine, to the extent practicable, the likely harvest levels in the tribal fishery. If circumstances supporting reapportionment under NMFS' regulations arise, NMFS will be prepared to expeditiously reapportion Pacific whiting from the tribal to the non-tribal sector, in order to manage the fishery in a manner consistent with both the implementation of the tribal treaty right and the Magnuson Stevens Act requirements.

Classification

The final Pacific whiting specifications and management measures for 2013 are issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and the Pacific Whiting Act of 2006, and are in accordance with 50 CFR part 660, subparts C through G, the regulations implementing the Pacific Coast Groundfish Fishery Management Plan (PCGFMP). NMFS has determined that this rule is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making the final determination, took into account the data, views, and comments received during the comment period.

NMFS has determined that the tribal whiting fishery, conducted off the coast of the State of Washington, is consistent, to the maximum extent practicable, with the approved coastal zone management program of the States of Washington and

Oregon. NMFS has also determined that the Pacific whiting fishery, both tribal and non-tribal, is consistent, to the maximum extent practicable, with approved coastal zone management programs for the States of Washington and Oregon. The State of Washington submitted a letter of concurrence on February 25, 2013. The State of Oregon did not respond and consistency is inferred.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), the NMFS Assistant Administrator finds good cause to waive prior public notice and comment and delay in effectiveness the 2013 annual harvest specifications for Pacific whiting, as delaying this rule would be contrary to the public interest. The annual harvest specifications for Pacific whiting must be implemented by the start of the main primary Pacific whiting season, which begins on May 15, 2013, or the primary whiting season will effectively remain closed.

Every year, NMFS conducts a Pacific whiting stock assessment in which U.S. and Canadian scientists cooperate. The 2013 stock assessment for Pacific whiting was prepared in early 2013, as the new 2012 data—including updated total catch, length and age data from the U.S. and Canadian fisheries, and biomass indices from the Joint U.S.-Canadian acoustic/midwater trawl surveys—were not available until January, 2013. Because of this late availability of the most recent data for the assessment, and the need for time to conduct the treaty process for determining the TAC using the most recent assessment, it would not be possible to allow for notice and comment before the start of the primary Pacific whiting season on May 15.

A delay in implementing the Pacific whiting harvest specifications to allow for notice and comment would be contrary to the public interest because it would require either a shorter primary whiting season or development of a TAC without the most recent data. A shorter season could prevent the tribal and non-tribal fisheries from attaining their 2013 allocations, which would result in unnecessary short-term adverse economic effects for the Pacific whiting fishing vessels and the associated fishing communities. A TAC determined without the most recent data could fail to account for significant fluctuations in the biomass of this relatively short-lived species. To prevent these adverse effects and to allow the Pacific whiting season to commence, it is in the public interest to waive prior notice and comment.

In addition, pursuant to 5 U.S.C. 553(d)(3), the NMFS Assistant Administrator finds good cause to waive the 30-day delay in effectiveness. Waiving the 30-day delay in effectiveness will not have a negative impact on any entities, as there are no new compliance requirements or other burdens placed on the fishing community with this rule. Failure to make this final rule effective at the start of the fishing year will undermine the intent of the rule, which is to promote the optimal utilization and conservation of Pacific whiting. It would also serve the best interests of the public because it will allow for the longest possible Pacific whiting fishing season and therefore the best possible economic outcome for those whose livelihoods depend on this fishery. Because the 30-day delay in effectiveness would potentially cause significant financial harm without providing any corresponding benefits, this final rule is made effective May 7, 2013.

The preamble to the proposed rule and this final rule serve as the small entity compliance guide required by Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. This action does not require any additional compliance from small entities that is not described in the preamble. Copies of this final rule are available from NMFS at the following Web site: *http://www.nwr.noaa.gov/fisheries/management/whiting/pacific_whiting.html.*

Rulemaking must comply with Executive Order (EO) 12866 and the Regulatory Flexibility Act (RFA). The Office of Management and Budget has determined that this final rule is not significant for purposes of Executive Order 12866.

The NMFS Economic Guidelines that describe the RFA and EO 12866 can be found at *http://www.nmfs.noaa.gov/sfa/domes_fish/EconomicGuidelines.pdf*

The RFA can be found at *http://www.archives.gov/federal-register/laws/regulatory-flexibility/*

Executive Order 12866 can be found at *http://www.plainlanguage.gov/populartopics/regulations/eo12866.pdf*

When an agency proposes regulations, the RFA requires the agency to prepare and make available for public comment an Initial Regulatory Flexibility Act (IRFA) document that describes the impact on small businesses, non-profit enterprises, local governments, and other small entities. The IRFA is to aid the agency in considering all reasonable regulatory alternatives that would minimize the economic impact on affected small entities. After the public comment period, the agency prepares a Final Regulatory Flexibility Analysis (FRFA) that takes into consideration any new information and public comments. This FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments, NMFS' responses to those comments, and a summary of the analyses completed to support the action. NMFS published the proposed rule on March 5, 2013 78 FR 14259, with a comment period through April 4, 2013. An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The description of this action, its purpose, and its legal basis are described in the preamble to the proposed rule and are not repeated here. The FRFA describes the impacts on small entities, which are defined in the IRFA for this action and not repeated here. Analytical requirements for the FRFA are described in Regulatory Flexibility Act, section 304(a)(1) through (5), and summarized below. The FRFA must contain: (1) A succinct statement of the need for, and objectives of, the rule; (2) A summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) A description and an estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available; (4) A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (5) A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

This rule establishes the 2013 harvest specifications for Pacific whiting and the allocation of Pacific whiting for the tribal whiting fishery. This rule establishes the initial 2013 Pacific whiting allocations for the tribal fishery and the non-tribal sectors (catcher/processor, mothership, and shoreside), and the amount of Pacific whiting set

aside for research and incidental catch in other fisheries.

