



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Doc. No 120403252-2392-01]

RIN 0648-BC06

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Correction

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

ACTION: Final rule; correcting amendment

SUMMARY: This action corrects groundfish regulations that were published in three final rules. The first was published on December 15, 2010, and established various provisions of the trawl rationalization program; the second published on May 11, 2011, and established the 2011-2012 harvest specifications and management measures for groundfish; the third published in December 1, 2011, and made revisions to the trawl program. This rule corrects inadvertent errors that, although they will not modify current fishing practices need to be corrected so that the rule text comports with the intent as expressed in the rules' preambles. This rule includes but is not limited to corrections to coordinates defining depth contours that apply to all fisheries, permit renewal dates, observer requirements, recreational regulations, processor obligations in the MS sector, the forms used to transfer an MS/CV endorsement, and others. Each correction is explained below.

DATES: Corrections to regulations at § 660.25 (b)(4)(i)(B), 660.140 (d)(3)(i)(B) and (e)(3)(i)(B) are effective [insert date of publication in the FEDERAL REGISTER]. The remaining

corrections are effective on [insert date 15 days after publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Sarah Williams (Northwest Region, NMFS), phone: 206-526-4646; fax: 206-526-6736 and; e-mail: sarah.williams@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

This action corrects regulations that were published in three separate final rules for the Pacific Coast groundfish fisheries managed under 50 CFR 660 subparts C through F in order to correctly reflect Council intent. The final rules that are the subject of this correction are as follows: (1) Trawl Rationalization Program Components final rule (program components rule) published on December 15, 2010, (75 FR 78344); (2) 2011-2012 Biennial Harvest Specifications and Management Measures final rule (2011-2012 specifications rule) published on May 11, 2011, (76 FR 28897); and (3) Trawl Program Improvement and Enhancement final rule (PIE rule) published on December 1, 2011, (76 FR 74725). As published, the three final rules contain inadvertent errors that, although they will not modify current fishing practices need to be corrected so that the rule text comports with the intent as expressed in the rules' preambles. Each correction is explained below grouped together by the final rule that originally published the regulations.

None of these changes will result in any vessel or vessel owner having to modify its behavior in order to comply with the rules. In fact, the fishery already complies with the rules as they were intended to be written. Accordingly, these corrections are just that; they make changes

necessary to have the rule text reflect both NMFS' original intent – as expressed in the preambles to the rules – as well as to current fishery practice.

Corrections to Regulations Implemented as part of the Program Components Rule

There are four corrections to the Program Components final rule, as follows:

(1) Correct regulations to specify that all commercial vessels processing groundfish at sea carry an observer. During implementation of Amendment 20 to the Pacific Coast Groundfish Fishery Management Plan (PCGFMP), which restructured the entire groundfish regulations, this existing provision, which required observers on all commercial vessel processing at-sea, was inadvertently changed from applying to all commercial fisheries to only applying to the at-sea whiting fisheries. Nonetheless, all commercial fisheries continued to use observers on board. To bring the rules in line with the original intent, this action modifies the observer requirement language to include all vessels that process groundfish at sea. The affected fisheries are as follows: Shorebased IFQ Program (§ 660.140(h)(1)(i)), the limited entry fixed gear fishery (§ 660.216(a)), and the open access fishery (§ 660.316(a)). See 68 FR 53334 (September 10, 2003) for more history on this requirement.

(2) Correct regulations at § 660.150(g)(2)(i) – the Mothership (MS) program - to clarify that processor obligations are to an MS permit and not to the MS vessel. This change is necessary to make the MS regulations consistent with the processor obligation in the MS Coop Program, as defined under “processor obligation” at §660.111 and specified at §660.150(c)(7)(i).

(3) Correct language at § 660.114(b), in the third column of the table, which specifies who is required to submit an Economic Data Collection (EDC) form. This change makes the third column of the table consistent with § 660.113(d)(1), and the table now requires owners, lessees, and charterers of a vessel registered to a C/P endorsed limited entry trawl permit to

submit an EDC. Vessels subject to this rule, as revised, are already providing the EDCs; this clarification merely corrects the language of the table to make it more clear who needs to submit the EDCs.

(4) Correct language at §§ 660.150(d)(2) and 660.160(d)(2) to specify that if an applicant does not appeal an initial administrative decision (IAD) in the trawl rationalization program within 30 calendar days, that the decision in the IAD becomes the final decision. This correction will make this provision consistent with the limited entry permit regulations at § 660.25(g)(4)(ii) for IADs.

