

all (1) snapper; (2) tarakihi; (3) spotted dogfish; (4) trevally; (5) warehou; (6) hoki; (7) barracouta; (8) mullet; and (9) gurnard derived from the fisheries of the West Coast North Island are subject to the ban. The court also ordered NMFS to submit notice of the ban for publication in the **Federal Register** within 15 days. By granting this preliminary injunction and requiring the imposition of import restrictions and a comparability finding determination for the export fisheries operating on the West Coast North Island within the Māui dolphin's range, the judge's order effectively removes the currently operative exemption under 50 CFR 216.24 (h)(2)(ii) for these fisheries.

#### *Implementing Import Restrictions Under the Court Order*

The CIT order stipulates that specific fish products deriving from West Coast North Island multi-species set-net and trawl fisheries are prohibited from entry into the U.S market. Several of these fish species are not imported into the United States under Harmonized Tariff Schedule (HTS) codes that are specific to the type of fish. Instead, these fish are imported under non-specific fish and marine fish codes. Consequently, the list of affected HTS codes has been determined by NMFS and is available at: <https://www.fisheries.noaa.gov/foreign/marine-mammal-protection/seafood-import-restrictions>. The list includes those non-specific HTS codes necessary to encompass the possible codes used for products subject to the trade restriction.

However, NMFS acknowledges that fish species harvested in the West Coast North Island fisheries are also harvested elsewhere in New Zealand and harvested with other fishing gear not subject to the court-ordered embargo. Consequently, further steps are needed to enforce an import restriction focused on fish harvested in the affected fisheries and included in the court order while not affecting trade in products not subject to embargo. NMFS must collect additional information from importers during the entry process to identify products not subject to an import restriction. To that end, NMFS has identified tariff codes for the fish and fish products that require Certification of Admissibility to validate that the fish and fish products from New Zealand being offered for entry into the United States do not originate from West Coast North Island set-net and trawl fisheries.

On December 5, 2022, U.S. Customs and Border Protection (CBP) transmitted a user-defined rule to inspectors at affected ports of entry with instructions for port inspectors to examine entry

filings from New Zealand under the specified tariff codes. Fish or fish products imported to the United States from New Zealand under the designated HTS codes that are not subject to the import prohibition must be accompanied by Certification of Admissibility. The Certification of Admissibility form and accompanying instructions for its use in entry filing are available at <https://www.fisheries.noaa.gov/foreign/marine-mammal-protection/seafood-import-restrictions>. The Certification of Admissibility is an information collection subject to the requirements of the Paperwork Reduction Act and has been approved by the Office of Management and Budget under control number 0648-0651.

Absent Certification of Admissibility, entry filings under the specified tariff codes will be rejected. Implementing this process will require notice to the trade community (importers and customs brokers) and CBP inspectors. NMFS is working with CBP to use its internal and external messaging systems for such notification. Also, consultations with the GNZ are needed to identify those officials authorized to certify shipments bound for the United States. NMFS initiated these steps prior to the effective date of the embargo.

Importers are advised to determine if other NMFS program requirements (e.g., Tuna Tracking and Verification Program, Seafood Import Monitoring Program) or other agency requirements (e.g., U.S. Fish and Wildlife Service, State Department, Food and Drug Administration) have Automated Commercial Environment (ACE) data reporting requirements applicable to the designated HTS codes subject to certification under the MMPA import provisions. In such cases, the other reporting requirements still pertain in addition to the Certification of Admissibility requirements imposed to implement the CIT order.

Until such time as the CIT (or other court of competent jurisdiction) lifts the preliminary injunction, trade restrictions on the fish products harvested by set-nets and trawls operating off the West Coast North Island within the Māui dolphin's range will continue and Certification of Admissibility will be required for the HTS codes designated under this notice.

**Authority:** 16 U.S.C. 1361 *et seq.*

Dated: December 9, 2022.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2022-27155 Filed 12-15-22; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 221208-0265]

RIN 0648-BL41

#### Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Whiting Utilization in the At-Sea Sectors

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

**ACTION:** Final rule.

**SUMMARY:** This final rule implements regulatory amendments that apply to the Pacific Coast Groundfish Trawl Rationalization Program participants that operate in the non-tribal Pacific whiting fishery. This rulemaking adjusts the primary Pacific whiting season start date for all sectors of the Pacific whiting fishery north of 40°30' N latitude (lat.) from May 15 to May 1, removes from regulation the mothership catcher vessel (MSCV) processor obligation deadline of November 30, removes from regulation the Mothership (MS) processor cap of 45 percent, and provides the ability to operate as a Catcher/Processor (CP) and an MS in the same year. This action is necessary to provide MS sector participants with greater operational flexibility by modifying specific regulations that have been identified as potentially contributing to lower attainment of the Pacific whiting allocation compared to the CP and shoreside Pacific whiting sectors. This final rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Pacific Coast Groundfish Fishery Management Plan, and other applicable laws.

**DATES:** This final rule is effective January 17, 2023.

**ADDRESSES:** This rule is accessible via the Office of the Federal Register website at <https://www.federalregister.gov/>. Background information and analytical documents (Analysis) are available at the NMFS

West Coast Region website at <https://www.fisheries.noaa.gov/region/west-coast> and at the Pacific Fishery Management Council's website at <https://www.pccouncil.org>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS and to <https://www.reginfo.gov/public/do/PRAMain>.