In 2012, the total estimated catch of whiting by tribal and non-tribal fishermen was 162,000 mt, or 87 percent of the U.S. TAC (186,037 mt). There was a late fall reapportionment of 28,000 mt of Pacific whiting from the tribal to non-tribal sectors. The tribal harvest was less than 1,000 mt, approximately 3 percent of the final tribal allocation of 20,556 mt. In total, non-tribal sectors harvested 97 percent of the final non-tribal allocation of 163,381 mt. This rule increases the U.S. TAC for 2013 to 269,745 mt, and the tribal allocation will increase to 63,205 mt. After setting aside 2,500 mt for research catch and bycatch in non-groundfish fisheries, the overall non-tribal allocation for 2013 is 204,040 mt. The non-tribal allocation is 28 percent higher than the 2012 non-tribal catch. In 2012, total Pacific whiting ex-vessel revenues earned by tribal and non-tribal fisheries reached about $50 million. If the 2013 TAC is entirely harvested, projected ex-vessel revenues would reach $83 million, based on 2012 ex-vessel prices. (Note that ex-vessel revenues do not take into account wholesale or export revenues or the costs of harvesting and processing whiting into a finished product.)

There were no significant issues raised by the public comments in response to the IRFA. However, there was one comment that referred to small entities. Noting that the highest annual tribal catch has been 34,500 mt, one association representing large fishing companies commented that the proposed tribal allocation is too high. They suggested that NMFS should be more effective in reapportioning tribal whiting to minimize the amount of whiting stranded, as the reapportioning process allows unharvested tribal allocations to be fished by non-tribal fleets, benefitting both large and small businesses. The association also suggested that pre-season plans be required from the tribes. A detailed response to these comments is included in the comment and response section of this final rule.

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

It should be also noted that under Agreement with Canada on Pacific Hake/Whiting, as described in 77 FR 28501 (May 15, 2012), unharvested fish are not necessarily ''stranded.'' If at the end of the year, there are unharvested allocations, there are provisions for an amount of these fish to be carried over into the next year's allocation process. ''If, in any year, a Party's catch is less than its individual TAC, an amount equal to the shortfall shall be added to its individual TAC in the following year, unless otherwise recommended by the JMC. Adjustments under this sub-paragraph shall in no case exceed 15 percent of a Party's unadjusted individual TAC for the year in which the shortfall occurred.'' Such an adjustment was made for the 2013 fishery under the Agreement: This adjustment resulted in 7,552 mt being added to the Canadian share, for an adjusted Canadian TAC of 95,367 mt, and 21,360 mt being added to the United States share, for an adjusted United States TAC of 269,745 mt. This results in a coastwide adjusted TAC of 365,112 mt for 2013.

Under the RFA, the term ''small entities'' includes small businesses, small organizations, and small governmental jurisdictions. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts not in excess of $4.0 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the $4.0 million criterion for fish harvesting operations. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. For marinas and charter/party boats, a small business is one with annual receipts not in excess of $7.0 million. The RFA defines small organizations as any nonprofit enterprise that is independently owned and operated and is not dominant in its field. The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

This final rule affects how whiting is allocated to the following sectors/programs: Tribal, Shorebased Individual Fishing Quota (IFQ) Program—Trawl Fishery, Mothership Coop (MS) Program—Whiting At-sea Trawl Fishery, and Catcher-Processor (C/P) Coop Program—Whiting At-sea Trawl Fishery. The amount of whiting allocated to these sectors is based on the U.S. TAC. From the U.S. TAC, small amounts of whiting that account for research catch and for bycatch in other fisheries are deducted. The amount of the tribal allocation is also deducted directly from the TAC prior to allocations to the non-tribal sectors. The remainder is the commercial harvest guideline. This guideline is then allocated among the other three sectors as follows: 34 percent for the C/P Coop Program; 24 percent for the MS Coop Program; and 42 percent for the Shorebased IFQ Program.

The shorebased IFQ fishery is managed with individual fishing quotas for most groundfish species, including whiting. Annually, quota pounds (QP) are allocated from the shorebased sector allocation based on the individual quota shares (QS) of each QS owner. (QP is expressed as a weight and QS is expressed as a percent of the shorebased allocation for a given species or species group.). Quota pounds (QP) may be transferred from a QS account to a vessel account or from one vessel account to another vessel account. Vessel accounts are used to track how QP is harvested as QP is to cover catch (landings and discards) by limited entry trawl vessels of all IFQ species/species groups. Shorebased IFQ catch must be landed at authorized first receiver sites. The IFQ whiting quota shares (QS) were allocated to a mixture of limited entry permit holders and shorebased processors. One non-profit organization received quota share based on the ownership of multiple limited entry permits. The Mothership (MS) coop sector can consist of one or more coops and a non-coop subsector. For a MS coop to participate in the Pacific whiting fishery, it must be composed of MS catcher-vessel (MSCV) endorsed limited entry permit owners. Each permitted MS coop is authorized to harvest a quantity of Pacific whiting based on the sum of the catch history assignments for each member's MS/Catcher Vessel (MSCV) endorsed permit identified in the NMFS accepted coop

agreement for a given calendar year. Each MS/CV endorsed permit has an allocation of Pacific whiting catch based on its catch history in the fishery. The catch history assignment (CHA) is expressed as a percentage of Pacific whiting of the total MS sector allocation. Currently the MS sector is composed of only a single coop. The Catcher/Processor (C/P) coop program is a limited access program that applies to vessels in the C/P sector of the Pacific whiting at-sea trawl fishery and is a single voluntary coop. Unlike the MS coop regulations where multiple coops can be formed around the catch history assignments of each coop's member's endorsed permit, the single C/P coop receives the total Pacific whiting allocation for the C/P sector. Only C/P endorsed limited entry permits can participate in this coop. Currently (February 2013), the Shorebased IFQ Program is composed of 138 QS permits/accounts, 142 vessel accounts, and 50 first receivers. The MS coop fishery is currently composed of a single coop, with six mothership processor permits, and 36 MS/CV endorsed permits with one permit having two catch history assignments endorsed to it. The C/P coop is composed of 10 catcher-processor permits owned by three companies. There are four tribes that can participate in the tribal whiting fishery. The current tribal fleet is composed of 5 trawlers that either deliver to a shoreside plant or to a contracted mothership.