Correction to Regulations Implemented as part of the PIE Rule

There are four corrections to the PIE rule, as follows:

(1 and 2) Correct language at §§ 660.112 and 660.140 to specify that an observer must be on the vessel while in port unless the observer provides a form to the catch monitor documenting the weight and number of select overfished species (bocaccio, canary rockfish, cowcod, and yelloweye rockfish) retained on board by the vessel during that IFQ trip. The current regulations at § 660.112 and management measures at § 660.140 are unclear on the requirements for documenting IFQ species (all IFQ species versus the specified overfished species). Additionally corrections clarify that a vessel must carry an observer in port any time the vessel is underway in port, not just between delivery points.

(3) Correct § 660.150(g)(2)(iv)(B) to specify the proper form used to transfer an MS/CV endorsement. A request to change an MS/CV endorsement requires use of a unique form from the Fisheries Permit Office and may not be requested using the change in vessel registration and permit ownership form as currently stated in regulations.

(4) Correct regulations at § 660.150(d)(1)(v) regarding software requirements for electronic fish tickets. Current regulations erroneously state that an operating system such as “Windows 2007” may be used; there is no such operating system so this system is removed.

Corrections to Regulations Implemented as part of the 2011-2012 Specifications Rule

There are two corrections to the 2011-2012 specifications rule, as follows:

(1) Correct coordinates at § 660.71(b)(25) and (c)(55), which define the 10-fm (18-m) through 40-fm (73-m) depth contour. The coordinates are expressed in degrees latitude and longitude, and define large-scale boundaries utilized in managing the groundfish fishery. These corrections change incorrect and transposed coordinate numbers listed in the final rule; and better defines the intended boundary lines. These corrections do not change the intent or application of the geographic area described in the proposed and final rules that implemented the 2011-2012 harvest specifications and management measures.

(2) Correct language at § 660.360(c)(3) to allow spearfishing for lingcod during the same seasons as all of the other modes of the California recreational fishery, consistent with the Council motion. The 2011-2012 specifications final rule revised all recreational fishing modes to match the season restrictions for the rockfish, cabezon, greenling (RCG) complex in all of the California recreational fishery management areas. However, the change to lingcod seasons for spearfishing, one mode of the California recreational fishery, was mistakenly not revised and was therefore inconsistent with the Council’s recommendation and with spearfishing regulations implemented by the California Department of Fish and Game. This correction extends the lingcod season for spearfishers by exempting anglers using only spearfishing gear from lingcod season restrictions. The effects of the change to lingcod seasons and mortality of other Groundfish species, for all California recreational fishery modes including spearfishing, was

analyzed in the Final Environmental Impact Statement on the 2011-2012 harvest specifications and management measures.

Correction to Permit Renewal Date

To be consistent with the FMP provisions for limited entry permit renewal, this correction revises the date by which NMFS will mail permit renewal notices from September 1st to requiring mailing by September 15th each year, and makes corresponding changes to the renewal process for Quota Share (QS) permits/accounts and vessel accounts. This change will allow NMFS' Permits Office to complete any pending transfers (changes in vessel registration or permit ownership) for the start of the September 1 cumulative limit period before sending out permit renewal notices in addition to other benefits discussed below. The following sections are revised:

- (1) § 660.25(b)(4)(i)(B) for LE permits.
- (2) § 660.140(d)(3)(i)(B) for QS permits/accounts.
- (3) § 660.140(e)(3)(i)(B) for vessel accounts.

NMFS notes that this change still gives the affected public adequate time to renew their permits because it still allows 2 weeks advance notice of the October 1-November 30 permit renewal period.

Classification

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B), to waive the requirement for prior notice and opportunity for additional public comment for this action because notice and comment are unnecessary and contrary to the public interest. This action simply makes corrections to accurately reflect the intent of the rules as expressed in the preamble of the final rules. In the text of those rules, however, NMFS

inadvertently omitted various clauses or phrases that the preambles suggested would be included in the text. This action merely codifies NMFS' original intent for these rules. Moreover, because the parties subject to these rules already comply with the provisions as if these changes had already been made, and because the public had prior notice and opportunity to comment on the original rules – including the preambles - when they were issued, NMFS believes that allowing a second round of notice and comment on these rules may only further confuse the mistakes this rule would clarify. Moreover, these corrections are not substantive, because the regulated community has been acting in a manner consistent with the intent of the rules as expressed in their respective preambles. Implementing this rule immediately will allow the updates to come into force prior to the beginning of the next fishing year, thereby ensuring that the rules accurately reflect NMFS' original intent in implementing them.