**FOR FURTHER INFORMATION CONTACT:**

Abbie Moyer, phone: 206-305-9601, or email: [abbie.moyer@noaa.gov](mailto:abbie.moyer@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Authority for Action**

NMFS and the Pacific Fishery Management Council (Council) manage the groundfish fisheries in the exclusive economic zone seaward of California, Oregon, and Washington under the Pacific Coast Groundfish Fishery Management Plan (FMP). The Council prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA; 16 U.S.C. 1801 *et seq.*). Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 660.

**Background**

This purpose of this final rule is to revise regulations that may be unnecessarily constraining, in order to provide increased operational flexibility in the Pacific whiting fishery and increase the Mothership (MS) sector's ability to utilize its Pacific whiting allocation, while maintaining fair and equitable access to Pacific whiting by all sectors of the program. The following sections of this preamble provide (1) a description of the non-tribal Pacific whiting fishery; (2) the need for action; and (3) the final regulations.

**A Description of the Non-Tribal Pacific Whiting Fishery**

*Pacific Whiting Fishery*

In January 2011, NMFS implemented a trawl rationalization program, a catch share system, for the Pacific coast groundfish fishery's trawl fleet. The program was adopted through Amendment 20 to the Pacific Coast Groundfish Fishery Management Plan (FMP) (75 FR 78344, December 15, 2010) and is a type of limited access privilege program under the MSA. Many of the specific provisions of the program, including those modified through this rulemaking, are in regulation at 50 CFR 660, but were not included in the Amendment 20 changes to the FMP. The trawl rationalization

program is intended to increase net economic benefits, create individual economic stability, provide full utilization of the trawl sector allocation, consider environmental impacts, and achieve individual accountability of catch and bycatch. The program consists of cooperatives for the at-sea MS and CP fleets that target and process Pacific whiting (or the at-sea trawl fleet), and an individual fishing quota (IFQ) program for the shorebased trawl fleet that targets both Pacific whiting and a wide range of other groundfish species (or the Shorebased IFQ Program).

The at-sea trawl fleet consists of fishery participants harvesting and processing Pacific whiting and is further divided as follows: (1) The Pacific whiting CP sector, which has been operating under the Pacific Whiting Conservation Cooperative (PWCC) since 1997 and was formalized for management with the implementation of Amendment 20 (the CP Co-op Program); and (2) the Pacific whiting MS sector (MS Co-op Program). The MS sector is made up of mothership catcher vessels (MSCVs), which harvest fish, and motherships, which process the fish at-sea. The MS sector program may include multiple co-ops where vessels pool their harvest together to form fishing cooperatives, as well as vessels not associated with a co-op (*i.e.*, the "non-co-op" segment of the MS fishery). In March of 2011, the owners of all 37 MSCV permits formed a co-op called the "Whiting Mothership Cooperative (WMC)". Every year since then, all participants in the sector have operated in the co-op. One of the primary purposes of the WMC is to minimize the bycatch of constraining rockfish species and Chinook salmon.

The shoreside Pacific whiting sector was grouped into the Shorebased IFQ Program during the development of Amendment 20. Vessels in this fishery target Pacific whiting with midwater trawl gear. Fishery participants must have quota pounds to harvest Pacific whiting catch and associated bycatch. About half of the shoreside Pacific whiting vessels also cross-participate in the MS fishery (*i.e.*, MSCV). Within the shoreside Pacific whiting fishery, there is the Shoreside Whiting Cooperative, which is voluntarily made up of participating vessels, and is not formally recognized in the groundfish regulations. Historically, approximately two-thirds of shoreside Pacific whiting vessels have participated in the co-op between 2012-2018.

Catch allocations for these subsectors are based on formulas set in Amendment 21 to the FMP, or are determined during the biennial

management process. The total allowable catch (TAC) for Pacific whiting is set annually outside of the Council's harvest specifications process. The TAC is set through a bilateral process with Canada, consistent with the Agreement Between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting of 2003 (commonly known as the Pacific Hake/Whiting Treaty) where 73.88 percent of the TAC is allocated to U.S. fisheries, of which 17.5 percent is allocated to the Tribal sector. In the fall of each fishing year, an unused portion of the Tribal allocation may be reapportioned to the non-Tribal sectors. This often results in an initial allocation to the non-tribal sectors and then a post-reapportionment allocation. Species in the Groundfish FMP are managed differently between the at-sea sectors and the shoreside fishery. For the shoreside Pacific whiting fishery, participants must have quota pounds (QPs) to cover all catch of any IFQ species and some non-IFQ species are managed with trip limits. For the at-sea fisheries, set asides are established for select groundfish species within the biennial harvest specifications process. Set asides are managed on an annual basis unless there is a risk of exceeding a harvest specification, an unforeseen impact on other fisheries, or a conservation concern.

The recent management programs affected by this final rule are described in greater detail in the proposed rule (87 FR 55979, September 13, 2022).

**Need for Action**

The MS sector has experienced lower than average attainment than the other non-tribal commercial Pacific whiting sectors since the start of the trawl catch share program, particularly since 2017. Causes of under-attainment have been attributed to the limited availability of motherships for delivery of catch due to seasonal overlap with the Alaskan Eastern Bering Sea walleye pollock fishery. In addition, existing regulations have been identified as hindering some catcher vessels' opportunity to harvest or deliver fish to MS processors, by limiting the ability for available processors to accept fish from catcher vessels. These obstacles to harvesting and processing in the MS sector have led to reduced economic opportunity for participants.