These regulations directly affect IFQ Quota share holders who determine which vessel accounts receive QP, holders of MS/CV endorsed permits who determine how many coops will participate in the fishery and how much fish each coop is to receive, and the CP coop which is made up of three companies that own the CP permits. As part of the permit application processes for the non-tribal fisheries, based on a review of the SBA size criteria, applicants are asked if they considered themselves a ''small'' business and to provide detailed ownership information. Although there are three non-tribal sectors, many companies participate in two or more of these sectors. All MS/CV participants are involved in the shorebased IFQ sector while two of the three CP companies also participate in both the shorebased IFQ sector and in the MS sector. Many companies own several QS accounts. After accounting for cross participation, multiple QS account holders, and for affiliation through ownership, there are 100 non-tribal entities directly affected by these regulations, 82 of which are considered to be ''small'' businesses. These regulations also directly affect tribal whiting fisheries. Based on groundfish ex-vessel revenues and on tribal enrollments (the population size) of each tribe, the four tribes and their fleets are considered ''small'' entities.

There are no recordkeeping requirements associated with this final rule.

This final rule directly regulates what entities can harvest whiting. This rule allocates fish between tribal harvesters (harvest vessels are small entities, tribes are small jurisdictions) and to non-tribal harvesters (a mixture of small and large businesses). Tribal fisheries are a mixture of activities that are similar to the activities that non-tribal fisheries undertake. Tribal harvests are delivered to both shoreside plants and motherships for processing. These processing facilities also process fish harvested by non-tribal fisheries.

The alternatives to the 2013 interim tribal allocation implemented by this rule are the ''No-Action'' and the ''Proposed Action (or preferred alternative).'' The preferred alternative, based on discussions with the tribes, is for NMFS to allocate between 28 percent and 23 percent of the U.S. total allowable catch for 2013. NMFS did not consider a broader range of alternatives to the proposed allocation. The tribal allocation is based primarily on the requests of the tribes. These requests reflect the level of participation in the fishery that will allow them to exercise their treaty right to fish for whiting. Consideration of amounts lower than the tribal requests is not appropriate in this instance. As a matter of policy, NMFS has historically supported the harvest levels requested by the tribes. Based on the information available to NMFS, the tribal request is within their tribal treaty rights, and the participating tribe has on occasion shown an ability to harvest the amount of whiting requested. A higher allocation would, arguably, also be within the scope of the treaty right. However, a higher allocation would unnecessarily limit the non-tribal fishery.

A no-action alternative was considered, but the regulatory framework provides for a tribal allocation on an annual basis only. Therefore, no action would result in no allocation of Pacific whiting to the tribal sector in 2013, which would be inconsistent with NMFS' responsibility to manage the fishery consistent with the tribes' treaty rights. Given that there are tribal requests for allocations in 2013, this alternative was rejected.

There are no significant alternatives to the rule that accomplish the stated objectives of applicable statutes and the treaties with the affected tribes that minimize any of the significant economic impact of the proposed rule on small entities. NMFS believes this final rule will not adversely affect small entities. Sector allocations are higher than sector catches in 2012, so this rule will be beneficial to both large and small entities.

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

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

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

no bycatch of coho, chum, sockeye, and steelhead.

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

As Steller sea lions and humpback whales are also protected under the Marine Mammal Protection Act (MMPA), incidental take of these species from the groundfish fishery must be addressed under MMPA section 101(a)(5)(E). On February 27, 2012, NMFS published notice that the incidental taking of Steller sea lions in the West Coast groundfish fisheries is addressed in NMFS' December 29, 2010 Negligible Impact Determination and this fishery has been added to the list of fisheries authorized to take Steller sea lions (77 FR 11493). NMFS is currently developing MMPA authorization for the incidental take of humpback whales in the fishery.

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

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

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: May 2, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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

PART 660—FISHERIES OFF WEST COAST STATES

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

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

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

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f) * * *

(4) *Pacific whiting.* The tribal allocation for 2013 is 63,205 mt.

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■ 3. Table 1a, to part 660, subpart C, is revised to read as follows:

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Table 1a. To Part 660, Subpart C- 2013, Specifications of OFL, ABC, ACL, ACT and Fishery Harvest guidelines(weights in metric tons).