For the same reasons, pursuant to 5 U.S.C. 553(d), the AA finds good cause to waive the 30-day delay in effective date for this action. However, NMFS will delay the effectiveness of this action for 15 days for all of the corrections listed above except the changes to the permit renewal date. Good cause exists for this waiver, because if these rules do not go into effect prior to thirty days after being printed in the *Federal Register*, then a new permit renewal cycle will start, but with contradictory information in the rule texts and the rules' preambles. This contradiction may cause public confusion, and will be inconsistent with the intent of the final rules. The 15 day delay in effective date allows NMFS to ensure the public becomes informed about the changes, even though NMFS believes that the rule will not result in any changes to fishermen's practices. Conversely, for the correction to the permit renewal date, which corrects regulations at § 660.25(b)(4)(i)(B) for LE permits, § 660.140(d)(3)(i)(B) for QS permits/accounts and § 660.140(e)(3)(i)(B) for vessel accounts, the changes become effective

immediately. These corrections must be effective immediately because this correction makes current regulations consistent with the PCGFMP and affects an agency action for September. A delay would be contrary to the public's interest because it would leave in place rules that are inconsistent with the intent expressed by NMFS in the preambles of the final rules.. Therefore pursuant to 5 U.S.C. 553(d), the AA finds good cause to waive the 30-day delay in effective date.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. are inapplicable. This final rule is not significant under Executive Order 12866.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: August 31, 2012.

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 reasons set out in the preamble, 50 CFR part 660 is amended by making the following corrections:

PART 660--FISHERIES OFF WEST COAST STATES

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

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

2. In § 660.15, paragraph (d)(1)(v) is revised to read as follows:

§ 660.15 Equipment requirements.

* * * * *

(d) * * *

(1) * * *

(v) Operating system: Microsoft Windows XP with Service Pack (SP) 2, Windows Server 2003 with SP1, or later operating system such as Windows Vista or Windows 7.

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3. In § 660.25, paragraph (b)(4)(i)(B) is revised to read as follows:

§ 660.25 Permits.

* * * * *

(b) * * *

(4) * * *

(i) * * *

(B) Notification to renew limited entry permits will be issued by SFD prior to September 15 each year to the permit owner's most recent address in the SFD record. The permit owner shall provide SFD with notice of any address change within 15 days of the change.

* * * * *

4. In § 660.71, paragraphs (b)(25) and (c)(55) are revised to read as follows:

§ 660.71 Latitude/longitude coordinates defining the 10-fm (18-m) through 40 fm (73-m) depth contours.

* * * * *

(b) * * *

(25) 45°46.00' N. lat., 124°00.54' W. long.;

* * * * *

(c) * * *

(55) 42°50.00' N. lat., 124°37.41' W. long.;

* * * * *

5. In § 660.112, paragraph (b)(1)(xiii) is revised to read as follows:

§ 660.112 Trawl fishery—prohibitions.

* * * * *

(b) * * *

(1) * * *

(xiii) Retain any IFQ species/species group onboard a vessel unless the vessel has observer coverage during the entire trip and observer or catch monitor coverage while in port until all IFQ species from the trip are offloaded. A vessel is exempted from this requirement while remaining docked in port, if the observer makes available to the catch monitor an observer program form reporting the weight and number of bocaccio, yelloweye rockfish, canary rockfish, and cowcod that were retained onboard the vessel during that trip and noting any discrepancy in those species between the vessel operator and observer. A vessel must maintain observer coverage while underway in port. A vessel may deliver IFQ species/species groups to more than one IFQ first receiver, but must maintain observer coverage onboard the vessel during any transit between delivery points. Once transfer of fish begins, all fish aboard the vessel are counted as part of the same landing as defined at §660.11. Modifying the list of IFQ species to which this

exception applies has been designated as a “routine management measure” and may be modified through an inseason action, as specified at §660.60(c)(1)(iv).

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6. In § 660.114, paragraph (b) is revised to read as follows:

§ 660.114 Trawl fishery—economic data collection program.