Section 2.2.1 of the Analysis (see **ADDRESSES**) found that from 2017-2019, the shoreside sector averaged attainment of 92 percent of the initial Pacific whiting allocations while the MS sector averaged 71 percent and the CP sector 100 percent (83, 64, and 90 percent of

the post-tribal reapportionment allocation, respectively). Additionally, from 2017–2019, the MS sector is estimated to have not achieved potential economic opportunity of \$14.5–\$27.3 million in production value from unharvested Pacific whiting from the initial allocations and \$21.5 to \$31.8 million compared to the post-reapportionment allocations (section 5.4.1.0 of the Analysis).

In an informational report submitted by the Council's Groundfish Advisory Subpanel (GAP), the GAP reported during the previous five seasons, more than 350 million pounds of Pacific whiting worth more than \$28 million in ex-vessel revenue had been left unharvested in the MS sector. Some catcher vessels had been unable to harvest and deliver their full MS sector allocations and, in certain cases, catcher vessels had been stranded without a MS processor to deliver to in a season or year. The GAP also reported that many MS sector participants, including all six MS processor vessels and several MS catcher vessels, participate in the Alaska pollock fishery where record high catch limits in recent years had limited the availability of processor vessels and some catcher vessels to participate in the Pacific whiting fishery during the primary Pacific whiting season, between May 15 and December 31.

The Council considered this action over a number of meetings and made its final recommendation in March 2022.

#### Final Action

This final rule revises existing regulations that apply to the Pacific Coast Groundfish Trawl Rationalization Program participants while operating in the non-tribal Pacific whiting fishery in order to provide increased operational flexibility and harvesting capabilities in the Pacific whiting fishery and increase the MS sector's ability to utilize its Pacific whiting allocation. The revisions include: (1) adjusting the primary Pacific whiting season start date for all sectors of the Pacific whiting fishery north of 40°30' N lat. from May 15 to May 1, and adjusting administrative dates associated with the start of the season; (2) removing from regulation the MSCV processor obligation deadline of November 30; (3) removing from regulation the MS processor cap of 45 percent; and (4) removing restrictions prohibiting an at-sea Pacific whiting processing vessel from operating as a MS or CP in the same calendar year.

The Council recommended and NMFS is implementing these changes based on information in the Analysis indicating that these measures will: (1) increase utilization of available MS

quota that has previously been unrealized; (2) increase opportunities in the MS sector by providing participants with an additional 15 days to participate in the Pacific whiting fishery, providing up to a month of Pacific whiting harvest opportunities between the Alaska pollock seasons; and (3) increase overall attainment leading to economic benefits for all sectors.

#### Season Start Date

This final rule amends regulations at 50 CFR 660.131(b)(2)(iii) to allow all sectors of the Pacific whiting fishery north of 40°30' N lat. to begin operating May 1. Currently, there are reporting requirements due 45 days prior to the current season start date of May 15. This final rule aligns all of these administrative dates to 45 days prior to the new season start date of May 1, which would be March 17. Specifically, these date changes apply to the annual MS co-op and CP co-op reports (50 CFR 660.113(c)(3) and (d)(3), respectively), the deadline for proposed salmon mitigation plans (SMPs) (50 CFR 660.113(e)(3)), the submission deadline for post season SMP reports (50 CFR 660.113(e)(6)(i)), the deadline for declaring into the MS co-op or non-co-op fishery (50 CFR 660.150(g)(2)(i)), and the MS co-op and CP co-op permit annual registration deadlines (50 CFR 660.150(d)(1)(ii) and 660.160(d)(1)(ii), respectively). Additionally, this final rule moves up an Electronic Monitoring (EM) application due date (50 CFR 660.604(e)) and an EM renewal date (50 CFR 660.604(i)) from February 15 to February 1 to align with the new season start date of May 1.

The Council recommended and NMFS is implementing this earlier season start date to provide vessels with an additional 15 days to participate in the Pacific whiting fishery and provide even more opportunity to harvest the Pacific whiting quota. The new season start date applies to all non-tribal sectors participating in the Pacific whiting fishery north of 40°30' N lat. As noted in section 2.2.1 of the Analysis, many vessels that fish in the Pacific whiting fishery earn the majority of their revenue in the Alaska fisheries and are likely incentivized to prioritize higher price of pollock above Pacific whiting. Therefore, this final rule provides vessels with an additional 15 days to participate in the Pacific whiting fishery, providing up to a month of Pacific whiting harvest opportunities between the Alaskan Eastern Bering Sea walleye pollock seasons.

This final rule is expected to considerably increase attainment for the MS sector, leading to economic benefits

for all participants. According to section 2.2.1 of the Analysis, the potential additional catch that could have occurred in the additional two weeks of fishing in the 2016–2020 period could have been associated with \$8.4 to \$20.3 million in production revenue for the MS sector (assuming market conditions, weather, and other factors). The additional catch would have resulted in an estimated \$10.5–\$22.8 million in income impacts and 159 to 345 associated jobs.

As described in the proposed rule (87 FR 55979, September 13, 2022), no additional biological impacts to Pacific whiting and other groundfish species are expected under this final rule. Additionally, overall estimates of Pacific salmon bycatch are still within the estimates analyzed in the 2017 Endangered Species Act (ESA) Section 7(a)(2) Biological Opinion (F/WCR–2017–7552) regarding the effects of the PFMC's Groundfish FMP on listed salmonids (2017 Biological Opinion).