Species	Area	OFL	ABC	ACL a/	Fishery HG b/
Arrowtooth flounder c/	Coastwide	7,391	6,157	6,157	4,070
Black d/ e/	N of 46°16' N. lat.	430	411	411	397
	S of 46°16' N. lat.	1,159	1,108	1,000	1,000
Bocaccio f/	S of 40°10' N. lat.	884	845	320	311.6
Cabezon g/ h/	46°16' to 42° N. lat.	49	47	47	47
	S of 42° N. lat.	170	163	163	163
California scorpionfish i/	S of 34°27' N. lat.	126	120	120	118
Canary rockfish j/	Coastwide	752	719	116	98.5
Chilipepper k/	S of 40°10' N. lat.	1,768	1,690	1,690	1,466
Cowcod l/	S of 40°10' N. lat.	11	9	3	2.9
Darkblotched rockfish m/	Coastwide	541	517	317	296.2
Dover sole n/	Coastwide	92,955	88,865	25,000	23,410
English sole o/	Coastwide	7,129	6,815	6,815	6,712
Lingcod p/ q/	N of 40° 10' N. lat.	3,334	3,036	3,036	2,758
	S of 40° 10' N. lat.	1,334	1,111	1,111	1,102
Longnose skate r/	Coastwide	2,902	2,774	2,000	1,928
Longspine thornyhead s/	N of 34°27' N. lat.	3,391	2,825	2,009	1,963
	S of 34°27' N. lat.			356	353
Minor nearshore rockfish north t/	N of 40°10' N. lat.	110	94	94	94
Minor shelf rockfish north u/	N of 40°10' N. lat.	2,183	1,920	968	903
Minor slope rockfish north v/	N of 40°10' N. lat.	1,518	1,381	1,160	1,098
Minor nearshore rockfish south w/	S of 40°10' N. lat.	1,164	1,005	990	990
Minor shelf rockfish south x/	S of 40°10' N. lat.	1,910	1,617	714	668.0
Minor slope rockfish south y/	S of 40°10' N. lat.	681	618	618	597
Other fish z/	Coastwide	6,832	4,717	4,717	4,540
Other flatfish aa/	Coastwide	10,060	6,982	4,884	4,682
Pacific cod bb/	Coastwide	3,200	2,221	1,600	1,191
Pacific ocean perch (POP) cc/	N of 40° 10' N. lat.	844	807	150	133.5
Pacific whiting dd/	Coastwide	626,364	dd/	dd/	204,040
Petrale sole ee/	Coastwide	2,711	2,592	2,592	2,358.0
Sablefish ff/ gg/	N of 36° N. lat.	6,621	6,045	4,012	See Table 1c
	S of 36° N. lat.			1,439	1,434
Shortbelly hh/	Coastwide	6,950	5,789	50	48
Shortspine thornyhead ii/	N of 34°27' N. lat.	2,333	2,230	1,540	1,481
	S of 34°27' N. lat.			397	355
Splitnose jj/	S of 40°10' N. lat.	1,684	1,610	1,610	1,598
Starry flounder kk/	Coastwide	1,825	1,520	1,520	1,513
Widow ll/	Coastwide	4,841	4,598	1,500	1,411
Yelloweye rockfish mm/	Coastwide	51	43	18	12.2
Yellowtail nn/	N of 40°10' N. lat.	4,579	4,378	4,378	3,677

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

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

c/ Arrowtooth flounder. The stock was last assessed in 2007 and was estimated to be at 79 percent of its unfished biomass in 2007. The OFL of 7,391 mt is based on the 2007 assessment with an $F_{30\%}$ F_{MSY} proxy. The ABC of 6,157 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. Because the stock is above $B_{25\%}$, the ACL is set equal to the ABC. 2,087.39 mt is deducted from the ACL for the Tribal fishery (2,041 mt), the incidental open access fishery (30 mt), and research catch (16.39 mt), resulting in a fishery HG of 4,070 mt.

d/ Black rockfish north (Washington). A stock assessment was prepared for black rockfish north of 45°46' N. lat. (Cape Falcon, Oregon) in 2007. The biomass in the north was estimated to be at 53 percent of its unfished biomass in 2007. The OFL from the assessed area is based on the 2007 assessment with a harvest rate proxy of $F_{50\%.}$ The resulting OFL for the area north of 46°16 N. lat. is 430 mt and is 97 percent of the OFL from the assessed area, based on the area distribution of historical catch. The ABC of 411 mt for the north is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL was set equal to the ABC, since the stock is above $B_{40\%}$. 14 mt is deducted from the ACL for the Tribal fishery, resulting in a fishery HG of 397 mt.

e/ Black rockfish south (Oregon and California). A stock assessment was prepared for black rockfish south of 45°46 N. lat. (Cape Falcon, Oregon) to Central California in 2007. The biomass in the south was estimated to be at 70 percent of its unfished biomass in 2007. The OFL from the assessed area is based on the 2007 assessment with a harvest rate proxy of $F_{50\%}$ plus 3 percent of the OFL from the stock assessment prepared for black rockfish north of 45°46' N. lat. The resulting OFL for the area south of 46°16 N. lat. is 1,159 mt. The ABC of 1,108 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The 2013 and 2014 ACL is 1,000 mt, which maintains the constant catch strategy designed to keep the stock biomass above $B_{40\%}$. There are no deductions from the ACL, thus the fishery HG is equal to the ACL. The black rockfish ACL in the area south of 46°16' N. lat. (Columbia River), is subdivided with separate HGs being set for the waters off Oregon (580 mt/58 percent) and for the waters off California (420 mt/42 percent).

f/ Bocaccio. A bocaccio stock assessment update was prepared in 2011 for the bocaccio stock between the U.S.-Mexico border and Cape Blanco. The stock is managed with stock-specific harvest specifications south of 40°10' N. lat. and within the minor shelf rockfish complex north of 40°10' N. lat. Historical catch distribution of approximately 6 percent was used to apportion the assessed stock to the area north of 40°10' N. lat. The bocaccio stock was estimated to be at 26 percent of its unfished biomass in 2011. The OFL of 884 mt is based on the 2011 stock assessment STAT model with an F_{MSY} proxy of $F_{50\%}$. The ABC of 845 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The 320 mt ACL is based on a rebuilding plan with a target year to rebuild of 2022 and an SPR harvest rate of 77.7 percent. 8.4 mt is deducted from the ACL for the incidental open access fishery (0.7 mt), EFP catch (6.0 mt) and research catch (1.7 mt), resulting in a fishery HG of 311.6 mt. The California recreational fishery has an HG of 163.5.