* * * * *

(b) Economic data collection program requirements. The following fishery participants in the limited entry groundfish trawl fisheries are required to comply with the following EDC program requirements:

Fishery participant	Economic data collection	Who is required to submit an EDC?	Consequence for failure to submit (In addition to consequences listed below, failure to submit an EDC may be a violation of the MSA.)
(1) Limited entry trawl catcher vessels.	(i) Baseline (2009 and 2010) economic data.	All owners, lessees, and charterers of a catcher vessel registered to a limited entry trawl endorsed permit at any time in 2009 or 2010.	(A) For permit owner, a limited entry trawl permit application (including MS/CV-endorsed limited entry trawl permit) will not be considered complete until the required EDC for that permit owner associated with that permit is submitted, as specified at §660.25(b)(4)(i). (B) For a vessel owner, participation in the groundfish fishery (including, but not limited to, changes in vessel registration, vessel account actions, or if own QS permit, issuance of annual QP or IBQ pounds) will

			<p>not be authorized until the required EDC for that owner for that vessel is submitted, as specified, in part, at §660.25(b)(4)(v) and §660.140(e).</p> <p>(C) For a vessel lessee or charterer, participation in the groundfish fishery (including, but not limited to, issuance of annual QP or IBQ pounds if own QS or IBQ) will not be authorized, until the required EDC for their operation of that vessel is submitted.</p>
(ii)	Annual/ongoing (2011 and beyond) economic data.	All owners, lessees, and charterers of a catcher vessel registered to a limited entry trawl endorsed permit at any time in 2011 and beyond.	<p>(A) For permit owner, a limited entry trawl permit application (including MS/CV-endorsed limited entry trawl permit) will not be considered complete until the required EDC for that permit owner associated with that permit is submitted, as specified at §660.25(b)(4)(i).</p> <p>(B) For a vessel owner, participation in the groundfish fishery (including, but not limited to, changes in vessel registration, vessel account actions, or if own QS permit, issuance of annual QP or IBQ pounds) will not be authorized until the required EDC for that owner for that vessel is submitted, as specified, in part, at §660.25(b)(4)(v) and §660.140(e).</p>

			(C) For a vessel lessee or charterer, participation in the groundfish fishery (including, but not limited to, issuance of annual QP or IBQ pounds if own QS or IBQ) will not be authorized, until the required EDC for their operation of that vessel is submitted.
(2) Motherships.	(i) Baseline (2009 and 2010) economic data.	All owners, lessees, and charterers of a mothership vessel that received whiting in 2009 or 2010 as recorded in NMFS' NORPAC database.	(A) For permit owner, an MS permit application will not be considered complete until the required EDC for that permit owner associated with that permit is submitted, as specified at §660.25(b)(4)(i). (B) For a vessel owner, participation in the groundfish fishery (including, but not limited to, changes in vessel registration) will not be authorized until the required EDC for that owner for that vessel is submitted, as specified, in part, at §660.25(b)(4)(v). (C) For a vessel lessee or charterer, participation in the groundfish fishery will not be authorized, until the required EDC for their operation of that vessel is submitted.
	(ii)	All owners,	(A) For permit owner, an MS permit application will

	<p>Annual/ongoing (2011 and beyond) economic data.</p>	<p>lessees, and charterers of a mothership vessel registered to an MS permit at any time in 2011 and beyond.</p>	<p>not be considered complete until the required EDC for that permit owner associated with that permit is submitted, as specified at §660.25(b)(4)(i).</p> <p>(B) For a vessel owner, participation in the groundfish fishery (including, but not limited to, changes in vessel registration) will not be authorized until the required EDC for that owner for that vessel is submitted, as specified, in part, at §660.25(b)(4)(v).</p> <p>(C) For a vessel lessee or charterer, participation in the groundfish fishery will not be authorized, until the required EDC for their operation of that vessel is submitted.</p>
<p>(3) Catcher processors.</p>	<p>(i) Baseline (2009 and 2010) economic data.</p>	<p>All owners, lessees, and charterers of a catcher processor vessel that harvested whiting in 2009 or 2010 as recorded in</p>	<p>(A) For permit owner, a C/P-endorsed limited entry trawl permit application will not be considered complete until the required EDC for that permit owner associated with that permit is submitted, as specified at §660.25(b)(4)(i).</p> <p>(B) For a vessel owner, participation in the groundfish fishery (including, but not limited to, changes in vessel registration) will not be authorized until the</p>