#### MS Obligation Deadline

This final rule removes regulations at 50 CFR 660.150(c)(7) that require MSCVs to obligate their catch history assignment (CHA) to a MS permit by November 30 during the limited entry permit (LEP) renewal process (50 CFR 660.25(b)(4)(i)(A)). Under this final rule, there is no longer a requirement for MSCV-endorsed permit owners to notify NMFS of a mutual agreement exception (MAE) nor a requirement for NMFS to track the obligations (50 CFR 660.150(c)(7)(iv)). Additionally, the requirement for notification of a MS permit withdrawal at 50 CFR 660.150(c)(7)(v) is no longer required. MSCVs are still required to renew their limited entry permits each year, which includes the co-op declaration for the following year (50 CFR 660.150(g)(2)(i)), and co-op(s) are still required to submit their annual application per 50 CFR 660.150(d)(1)(iii).

The Council recommended and NMFS is implementing the removal of the MS obligation requirement from regulations to provide MSCVs additional flexibility to change processors inseason without regulatory delay. Removal of the obligation deadline will provide a more flexible management regime whereby participants may continue to balance individual needs of each entity to optimally harvest fish through private contracts and still provide consistent revenue. This final rule is expected to reduce administrative costs due to MSCVs not needing to notify NMFS of MAEs inseason and is expected to remove a regulatory and administrative

burden to NMFS and members of the MS sector. Current enforcement costs, the capability to monitor fishing activity (*i.e.*, area closures, gear requirements, safety standards) and monitoring of the fishery through electronic monitoring or observers, including catch and discard accounting, will not change.

#### MS Processor Cap

This final rule removes the MS usage limit (*i.e.*, processor cap) of 45 percent from regulation (§ 660.150(f)(3)(i)), and there are no longer restrictions on the amount of the MS sector allocation that an entity could process. MS permit holders are no longer required to submit to NMFS a trawl identification of ownership interest (OI) form in order to verify compliance of the MS processor cap, as per § 660.150(f)(3)(iv). MSCVs are still held to a 20 percent accumulation limit of the Pacific whiting CHA (50 CFR 660.150(g)(3)(i)) and a catch limit of 30 percent of the allocation (50 CFR 660.150(g)(3)(ii)).

The Council recommended and NMFS is implementing the removal of the MS processor cap to provide MS permit holders additional flexibility and to prevent occurrences of MSCVs not being able to deliver to a MS processor that had exceeded or was close to exceeding the 45 percent processing cap. Removal of the MS processor cap is expected to provide positive benefits to the MS sector through increased harvesting capabilities and increased flexibility in management of the MS sector. This in turn may provide an increase in revenue for the fishery as a whole and for fishing communities.

Additionally, this final rule will eliminate the need for the industry or NMFS to monitor compliance with the accumulation limit and will provide the industry with the ability to harvest more fish when fish are present on the grounds and optimize the efficiencies built into the fishery (*i.e.*, available crew, scheduled landings to motherships and processing capacity). As discussed in the proposed rule, the Council set the processing cap for the MS sector at 45 percent to inhibit consolidation. Section 3.1.4 of The Analysis, however, shows it is likely that more than one MS would continue to participate in the fishery under the this final rule. Several factors, including Alaska pollock fishery opportunities and actual capacity of a single MS vessel, suggest that it would be unlikely and probably not feasible for one vessel to process the entire allocation. In addition, the Analysis shows even if an entity was able to process the entirety of the MS allocation under this final rule, there would still be competition from

other owners across the other whiting sectors and other fisheries that produce whitefish.

#### MS Processor & CP Permit Transfer

This final rule removes restrictions prohibiting an at-sea Pacific whiting processing vessel from operating as a MS or CP in the same calendar year (50 CFR 660.112(d)(3) and (e)(3)). This action allows a processing vessel to operate as both an MS and CP in the same calendar year, but not on the same trip. Owners of processing vessels that intend to operate as both an MS and a CP during the Pacific whiting season are required to register the processing vessel under valid MS and CP permits per regulations at 50 CFR 660.25(b). The vessel may be registered under both an MS permit and a CP endorsed permit simultaneously. Additionally, this final rule includes some administrative changes to allow additional transfers of limited entry MS permits and limited entry permits with a CP endorsement so that these permits may be transferred more than twice within a calendar year.

Current requirements for operating as a MS or CP continue to apply. To operate in the MS fishery (*i.e.*, receive deliveries of catch from MS catcher vessel and process MS sector allocations at-sea) the vessel must be included in the MS co-op agreement. To operate in the CP fishery (*i.e.*, catch and process CP sector allocations at-sea) the vessel must be included in the CP co-op agreement. Including a new vessel in either the MS or CP co-op agreement constitutes a material change to the co-op agreement. Within 7 calendar days of the new processing vessel operating for the first time in either the MS co-op fishery or the CP co-op fishery, the respective co-op manager must notify NMFS in writing of such change to the co-op agreement as required in regulations at 50 CFR 660.150(d)(1)(iii)(B)(4) and 660.160(d)(1)(iii)(B)(4).

Consistent with current regulations at 50 CFR 660.150(d)(1)(iii)(B)(4) and 660.160(d)(1)(iii)(B)(4), within 30 days of a new vessel participating in a co-op fishery, the MS or CP co-op manager must submit a revised co-op agreement to NMFS that lists all vessels and/or processing vessels operating in the respective co-op and include the new processing vessel, along with a letter describing the change to the co-op agreement.

For each trip, the vessel is still required to update its vessel monitoring system (VMS) declaration to reflect its activity for that trip prior to departure as specified in existing groundfish regulations at 50 CFR 660.13(d)(4)(iv)(A).