g/ Cabezon (Oregon). A cabezon stock assessment was prepared in 2009. The cabezon biomass in waters off Oregon was estimated to be at 52 percent of its unfished biomass in 2009. The OFL of 49 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 47 mt was based on a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. Because the stock is above $B_{40\%}$, the ACL is set equal to the ABC. No deductions are made from the ACL, so the fishery HG is equal to the ACL at 47 mt. Cabezon in waters off Oregon were removed from the "other fish" complex in 2011.

h/ Cabezon (California). A cabezon stock assessment was prepared in 2009. The cabezon biomass in waters off California was estimated to be at 48 percent of its unfished biomass in 2009. The OFL of 170 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 163 mt was based on a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{40\%}$, the ACL is set equal to the ABC. No deductions are made from the ACL, so the fishery HG is equal to the ACL at 163 mt.

i/ California scorpionfish was assessed in 2005 and was estimated to be at 80 percent of its unfished biomass in 2005. The OFL of 126 mt is based on the 2005 assessment with a harvest rate proxy of $F_{50\%}$. The ABC of 120 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{40\%}$, the ACL is set equal to the ABC. 2 mt is deducted from the ACL for the incidental open access fishery, resulting in a fishery HG of 118 mt.

j/ Canary rockfish. A canary rockfish stock assessment update was prepared in 2011 and the stock was estimated to be at 24 percent of its unfished biomass coastwide in 2011. The coastwide OFL of 752 mt is based on the new assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 719 mt is a 4 percent reduction from the OFL

(σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 116 mt is based on a rebuilding plan with a target year to rebuild of 2030 and a SPR harvest rate of 88.7 percent. 17.5 mt is deducted from the ACL for the Tribal fishery (9.5 mt), the incidental open access fishery (2 mt), EFP catch (1.5 mt) and research catch (4.5 mt) resulting in a fishery HG of 98.52 mt. Recreational HGs are being specified as follows: Washington recreational 3.1; Oregon recreational 10.8 mt; and California recreational 22.4 mt.

k/ Chilipepper. The coastwide chilipepper stock was assessed in 2007 and estimated to be at 70 percent of its unfished biomass coastwide in 2006. Chilipepper are managed with stock-specific harvest specifications south of 40°10 N. lat. and within the minor shelf rockfish complex north of 40°10' N. lat. Projected OFLs are stratified north and south of 40°10' N. latitude based on the average 1998-2008 assessed area catch, which is 93 percent for the area south of 40°10' N. latitude and 7 percent for the area north of 40°10' N. latitude. South of 40°10' N. lat., the OFL of 1,768 mt is based on the 2007 assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,690 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the unfished biomass is estimated to be above 40 percent of the unfished biomass, the ACL was set equal to the ABC. 224 mt is deducted from the ACL for the incidental open access fishery (5 mt), EFP fishing (210 mt), and research catch (9 mt), resulting in a fishery HG of 1,466 mt.

l/ Cowcod. A stock assessment update prepared in 2009 estimated the stock to be 5 percent of its unfished biomass in 2009. The OFLs for the Monterey and Conception areas were summed to derive the south of 40°10' N. lat. OFL of 11 mt. The ABC for the area south of 40°10' N. lat. is 9 mt. The assessed portion of the stock in the Conception Area was considered category 2, with a Conception Area contribution to the ABC of 5 mt, which is a 17 percent reduction from the OFL (σ=0.72/P*=0.40). The unassessed portion of the stock in the Monterey area was considered a category 3 stock, with a contribution to the ABC of 3 mt, which is a 31 percent reduction from the OFL (σ=1.44/P*=0.40). A single ACL of 3 mt is being set for both areas combined. The ACL of 3 mt is based on a rebuilding plan with a target year to rebuild of 2068 and an SPR rate of 82.7 percent. 0.1 mt is deducted from the ACL for the amount anticipated to be taken during research activity (0.1 mt) and EFP catch (0.03 mt) which results in a fishery HG of 2.9 mt.

m/ Darkblotched rockfish. A stock assessment update was prepared in 2011, and the stock was estimated to be at 30.2 percent of its unfished biomass in 2011. The OFL is projected to be 541 mt and is based on the 2011 stock assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 517 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 317 mt is based on a rebuilding plan with a target year to rebuild of 2025 and an SPR harvest rate of 64.9 percent. 20.8 mt is deducted from the ACL for the Tribal fishery (0.1 mt), the incidental open access fishery (18.4 mt), EFP catch (0.2 mt) and research catch (2.1 mt), resulting in a fishery HG of 296.2 mt.

n/ Dover sole. A 2011 Dover sole assessment estimated the stock to be at 83.7 percent of its unfished biomass in 2011. The OFL of 92,955 mt is based on the results of the 2011 stock assessment with an F_{MSY} proxy of $F_{30\%}$. The ABC of 88,865 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{25\%}$ coastwide, the ACL could be set equal to the ABC. However, the ACL of 25,000 mt is set at a level below the ABC and higher than the maximum historical landed catch. 1,590 mt is deducted from the ACL for the Tribal fishery (1,497 mt), the incidental open access fishery (55 mt) and research catch (38 mt), resulting in a fishery HG of 23,410 mt.

o/ English sole. A stock assessment update was prepared in 2007. The stock was estimated to be at 116 percent of its unfished biomass in 2007. The OFL of 7,129 mt is based on the results of the 2007 assessment update with an F_{MSY} proxy of $F_{30\%}$. The ABC of 6,815 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{25\%}$, the ACL was set equal to the ABC. 103 mt is deducted from the ACL for the Tribal fishery (91 mt), the incidental open access fishery (7 mt) and research catch (5 mt), resulting in a fishery HG of 6,712 mt.