		NMFS' NORPAC database.	<p>required EDC for that owner for that vessel is submitted, as specified, in part, at §660.25(b)(4)(v).</p> <p>(C) For a vessel lessee or charterer, participation in the groundfish fishery will not be authorized, until the required EDC for their operation of that vessel is submitted.</p>
(ii)	Annual/ongoing (2011 and beyond) economic data.	<p>All owners, lessees, and charterers of a catcher processor vessel registered to a C/P-endorsed limited entry trawl permit at any time in 2011 and beyond.</p>	<p>(A) For permit owner, a C/P-endorsed limited entry trawl permit application will not be considered complete until the required EDC for that permit owner associated with that permit is submitted, as specified at §660.25(b)(4)(i).</p> <p>(B) For a vessel owner, participation in the groundfish fishery (including, but not limited to, changes in vessel registration) will not be authorized until the required EDC for that owner for that vessel is submitted, as specified, in part, at §660.25(b)(4)(v).</p> <p>(C) For a vessel lessee or charterer, participation in the groundfish fishery will not be authorized, until the required EDC for their operation of that vessel is</p>

			submitted.
(4) First receivers/shorebased processors.	(i) Baseline (2009 and 2010) economic data.	All owners and lessees of a shorebased processor and all buyers that received groundfish or whiting harvested with a limited entry trawl permit as listed in the PacFIN database in 2009 or 2010.	A first receiver site license application for a particular physical location for processing and buying will not be considered complete until the required EDC for the applying processor or buyer is submitted, as specified at §660.140(f)(3).
	(ii) Annual/ongoing (2011 and beyond) economic data.	(A) All owners of a first receiver site license in 2011 and beyond.	A first receiver site license application will not be considered complete until the required EDC for that license owner associated with that license is submitted, as specified at §660.140(f)(3). See paragraph (b)(4)(ii)(A) of this table.
		(B) All owners and lessees of a	

		<p>shore-based processor (as defined under “processor” at §660.11, for purposes of EDC) that received round or headed-and-gutted IFQ species groundfish or whiting from a first receiver in 2011 and beyond.</p>	
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7. In § 660.140, paragraphs (d)(3)(i)(B), (e)(3)(i)(B), and (h)(1)(i) are revised to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(d) * * *

(3) * * *

(i) * * *

(B) Notification to renew QS permits will be sent by SFD by September 15 each year to the QS permit owner's most recent address in the SFD record. The QS permit owner shall provide SFD with notice of any address change within 15 days of the change.

* * * * *

(e) * * *

(3) * * *

(i) * * *

(B) Notification to renew vessel accounts will be issued by SFD by September 15 each year to the vessel account owner's most recent address in the SFD record. The vessel account owner shall provide SFD with notice of any address change within 15 days of the change.

* * * * *

(h) * * *

(1) * * *

(i) Coverage.

(A) Any vessel participating in the Shorebased IFQ Program must carry a NMFS-certified observer during any trip and must maintain observer or catch monitor coverage while in port until all fish from that trip have been offloaded. A vessel is exempted from this requirement while remaining docked in port, if the observer makes available to the catch monitor an observer program form reporting the weight and number of those overfished species identified in §660.112(b)(1)(xiii) that were retained onboard the vessel during that trip and noting any discrepancy in those species between the vessel operator and observer. If a vessel gets underway

in port or delivers fish from an IFQ trip to more than one IFQ first receiver, an observer must remain onboard the vessel while the vessel is underway and during any transit between delivery points.

(B) Any vessel 125 ft (38.1 m) LOA or longer that is engaged in at-sea processing must carry two NMFS-certified observers, and any vessel shorter than 125 ft (38.1 m) LOA that is engaged in at-sea processing must carry one NMFS-certified observer, each day that the vessel is used to take, retain, receive, land, process, or transport groundfish.

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8. In § 660.150, paragraphs (d)(2), (g)(2)(i) introductory text and (g)(2)(iv)(B) are revised to read as follows:

§ 660.150 Mothership (MS) Coop Program.