A separate economic data collection (EDC) form is required for the owner, lessee, charterer of a mothership vessel registered to an MS permit as well as owner, lessee, charterer of a catcher processor vessel registered to a CP-endorsed limited entry permit. If a vessel holds both types of permit in one calendar year, two EDC forms must be submitted as specified at 50 CFR 660.114. Additionally, separate cost recovery requirements apply to each sector, as described at 50 CFR 660.115.

The Council recommended and NMFS is lifting the restriction on MS and CP permit transfers to increase the likelihood that MSCVs have markets to which to deliver catch throughout the fishing season. The operational flexibility provided in this action would provide significant additional economic opportunity to at-sea Pacific whiting fishery participants and fishing communities. These measures will allow catcher vessels to harvest MS sector allocations and provide catch revenue to the respective vessel crews. In the event that additional processing vessels cannot commit to taking deliveries from catcher vessels (due to changes in business plans, for example) this action will provide additional harvesting and processing opportunities for at-sea Pacific whiting fishery participants.

#### Summary of Anticipated Effects of This Final Rule

Overall, this final rule is expected to increase attainment across all three non-tribal Pacific whiting sectors, with the largest change expected in the MS sector. While the movement of the primary season start date is likely to provide the most benefit in terms of harvest opportunities when both MS and MSCVs can be on the fishing grounds, the increased flexibility to have more processors (via the unlimited permit transfer) or have processors accept and potentially process higher amounts of catch (removal of the processor cap) may, in combination, provide the most opportunity to increase attainment and economic benefits for all sectors. Increased attainment of the Pacific whiting allocation, through additional fishing opportunity, processing capacity, and flexibility, will result in positive benefits to the fleet and the communities in which participants reside. There are expected to be no biological impacts outside of those previously disclosed in harvest specifications processes for both groundfish and Pacific whiting or those in the 2017 Biological Opinion for salmonids.

### Other Actions Included in This Final Rule

NMFS is also implementing additional administrative changes in this rule. This final rule adjusts cost recovery regulation language to state that the value of “Pacific whiting” instead of “all groundfish” will be used in the annual cost recovery fee calculations for the at-sea sectors to reflect the current practice of using Pacific whiting only in the cost recovery fee calculations. While the cost recovery regulations state that all groundfish harvested should be used to calculate ex-vessel value, it is current practice to use Pacific whiting only when calculating the ex-vessel value of the MS and CP sectors. Only Pacific whiting is used because there is insufficient data available on the value of non-whiting species encountered by the MS and CP sectors. This change reflects the original intention of the Council in their 2011 cost recovery recommendations. The Council recommended this change to NMFS at the April 2021 meeting.

This final rule makes some technical, non-substantive changes to improve comprehensibility of the regulations by removing outdated regulations.

### Comments and Responses

NMFS held a public comment period on the proposed rule (87 FR 55979, September 13, 2022) from September 13, 2022, to October 13, 2022. NMFS received a total of four public comment submissions. Three of the public comments were from private citizens, and one of the public comments was from a commercial fishing entity that participates in one of the affected sectors. All expressed general support of the proposed rule with the exception of one commenter not supporting the change of the season start date. This comment and response is summarized below.

*Comment:* A private citizen commented that they are concerned about moving the season start date forward two weeks due to the possible impacts on other fish populations, particularly Pacific salmon. That private citizen does not believe there is sufficient evidence to support moving the season start date forward, but is in favor of the other components of the rule.

*Response:* This final rule appropriately balances NMFS’s duties under the Magnuson-Stevens Act to conserve marine resources while simultaneously creating opportunities to achieve optimum yield and extends gratitude for the engagement of the public during this process. As detailed

in the proposed rule (87 FR 55979, September 13, 2022) and in the Analysis, NMFS evaluated the potential impact of the season date change on salmon bycatch in the whiting sectors and determined that this action is unlikely to either increase the total amount of catch or change the composition of the bycatch. Specifically, the Analysis indicates the anticipated impacts would be within the effects considered in the 2017 Biological Opinion. NMFS is aware of the uncertainty in salmon bycatch and stock compositions since the fishery has not occurred during early May since the 1990s. However, the fishery continues to operate under the reasonable and prudent measures described in the incidental take statement (ITS) of the 2017 Biological Opinion to limit bycatch, and inseason management tools to reduce listed bycatch, therefore we have the ability to act to reduce bycatch if an issue does arise.

### Classification

NMFS is issuing this rule pursuant to section 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, which provides specific authority and procedure for implementing this action. The majority of this rulemaking is promulgated pursuant to section 304(b)(1)(A); the Council recommended this action at its April 2021 and March 2022 meetings. This rulemaking also includes minor regulatory changes promulgated pursuant to section 305(d). This action is necessary to improve comprehensibility of the regulations by removing outdated regulations.

The NMFS Assistant Administrator has determined this final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA).

This rule extends the existing requirements for the Pacific Coast Groundfish Trawl Rationalization Program Permit and License Information Collection OMB Control Number 0648–0620 and revises the existing requirements by removing the requirement for the owner of the MSCV-endorsed permit to submit a copy of a MAE to NMFS that includes the MS permit owner’s acknowledgement of termination of the catcher vessel’s obligation to the permitted MS vessel. If a MS permit withdraws from the fishery before Pacific whiting has been allocated to the MS sector, this rule removes the requirement of the MS permit owner withdrawing from the fishery to provide written notification to NMFS and all owners of MSCV-endorsed permits with CHA obligated to the MS permit withdrawing. Additionally, this rule removes the requirement for a MS to submit an ownership interest (OI) form. This rule removes 3 hours and 18 burden minutes per year for the fishery. Public reporting burden for removing the requirements of submitting a MAE, a MS permit withdrawal and removing the requirement of a MS submitting an OI form is estimated to result in a reduced average cost of \$5.34 per year for participants of the fishery.