p/ Lingcod north. A lingcod stock assessment was prepared in 2009. The lingcod biomass off Washington and Oregon was estimated to be at 62 percent of its unfished biomass in 2009. The OFL of 3,334 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 3,036 mt was based on a 4 percent reduction from the OFL (σ=0.36/P*=0.45) for the area north of 42° N. lat. as it's a category 1 stock, and a 17 percent reduction from the OFL (σ=0.72/P*=0.40) for the area between 42° N. lat. and 40°10'N. lat. as it's a category 2 stock. The ACL was set equal to the ABC. 277.67 mt is deducted from the ACL for the Tribal fishery (250 mt), the incidental open access fishery (16 mt) and research catch (11.67 mt), resulting in a fishery HG of 2,758 mt.

q/ Lingcod south . A lingcod stock assessment was prepared in 2009. The lingcod biomass off California was estimated to be at 74 percent of its unfished biomass in 2009. The OFL of 1,334 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 1,111 mt was based on a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a

category 2 stock. The ACL was set equal to the ABC. 9 mt is deducted from the ACL for the incidental open access fishery (7 mt) and EFP fishing (2 mt), resulting in a fishery HG of 1,102 mt.

r/ Longnose skate. A stock assessment was prepared in 2007 and the stock was estimated to be at 66 percent of its unfished biomass. The OFL of 2,902 mt is based on the 2007 stock assessment with an F_{MSY} proxy of $F_{45\%}$. The ABC of 2,774 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45)as it's a category 1 stock. The ACL of 2,000 mt is a fixed harvest level that provides greater access to the stock. 72.18 mt is deducted from the ACL for the Tribal fishery (56 mt), incidental open access fishery (3 mt), and research catch (13.18 mt), resulting in a fishery HG of 1,928 mt.

s/ Longspine thornyhead. A coastwide stock assessment was conducted in 2005 and the stock was estimated to be at 71 percent of its unfished biomass in 2005. A coastwide OFL of 3,391 mt is based on the 2005 stock assessment with an $F_{50\%}$ F_{MSY} proxy. The ABC of 2,825 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. For the portion of the stock that is north of 34°27' N. lat., the ACL is 2,009 mt, and is 79 percent of the coastwide OFL for the biomass found in that area reduced by an additional 25 percent as a precautionary adjustment. 46 mt is deducted from the ACL for the Tribal fishery (30 mt), the incidental open access fishery (3 mt), and research catch (13 mt) resulting in a fishery HG of 1,963 mt. For that portion of the stock south of 34°27' N. lat. the ACL is 356 mt and is 21 percent of the coastwide OFL reduced by 50 percent as a precautionary adjustment. 3 mt is deducted from the ACL for the incidental open access fishery (2 mt), and research catch (1 mt) resulting in a fishery HG of 353 mt.

t/ Minor nearshore rockfish north. The OFL of 110 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (blue rockfish in California) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 94 mt is the summed contribution of the ABCs for the component species. The ACL is set equal to the complex ABC. There are no deductions from the ACL, thus the fishery HG is equal to the ACL at 94 mt.

u/ Minor shelf rockfish north. The OFL of 2,183 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (greenspotted rockfish between 40°10' to 42° N. lat. and greenstriped rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,920 mt is the summed contribution of the ABCs for the component species. The ACL of 968 mt is the same as the 2012 ACL. 65.24 mt is deducted from the ACL for the Tribal fishery (30 mt), the incidental open access fishery (26 mt), EFP catch (3 mt) and research catch (6.24 mt) resulting in a fishery HG of 903 mt.

v/ Minor slope rockfish north. The OFL of 1,518 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the northern minor slope rockfish complex is based on a sigma value of 0.36 for category 1 stocks (splitnose rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,381 mt is the summed contribution of the ABCs for the component species. The ACL of 1,160 is the same as the 2012 ACL. 62 mt is deducted from the ACL for the Tribal fishery (36 mt), the incidental open access fishery (19 mt), EFP catch (1 mt) and research catch (6 mt), resulting in a fishery HG of 1,098 mt.

w/ Minor nearshore rockfish south. The OFL of 1,164 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern minor nearshore rockfish complex is based on a sigma value of 0.36 for category 1 stocks (gopher rockfish north of 34°27' N. lat.), 0.72 for category 2 stocks (blue rockfish north of 34°27' N. lat.) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting minor nearshore rockfish south ABC, which is the summed contribution of the ABCs for the component species within the complex, is 1,005 mt. The ACL is 990 mt; the same as the 2012 ACL. There are no deductions from the ACL, resulting in a fishery HG of 990 mt. Blue rockfish south of 42° N. latitude has a species-specific HG of 236 mt.

x/ Minor shelf rockfish south. The OFL of 1,910 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the southern minor shelf rockfish complex is based on a sigma value of 0.72 for category 2 stocks (greenspotted and greenstriped rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,617 mt is the summed contribution of the ABCs for the component species. The ACL of 714 mt is the same as the 2012 ACL. 46 mt is deducted from the ACL for the incidental open access fishery (9 mt), EFP catch (31 mt) and research catch (6 mt), resulting in a fishery HG of 668 mt.

y/ Minor slope rockfish south. The OFL of 681 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern minor slope rockfish complex is based on a sigma value of 0.72 for category 2 stocks (bank and blackgill rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 618 mt is the summed contribution of the ABCs for the component species. The ACL is equal to the ABC. 21 mt is deducted from the ACL for the incidental open access fishery (17 mt), EFP catch (2 mt) and research catch (2 mt), resulting in a fishery HG of 597 mt. Blackgill rockfish has species-specific HGs: 26.4 mt for the limited entry fixed gear fishery; 17.6 mt for the open access fishery.

z/ "Other fish" is composed entirely of groundfish FMP species that are neither rockfish (family Scorpaenidae) nor flatfish, and most of these species are unassessed, with the exception of spiny dogfish, which was assessed in 2011 and is a category 2 stock. The OFL of 6,832 mt is the sum of the OFL contributions for the component species within the complex. The OFL contribution for spiny dogfish is projected from the 2011 assessment using an $F_{45\%}$ F_{MSY} proxy harvest rate. The ABC of 4,717 mt is calculated by applying a P* of 0.40 and a sigma of 1.44 to the OFLs calculated for the category 3 stocks (i.e., all stocks other than spiny dogfish) and a P* of 0.30 and a sigma of 0.72 to the OFL calculated for spiny dogfish. The resulting ABC for the complex is the summed contribution of the ABCs calculated for the component stocks. The ACL is set equal to the ABC. 177 mt is deducted from the ACL for the Tribal fishery (112 mt), the incidental open access fishery (50 mt), EFP catch (3 mt) and research catch (12 mt), resulting in an "other fish" fishery HG of 4,540 mt.

