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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

**[Docket No. 160808696-799-03]**

**RIN 0648–BG17**

**Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2017–18 Biennial Specifications and Management Measures; Amendment 27; Correction**

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

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This action corrects the 2017–18 harvest specifications and management measures final rule that published on February 7, 2017. That rule established 2017–18 harvest specifications and management measures for groundfish taken in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Pacific Coast Groundfish Fishery Management Plan (PCGFMP), including harvest specifications consistent with default harvest control rules in the PCGFMP. That action also included regulations to implement Amendment 27 to the PCGFMP, which added deacon rockfish to the PCGFMP, reclassified big skate as an actively managed stock, added a new inseason management process for commercial and recreational groundfish fisheries in waters off California, and made several clarifications to existing regulations. This action fixes errors in 2017–18 harvest specifications and management

measures final rule by correcting the definition of ecosystem component species to remove big skates, making three corrections related to the recreational groundfish retention regulations in effect in waters off California, making a correction to the groundfish retention regulations in the limited entry fixed gear and in the open access fisheries, and correcting the unit of weight used to set the sablefish cumulative limit for Tier 2 of the limited entry fixed gear sablefish fishery.

**DATES:** Effective [*insert date of publication in the Federal Register*].

**ADDRESSES:** Information relevant to the February 7, 2017, final rule (82 FR 9634) and Amendment 27, which includes an Environmental Assessment (EA), the Finding of No Significant Impact (FONSI), a regulatory impact review (RIR), final regulatory flexibility analysis (FRFA), and amended PCGFMP, are available from Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070. Electronic copies of this final rule are also available at the NMFS West Coast Region Web site: <http://www.westcoast.fisheries.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Keeley Kent, 206-526-4655, fax: 206-526-6736, or e-mail: [keeley.kent@noaa.gov](mailto:keeley.kent@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The February 7, 2017, final rule (82 FR 9634) set groundfish harvest specifications for 2017–18 (overfishing limits, acceptable biological catches, and annual catch limits (ACLs)) and established management measures designed to keep catch within the ACLs. As part of that final rule, consistent with the Council’s recommendations and described in the preamble to that rule, NMFS implemented Amendment 27 to the PCGFMP. This action makes corrections to the implementing regulations for two components of Amendment 27: (1) reclassification of big skate

from an ecosystem component species to “in the fishery” and (2) the update of several sections of the PCGFMP to reflect that canary rockfish and petrale sole were declared rebuilt. This action makes corrections in certain provisions of the recreational groundfish retention regulations in effect in waters off California and the groundfish retention regulations in the limited entry fixed gear and open access fisheries, as amended in the February 7, 2017, final rule to reflect the rebuilt status of canary rockfish and petrale sole. In addition, this action makes two minor, technical corrections to the regulations implementing the 2017–18 harvest specifications by correcting the unit of weight used to set the sablefish cumulative limit for Tier 2 of the limited entry fixed gear sablefish fishery, and by correcting a typographical error in the season dates for the Mendocino Management Area recreational fisheries.

### **Need for Correction**

#### *Reclassification of Big Skate*

The February 7, 2017, final rule made several changes necessary to reclassify big skate from an ecosystem component species to “in the fishery,” however, one necessary change was mistakenly omitted. In 50 CFR 660.11, the definition of “groundfish” includes a separate listing of the species included in the ecosystem component. Big skate was mistakenly not removed from that ecosystem component definition. Big skate was correctly listed in the definition under the skates category within the definition of “groundfish,” at 50 CFR 660.11, Groundfish (2) Skates. This rule will remove big skate from the ecosystem component category under the definition of “groundfish,” at 50 CFR 660.11, Groundfish (10) Ecosystem component species.