The existing collection of information requirements continue to apply under the following OMB Control Number 0648–0573: Expanded Vessel Monitoring System (VMS) Requirements for the Pacific Groundfish Fishery.

We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. Written comments and recommendations for this information collection should be submitted on the following website: <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by using the search function and entering either the title of the collection or the OMB Control Number 0648–0620.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a 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.

### List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: December 9, 2022.

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

For the reasons set out in the preamble, NMFS amends 50 CFR part 660 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.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

■ 2. Amend § 660.25 by:

- a. Revise paragraphs (b)(4)(i)(E), (b)(4)(v)(A), and (b)(4)(vii)(C);
- b. Add paragraph (b)(4)(vii)(D); and
- c. Revise paragraph (b)(4)(viii)(C).

The revisions and addition read as follows:

**§ 660.25 Permits.**

\* \* \* \* \*

- (b) \* \* \*
- (4) \* \* \*
- (i) \* \* \*

(E) Limited entry permits with an MS/catcher vessel (CV) endorsement will not be renewed until SFD has received complete documentation of permit ownership as required under § 660.150(g).

\* \* \* \* \*

- (v) \* \* \*

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

owner includes any changes to the name(s) of any or all vessel owners, as registered with U.S. Coast Guard (USCG) or a state. The new owner(s) of a vessel registered to a limited entry permit must report any change in vessel ownership to NMFS within 30 calendar days after such change has been registered with the USCG or a state licensing agency.

\* \* \* \* \*

- (vii) \* \* \*

(C) *Limited entry permits with an MS/CV endorsement.* Limited entry permits with an MS/CV endorsement may be registered to another vessel up to two times during the calendar year as long as the second change in vessel registration is back to the original vessel. The original vessel is either the vessel registered to the permit as of January 1, or if no vessel is registered to the permit as of January 1, the original vessel is the first vessel to which the permit is registered after January 1. After the original vessel has been established, the first change in vessel registration would be to another vessel, but any second change in vessel registration must be back to the original vessel. On the second change in vessel registration back to the original vessel, that vessel must be used to fish exclusively in the MS Co-op Program described at § 660.150 for the remainder of the calendar year, and declare into the limited entry mid water trawl, Pacific whiting mothership sector as specified at § 660.13(d)(4)(iv).

(D) *Limited entry MS permits and limited entry permits with a catcher/processor (C/P) endorsement.* Vessels registered to both a MS permit and a C/P endorsed permit may operate in both the at-sea MS sector and C/P sector during the same calendar year, but not on the same trip. Prior to leaving port, a vessel registered under both a MS permit and a C/P endorsed permit must declare through VMS the sector in which it will participate for the duration of the trip, as specified at § 660.13(d)(4)(iv)(A).

- (viii) \* \* \*

(C) For a request to change a vessel registration and/or change a permit owner or vessel owner for a MS/CV-endorsed limited entry permit, an Identification of Ownership Interest Form must be completed and included with the application form.

\* \* \* \* \*

■ 3. Amend § 660.111 by:

- a. Under the definition “Accumulation limits”, remove paragraph (2)(i) and redesignate paragraphs (2)(ii) and (iii) as paragraphs (2)(i) and (ii);

■ b. Under the definition “Ex-vessel value”, revise paragraphs (2) and (3); and

■ c. Remove the definitions of “Mutual agreement exception” and “Processor obligation”.

The revisions read as follows:

**§ 660.111 Trawl fishery—definitions.**

\* \* \* \* \*

*Ex-vessel value* \* \* \*

(2) For the MS Co-op Program, the value of Pacific whiting delivered by a catcher vessel to an MS-permitted vessel.

(3) For the C/P Co-op Program, the value as determined by the aggregate pounds of Pacific whiting retained on board by the vessel registered to a C/P-endorsed limited entry trawl permit, multiplied by the MS Co-op Program average price per pound as announced pursuant to § 660.115(b)(2).

\* \* \* \* \*

**§ 660.112 [Amended]**

- 4. Amend § 660.112 by:
  - a. Remove paragraph (d)(3);
  - b. Redesignate paragraphs (d)(4) through (6) as paragraphs (d)(3) through (5);
  - c. Remove paragraph (d)(7);
  - d. Redesignate paragraphs (d)(8) through (16) as paragraphs (d)(6) through (14);
  - e. Remove paragraph (e)(3); and
  - f. Redesignate paragraphs (e)(4) through (10) as paragraphs (e)(3) through (9).
- 5. Amend § 660.113 by revising paragraphs (c)(3) introductory text, (c)(5)(ii)(A) introductory text, (c)(5)(ii)(A)(3), (5), (6), and (9), (d)(3) introductory text, (d)(5)(ii)(A) introductory text, (d)(5)(ii)(A)(2), (4), (5), and (6), (e)(3), and (e)(6)(i) to read as follows:

**§ 660.113 Trawl fishery—recordkeeping and reporting.**

\* \* \* \* \*

- (c) \* \* \*

(3) *Annual co-op report.* The designated co-op manager for the mothership co-op must submit an annual report to NMFS and the Council by March 17 each year, before a co-op permit is issued for that year. The annual co-op report will contain information about the previous year’s fishery, including:

\* \* \* \* \*

- (5) \* \* \*
- (ii) \* \* \*

(A) For all deliveries of Pacific whiting that the fish buyer buys from each fish seller:

\* \* \* \* \*

(3) The weight of Pacific whiting delivered;

\* \* \* \* \*

(5) The ex-vessel value of Pacific whiting;

(6) The net ex-vessel value of Pacific whiting;

\* \* \* \* \*

(9) The total fee amount collected as a result of all Pacific whiting.