* * * * *

(d) * * *

(2) Initial administrative determination. For all complete applications, NMFS will issue an IAD that either approves or disapproves the application. If approved, the IAD will include a MS coop permit. If disapproved, the IAD will provide the reasons for this determination. The IAD for a MS coop permit follows the same requirement as specified for limited entry permits at §660.25(g)(4)(ii); if the applicant does not appeal the IAD within the 30 calendar days, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

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(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 coop or non-coop portion of the MS Coop Program for the following year. If the owner of a MS/CV-endorsed permit intends to participate in the coop portion of the MS Coop Program, they must also declare to which MS permit they intend to obligate the permit's catch history assignment. MS/CV-endorsed permits not obligated to a permitted MS coop by March 31 of the fishing year will be assigned to the non-coop fishery. For an MS/CV-endorsed permit that is not renewed, the following occurs:

* * * * *

(iv) * * *

(B) Application. A request for a change in MS/CV endorsement registration must be made between September 1 and December 31 of each year. Any transfer of MS/CV endorsement and its associated CHA to another limited entry trawl permit must be requested using the appropriate form from the Fisheries Permits Office and the permit owner or an authorized representative of the permit owner must certify that the application is true and correct by signing and dating the form. In addition, the form must be notarized, and the permit owner selling the MS/CV endorsement and CHA must provide to NFMS the sale price of the MS/CV endorsement and its associated CHA. If any assets in addition to the MS/CV endorsement and its associated CHA are included in the sale price, those assets must be itemized and described.

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9. In § 660.160, paragraph (d)(2) is revised to read as follows:

§ 660.160 Catcher/processor (C/P) Coop Program.

* * * * *

(d) * * *

(2) Initial administrative determination. For all complete applications, NMFS will issue an IAD that either approves or disapproves the application. If approved, the IAD will include a C/P coop permit. If disapproved, the IAD will provide the reasons for this determination. The IAD for a C/P coop permit follows the same requirement as specified for limited entry permits at §660.25(g)(4)(ii), if the applicant does not appeal the IAD within the 30 calendar days, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

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10. In § 660.216, paragraph (a) is revised to read as follows:

§ 660.216 Fixed gear fishery—observer requirements.

(a) Observer coverage requirements. (1) When NMFS notifies the owner, operator, permit holder, or the manager of a catcher vessel, specified at §660.16(c), of any requirement to carry an observer, the catcher vessel may not be used to fish for groundfish without carrying an observer.

(2) Any vessel 125 ft (38.1 m) LOA or longer that is engaged in at-sea processing must carry two NMFS-certified observers, and any vessel shorter than 125 ft (38.1 m) LOA that is engaged in at-sea processing must carry one NMFS-certified observer, each day that the vessel is used to take, retain, receive, land, process, or transport groundfish.

* * * * *

11. In § 660.316, paragraph (a) is revised to read as follows:

§ 660.316 Open access fishery—observer requirements.

(a) Observer coverage requirements. (1) When NMFS notifies the owner, operator, permit holder, or the manager of a catcher vessel, specified at §660.16(c), of any requirement to carry an observer, the catcher vessel may not be used to fish for groundfish without carrying an observer.

(2) Any vessel 125 ft (38.1 m) LOA or longer that is engaged in at-sea processing must carry two NMFS-certified observers, and any vessel shorter than 125 ft (38.1 m) LOA that is engaged in at-sea processing must carry one NMFS-certified observer, each day that the vessel is used to take, retain, receive, land, process, or transport groundfish.

* * * * *

12. In § 660.360, paragraph (c)(3) introductory text is revised to read as follows:

§ 660.360 Recreational fishery-management measures.

* * * * *

(c) * * *

(3) California. Seaward of California, California law provides that, in times and areas when the recreational fishery is open, there is a 20 fish bag limit for all species of finfish, within which no more than 10 fish of any one species may be taken or possessed by any one person.

[Note: There are some exceptions to this rule. The following groundfish species are not subject to a bag limit: Petrale sole, Pacific sanddab and starry flounder.] For groundfish species not specifically mentioned in this paragraph, fishers are subject to the overall 20–fish bag limit for all species of finfish and the depth restrictions at paragraph (c)(3)(i) of this section. Recreational spearfishing for all federally-managed groundfish, is exempt from closed areas and seasons, consistent with Title 14 of the California Code of Regulations. This exemption applies only to recreational vessels and divers provided no other fishing gear, except spearfishing gear, is on

board the vessel. California state law may provide regulations similar to Federal regulations for the following state-managed species: Ocean whitefish, California sheephead, and all greenlings of the genus *Hexagrammos*. Kelp greenling is the only federally-managed greenling. Retention of cowcod, yelloweye rockfish, and canary rockfish is prohibited in the recreational fishery seaward of California all year in all areas. For each person engaged in recreational fishing in the EEZ seaward of California, the following closed areas, seasons, bag limits, and size limits apply:

* * * * *

[FR Doc. 2012-21990 Filed 09/06/2012 at 8:45 am; Publication Date: 09/07/2012]