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

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

cc/ Pacific Ocean Perch (POP). A POP stock assessment was prepared in 2011 and the stock was estimated to be at 19.1 percent of its unfished biomass in 2011. The OFL of 844 mt for the area north of 40°10' N. lat. is based on the 2011 stock assessment with an $F_{50\%}$ F_{MSY} proxy. The ABC of 807 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 150 mt is based on a rebuilding plan with a target year to rebuild of 2051 and an SPR harvest rate of 86.4 percent. 16.5 mt is deducted from the ACL for the Tribal fishery (10.9 mt), open access fishery (0.4 mt) and research catch (5.2 mt), resulting in a fishery HG of 133.5 mt.

dd/ Pacific whiting. The most recent stock assessment was prepared in January 2013. The 2013 Fishery Harvest Guideline (Fishery HG) is calculated as follows. U.S. TAC of 269,745 mt minus 63,205 mt for the Tribal allocation minus 2,500 mt for catch in research activities and as non-groundfish bycatch, resulting in a fishery harvest guideline of 204,040 mt. The TAC for Pacific whiting is established under the provisions of the Pacific Hake/Whiting Agreement with Canada and the Pacific Whiting Act of 2006, 16 U.S.C. 7001-7010, and the international exception applies. Therefore, no ABC or ACL values are provided for Pacific whiting. The 2013 OFL of 626,364 mt is based on the 2013 assessment with an $F_{40\%}$ F_{MSY} proxy.

ee/ Petrale sole. A petrale sole stock assessment was prepared for 2011. In 2011 the petrale sole stock was estimated to be at 18 percent of its unfished biomass. The OFL of 2,711 mt is based on the 2011 assessment with an $F_{30\%}$ F_{MSY} proxy. The ABC of 2,592 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC. 234 mt is deducted from the ACL for the Tribal fishery (220 mt), the incidental open access fishery (2.4 mt), and research catch (11.6 mt), resulting in a fishery HG of 2,358 mt.

ff/ Sablefish north. A coastwide sablefish stock assessment was prepared in 2011. The coastwide sablefish biomass was estimated to be at 33 percent of its unfished biomass in 2011. The coastwide OFL of 6,621 mt is based on the 2011 stock assessment with an F_{MSY} proxy of $F_{45\%}$. The coastwide ABC of 6,045 mt is an 8.7 percent reduction from the OFL (σ=0.36/P*=0.40). The 40-10 harvest policy was applied to the ABC to derive a coastwide ACL value. Then the ACL value was apportioned, north and south of 36° N. lat., using the average of annual swept area biomass (2003-2010) from the NMFS NWFSC trawl survey, between the northern and southern areas with 73.6 percent going to the area north of 36° N. lat. and 26.4 percent going to the area south of 36° N. lat. The northern ACL is 4,012 mt and is reduced by 401 mt for the tribal allocation (10 percent of the ACL north of 36° N. lat.). The 401 mt Tribal allocation is reduced by 1.5 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 1c.

gg/ Sablefish south. The ACL for the area south of 36° N. lat. is 1,439 mt (26.4 percent of the calculated coastwide ACL value). 5 mt is deducted from the ACL for the incidental open access fishery (2 mt) and research catch (3 mt), resulting in a fishery HG of 1,434 mt.

hh/ Shortbelly rockfish. A non-quantitative assessment was conducted in 2007. The spawning stock biomass of shortbelly rockfish was estimated at 67 percent of its unfished biomass in 2005. The OFL of 6,950 mt was recommended for the stock in 2013 with an ABC of 5,789 mt (σ=0.72 with a P* of 0.40). The 50 mt ACL is slightly

higher than recent landings and is in recognition of the stock's importance as a forage species in the California Current ecosystem. 2 mt is deducted from the ACL for research catch, resulting in a fishery HG of 48 mt.

ii/ Shortspine thornyhead. A coastwide stock assessment was conducted in 2005 and the stock was estimated to be at 63 percent of its unfished biomass in 2005. A coastwide OFL of 2,333 mt is based on the 2005 stock assessment with an $F_{50\%}$ F_{MSY} proxy. The coastwide ABC of 2,230 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. For the portion of the stock that is north of 34°27' N. lat., the ACL is 1,540 mt. The northern ACL is 66 percent of the coastwide OFL for the portion of the biomass found north of 34°27' N. lat. 59.22 mt is deducted from the ACL for the Tribal fishery (50 mt), the incidental open access fishery (2 mt), and research catch (7.22 mt) resulting in a fishery HG of 1,481 mt for the area north of 34°27' N. lat. For that portion of the stock south of 34°27' N. lat., the ACL is 397 mt which is 34 percent of the coastwide OFL for the portion of the biomass found south of 34°27' N. lat. reduced by 50 percent as a precautionary adjustment. 42 mt is deducted from the ACL for the incidental open access fishery (41 mt), and research catch (1 mt), resulting in a fishery HG of 355 mt for the area south of 34°27' N. lat.