\* \* \* \* \*

(d) \* \* \*

(3) *Annual co-op report.* The designated co-op manager for the C/P co-op must submit an annual report to NMFS and the Council by March 17 each year, before a co-op permit is issued for that year. The annual co-op report will contain information about the previous year's fishery, including:

\* \* \* \* \*

(5) \* \* \*

(ii) \* \* \*

(A) For all Pacific whiting:

\* \* \* \* \*

(2) The weight of Pacific whiting retained on board;

\* \* \* \* \*

(4) The ex-vessel value of Pacific whiting retained on board;

(5) The net ex-vessel value of Pacific whiting retained on board; and

(6) The total fee amount collected as a result of all Pacific whiting.

\* \* \* \* \*

(e) \* \* \*

(3) *Deadline for proposed SMP.* A proposed SMP must be submitted between February 1 and March 17 of the year in which it intends to be in effect to NMFS at: NMFS, West Coast Region, ATTN: Fisheries Permit Office, Bldg. 1, 7600 Sand Point Way NE, Seattle, WA 98115.

\* \* \* \* \*

(6) \* \* \*

(i) *Submission deadline.* The SMP postseason report must be received by NMFS and the Council no later than March 17 of the year following that in which the SMP was approved.

\* \* \* \* \*

■ 6. Amend § 660.131 by revising paragraphs (b)(2)(i), (b)(2)(iii)(A) and (B), and (b)(2)(iii)(C)(1) to read as follows:

**§ 660.131 Pacific whiting fishery management measures.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ii) *Criteria.* The start of a Pacific whiting primary season may be changed based on a recommendation from the Council and consideration of the following factors, if applicable: Size of

the harvest guidelines for whiting and bycatch species; age/size structure of the whiting population; expected harvest of bycatch and prohibited species; availability and stock status of prohibited species; expected participation by catchers and processors; environmental conditions; timing of alternate or competing fisheries; industry agreement; fishing or processing rates; and other relevant information.

(iii) \* \* \*

(A) Catcher/processor sector—May 1.

(B) Mothership sector—May 1.

(C) \* \* \*

(1) North of 40°30' N lat.—May 1; and

\* \* \* \* \*

■ 7. Amend § 660.150 by:

■ a. Revise the section heading;

■ b. In paragraph (b)(1)(i)(A), add the word “and” following the semicolon at the end of paragraph;

■ c. In paragraph (b)(1)(i)(B), remove “; and” and add a period in its place;

■ d. Remove paragraphs (b)(1)(i)(C) and (b)(2)(i)(A)(3);

■ e. Redesignate paragraph (b)(2)(i)(A)(4) as paragraph (b)(2)(i)(A)(3);

■ f. Revise paragraph (c)(6)(i)(A);

■ g. Remove paragraph (c)(7);

■ h. Revise paragraph (d)(1)(ii) and the introductory text of paragraph (d)(1)(iii);

■ i. Remove paragraph (d)(1)(iii)(A)(1)(iii);

■ j. Redesignate paragraphs (d)(1)(iii)(A)(1)(iv) through (xii) as paragraphs (d)(1)(iii)(A)(1)(iii) through (xi);

■ k. Remove paragraph (f)(3);

■ l. Redesignate paragraphs (f)(4) through (6) as paragraphs (f)(3) through (5); and

■ m. Revise paragraph (g)(2)(i) introductory text.

The revisions read as follows:

**§ 660.150 Mothership (MS) Co-op Program.**

\* \* \* \* \*

(c) \* \* \*

(6) \* \* \*

(i) \* \* \*

(A) Through an inter-co-op agreement, the designated co-op managers of permitted MS co-ops may distribute Pacific whiting allocations among one or more permitted MS co-ops.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(ii) *Annual registration and deadline.*

Each year, a co-op entity intending to participate as a co-op under the MS Co-op Program must submit an application for a MS co-op permit between January 17 and March 17 of the year in which it intends to fish. NMFS will not

consider any applications received after March 17. An MS co-op permit expires on December 31 of the year in which it was issued.

(iii) *Application for MS co-op permit.*

The designated co-op manager, on behalf of the co-op entity, must submit a complete application form and include each of the items listed in paragraph (d)(1)(iii)(A) of this section. Only complete applications will be considered for issuance of a MS co-op permit. An application will not be considered complete if any required application fees and annual co-op reports have not been received by NMFS. NMFS may request additional supplemental documentation as necessary to make a determination of whether to approve or disapprove the application. Application forms and instruction are available on the NMFS West Coast Region (WCR) website (<https://www.fisheries.noaa.gov/permit/groundfish-mothership-cooperative-permit>) or by request from NMFS. The designated co-op manager must sign the application acknowledging the responsibilities of a designated co-op manager defined in paragraph (b)(3) of this section. For permit owners with more than one MS/CV endorsement and associated CHA, paragraph (g)(2)(iv)(D) of this section specifies how to join an MS co-op(s).

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(i) *Renewal.* An MS/CV-endorsed permit must be renewed annually consistent with the limited entry permit regulations given at § 660.25(b)(4). During renewal, all MS/CV-endorsed limited entry permit owners must make a preliminary declaration regarding their intent to participate in the co-op or non-co-op portion of the MS Co-op Program for the following year. MS/CV-endorsed permits not obligated to a permitted MS co-op by March 17 of the fishing year will be assigned to the non-co-op fishery. For an MS/CV-endorsed permit that is not renewed, the following occurs:

\* \* \* \* \*

■ 8. Amend § 660.160 by:

■ a. Remove paragraph (b)(1)(i)(C); and

■ b. Revise paragraphs (d)(1)(ii), (e)(1)(iii), and (e)(2)(i).

The revisions read as follows:

**§ 660.160 Catcher/processor (C/P) Co-op Program.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(ii) *Annual registration and deadline.* Each year, the co-op entity must submit

a complete application to NMFS for a C/P co-op permit. The application must be submitted to NMFS by between January 17 and March 17 of the year in which it intends to participate. NMFS will not consider any applications received after March 17. A C/P co-op permit expires on December 31 of the year in which it was issued.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(iii) *Restriction on C/P vessel operating as mothership.* A vessel registered to a C/P-endorsed permit may operate as a mothership during the same calendar year it participates in the C/P sector but not on the same trip.

\* \* \* \* \*

(2) \* \* \*

(i) *Renewal.* A C/P-endorsed permit must be renewed annually consistent with the limited entry permit regulations given at § 660.25(b)(4).

\* \* \* \* \*

■ 9. Amend § 660.604 by revising paragraph (e) introductory text and paragraph (i) to read as follows:

**§ 660.604 Vessel and first receiver responsibilities.**

\* \* \* \* \*

(e) *Electronic Monitoring (EM) Authorization.* To obtain an EM Authorization, a vessel owner must submit an initial application to the NMFS West Coast Region Fisheries Permit Office, and then a final application that includes an EM system certification and a vessel monitoring plan (VMP). NMFS will only review complete applications. NMFS will issue a public notice at least 90 calendar days prior to when it will begin accepting applications for EM Authorizations for the first year of the Program. Once NMFS begins accepting applications, vessel owners that want to have their EM Authorizations effective for January 1 of the following calendar year must submit their complete application to NMFS by October 1. Vessel owners that want to have their EM Authorizations effective for the primary whiting season start date must submit their complete application to NMFS by February 1 of the same year.

\* \* \* \* \*

(j) *Renewing an EM Authorization.* To maintain a valid EM Authorization, vessel owners must renew annually prior to the permit expiration date. NMFS will mail EM Authorization renewal forms to existing EM Authorization holders each year on or about: September 1 for non-trawl shorebased IFQ vessels and January 1 for Pacific whiting IFQ and MS/CV

vessels. Vessel owners who want to have their EM Authorizations effective for January 1 of the following calendar year must submit their complete renewal form to NMFS by October 15. Vessel owners who want to have their EM Authorizations effective for the primary whiting season start date of the following calendar year must submit their complete renewal form to NMFS by February 1.

\* \* \* \* \*

[FR Doc. 2022-27117 Filed 12-15-22; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 221206-0261]

RIN 0648-BL48

#### Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 30; 2023-24 Biennial Specifications and Management Measures

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

**ACTION:** Final rule.

**SUMMARY:** This final rule establishes the 2023-24 harvest specifications for groundfish caught in the U.S. exclusive economic zone seaward of Washington, Oregon, and California, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Pacific Coast Groundfish Fishery Management Plan. This final rule also revises management measures intended to keep the total annual catch of each groundfish stock or stock complex within the annual catch limits. These measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure management measures are based on the best scientific information available. This final rule also makes minor corrections to the regulations. This action also implements portions of Amendment 30 to the Pacific Coast Groundfish Fishery Management Plan, which specifies a shortbelly rockfish catch threshold to initiate Council review; extends the length of the limited entry fixed gear sablefish primary season; changes the use of Rockfish Conservation Area boundaries; expands

the use of Block Area Closures to control catch of groundfish; and corrects the definition of Block Area Closures.

**DATES:** This final rule is effective January 1, 2023.

**ADDRESSES:** The Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) which addresses the National Environmental Policy Act, Presidential Executive Order 12866, and the Regulatory Flexibility Act, is accessible via the internet at the NMFS West Coast Region website at <https://www.fisheries.noaa.gov/region/west-coast>. Background information and documents including an analysis for this action (Analysis), which addresses the statutory requirements of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) are available from the Pacific Fishery Management Council's website at <http://www.pcouncil.org>. The final 2022 Stock Assessment and Fishery Evaluation (SAFE) report for Pacific Coast groundfish, as well as the SAFE reports for previous years, are available from the Pacific Fishery Management Council's website at <http://www.pcouncil.org>.

**FOR FURTHER INFORMATION CONTACT:** Gretchen Hanshew, Fishery Management Specialist, at 206-526-6147 or [gretchen.hanshew@noaa.gov](mailto:gretchen.hanshew@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Harvest Specifications

This final rule sets 2023-24 harvest specifications and management measures for 127 of the 128 groundfish stocks or management units which currently have ACLs or ACL contributions to stock complexes managed under the PCGFMP, except for Pacific whiting. Pacific whiting harvest specifications are established annually through a separate bilateral process with Canada.

The OFLs, ABCs, and ACLs are based on the best available biological and socioeconomic data, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. See Tables 1a and 2a to Part 660, Subpart C in the regulatory text supporting this rule for the 2023-24 OFLs, ABCs, and ACLs for each stock or stock complex.

A detailed description of each stock and stock complex for which the Council establishes harvest specifications set through this rule can be found in the 2022 SAFE document posted on the Council's website at <https://www.pcouncil.org/stock-assessments-star-reports-stat-reports-rebuilding-analyses-terms-of-reference/>