jj/ Splitnose rockfish. A coastwide assessment was prepared in 2009 that estimated the stock to be at 66 percent of its unfished biomass in 2009. Splitnose in the north is managed under the minor slope rockfish complex and with species-specific harvest specifications south of 40°10' N. lat. The OFLs were apportioned north and south based on the average 1916-2008 assessed area catch resulting in 64.2 percent stock-specific OFL south of 40°10' N. lat, and 35.8 percent for the contribution of splitnose rockfish to the northern minor slope rockfish complex OFL. South of 40°10 N. lat., the OFL of 1,684 mt is based on the 2009 assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,610 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the unfished biomass is estimated to be above 40 percent of the unfished biomass, the ACL is set equal to the ABC. 12 mt is deducted from the ACL for research catch (9 mt) and EFP catch (3 mt), resulting in a fishery HG of 1,598 mt.

kk/ Starry Flounder. The stock was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005. For 2013, the coastwide OFL of 1,825 mt is based on the 2005 assessment with an F_{MSY} proxy of $F_{30\%}$. The ABC of 1,520 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. Because the stock is above $B_{25\%}$, the ACL was set equal to the ABC. 7 mt is deducted from the ACL for the Tribal fishery (2 mt)and the incidental open access fishery (5 mt), resulting in a fishery HG of 1,513 mt.

ll/ Widow rockfish. The stock was assessed in 2011 and was estimated to be at 51.1 percent of its unfished biomass in 2011. The OFL of 4,841 mt is based on the 2011 stock assessment with an $F_{50\%}$ F_{MSY} proxy. The ABC of 4,598 mt is a 5 percent reduction from the OFL (σ=0.41/P*=0.45). A unique sigma of 0.41 was calculated for widow rockfish since the estimated variance in estimated biomass was greater than the 0.36 used as a proxy for other category 1 stocks. A constant catch strategy will be used with an ACL of 1,500 mt. 89.2 mt is deducted from the ACL for the Tribal fishery (60 mt), the incidental open access fishery (89.2 mt), EFP catch (18 mt) and research catch (7.9 mt), resulting in a fishery HG of 1,411 mt.

mm/ Yelloweye rockfish. A stock assessment update was prepared in 2011. The stock was estimated to be at 21.3 percent of its unfished biomass in 2011. The 51 mt coastwide OFL was derived from the base model in the new stock assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 43 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The 18 mt ACL is based on a rebuilding plan with a target year to rebuild of 2074 and an SPR harvest rate of 76.0 percent. 5.82 mt is deducted from the ACL for the Tribal fishery (2.3 mt), the incidental open access fishery (0.2 mt), EFP catch (0.02 mt) and research catch (3.3 mt) resulting in a fishery HG of 12.2 mt. Recreational HGs are being established: Washington, 2.9; Oregon, 2.6 mt; and California, 3.4 mt.

nn/ Yellowtail rockfish. A yellowtail rockfish stock assessment update was last prepared in 2005 for the area north of 40°10' N. latitude to the U.S-Canadian border. Yellowtail rockfish was estimated to be at 55 percent of its unfished biomass in 2005. The OFL of 4,579 mt is based on the 2005 stock assessment with the F_{MSY} proxy of $F_{50\%}$. The ABC of 4,378 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL was set equal to the ABC, because the stock is above $B_{40\%}$. 701.49 mt is deducted from the ACL for the Tribal fishery (677 mt), the incidental open access fishery (3 mt), EFP catch (10 mt) and research catch (11.49 mt), resulting in a fishery HG of 3,677 mt.

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

§ 660.140 Shorebased IFQ Program.

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(1) * * *

(ii) * * *

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

SHOREBASED TRAWL ALLOCATIONS

IFQ Species	Management area	2013 Shorebased trawl allocation (mt)	2014 Shorebased trawl allocation (mt)
Arrowtooth flounder		3,846.13	3,467.08
BOCACCIO	South of 40°10′ N. lat.	74.90	79.00
CANARY ROCKFISH		39.90	41.10
Chilipepper	South of 40°10′ N. lat.	1,099.50	1,067.25
COWCOD	South of 40°10′ N. lat.	1.00	1.00
DARKBLOTCHED ROCKFISH		266.70	278.41
Dover sole		22,234.50	22,234.50
English sole		6,365.03	5,255.59
Lingcod	North of 40°10′ N. lat.	1,222.57	1,151.68
Lingcod	South of 40°10′ N. lat.	494.41	472.88
Longspine thornyhead	North of 34°27′ N. lat.	1,859.85	1,811.40
Minor shelf rockfish complex	North of 40°10′ N. lat.	508.00	508.00
Minor shelf rockfish complex	South of 40°10′ N. lat.	81.00	81.00
Minor slope rockfish complex	North of 40°10′ N. lat.	776.93	776.93
Minor slope rockfish complex	South of 40°10′ N. lat.	376.11	378.63
Other flatfish complex		4,189.61	4,189.61
Pacific cod		1,125.29	1,125.29
PACIFIC OCEAN PERCH	North of 40°10′ N. lat.	109.43	112.28
Pacific Whiting		85,697	.....
PETRALE SOLE		2,318.00	2,378.00
Sablefish	North of 36° N. lat.	1,828.00	1,988.00
Sablefish	South of 36° N. lat.	602.28	653.10
Shortspine thornyhead	North of 34°27′ N. lat.	1,385.35	1,371.12
Shortspine thornyhead	South of 34°27′ N. lat.	50.00	50.00
Splitnose rockfish	South of 40°10′ N. lat.	1,518.10	1,575.10
Starry flounder		751.50	755.50
Widow rockfish		993.83	993.83
YELLOWEYE ROCKFISH		1.00	1.00
Yellowtail rockfish	North of 40°10′ N. lat.	2,635.33	2,638.85

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