#### *California Recreational Fishery Management Measures*

NMFS is making three corrections to groundfish recreational fishery regulations in effect off of California. As noted above, one of the components of Amendment 27 was to amend the

PCGFMP to reflect that canary rockfish and petrale sole were declared rebuilt. As a result of the rebuilt status of the canary rockfish and petrale sole fisheries, the State of California relaxed some of its restrictions on retention in the recreational fisheries. As noted in the proposed rule and the February 7, 2017, final rule, NMFS intended the federal regulations to be consistent with the changes in the California state restrictions. However, while the February 7, 2017, final rule correctly updated the federal regulations to remove the prohibition on retention of canary rockfish for the Washington state recreational fisheries, the final rule mistakenly did not remove the prohibition on retention of canary rockfish for recreational fisheries off of California and the Cowcod Conservation Area (50 CFR 660.360(c)(3)(i)(B)). This inadvertent omission is inconsistent with the Council's intent in making its recommendation for the 2017–18 harvest specifications and management measures. Therefore, this correcting action will update § 660.360(c)(3)(i)(B) to reflect the rebuilt status of canary rockfish.

Additionally, in the preamble to the proposed rule (81 FR 75266, 75282; Oct. 28, 2016), NMFS noted that the rule would remove petrale sole and starry flounder from the California recreational season and depth restrictions, which are management measures to reduce regulatory discards. This change allows anglers to retain petrale sole and starry flounder year round without depth constraint. The February 7, 2017, final rule correctly revised § 660.360(c)(3) to note the exception for petrale sole and starry flounder. However, paragraphs (c)(3)(i)(B), (c)(3)(i)(C), and (c)(3)(iv) of § 660.360 were not similarly revised. Consistent with the revisions already made to paragraph (c)(3), this correcting action revises paragraphs, (c)(3)(i)(B), (c)(3)(i)(C), and (c)(3)(iv) of § 660.360 to exempt petrale sole and starry flounder from the season and depth restrictions for recreational fisheries off of California.

Finally, NMFS is correcting the season dates for the Mendocino Management Area under § 660.360(c)(3)(ii)(A)(2). The final rule incorrectly stated that the season is open “May 1 through October December 31,” but correctly stated that the season is closed January 1 through April 30. This rule will correct the mistake by deleting the extra word “October” so that the correct open season is reflected in the language, “May 1 through December 31.”

#### *Fixed Gear Limited Entry and Open Access Fishery Management Measures*

As a result of canary rockfish being rebuilt, NMFS relaxed some of the restrictions on retention in the limited entry fixed gear and open access fisheries. However, the February 7, 2017, final rule, as it pertained to the groundfish limited entry fixed gear fishery ((50 CFR 660.230(a)) and to the open access fishery (50 CFR 660.330(a)), mistakenly did not update the federal regulations to remove the prohibition on retention of canary rockfish, even though NMFS set trip limits for canary rockfish in the limited entry fixed gear fishery in Table 2 to Part 660, Subpart E, and in the open access fishery in Table 3 to Part 660, Subpart F. This was inconsistent with the Council’s intent in its recommendation of the 2017–18 harvest specifications and management measures. This rule will update both § 660.230(a) and § 660.330(a) to reflect the rebuilt status of canary rockfish.

#### *Limited Entry Fixed Gear Sablefish Cumulative Limit*

The February 7, 2017, final rule included the cumulative limits for each of the three tiers of the limited entry fixed gear sablefish primary fishery for both 2017 and 2018. Inadvertently, the cumulative limit for Tier 2 in 2017 was expressed in metric tons instead of in pounds. The final rule read “20,509 mt” (9,303 kg) instead of “20,509 lbs”, which is the true equivalent of 9,303 kg. This rule corrects this error by stating that the Tier 2 cumulative limit for 2017 is “20,509 lbs (9,303 kg)” in 50 CFR 660.231(b)(3)(i).

## **Classification**

The Assistant Administrator (AA) for Fisheries, NOAA, finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and would be contrary to the public interest. This correcting action is consistent with harvest specification and management measures recommended by the Council and described in the preambles to the proposed rule (81 FR 75266; Oct. 28, 2016) and final rule (81 FR 9634; Feb. 7, 2017) implementing Amendment 27 to the PCGFMP. Because the corrections included in this rule are consistent with actions on which NMFS has already requested and considered public comments, further notice and opportunity for public comment on this action is unnecessary. It would be contrary to the public interest to delay implementation of the minor corrections in this rule, because this correcting action will reduce confusion caused by unintentional technical errors, some of which also appear to create inconsistency between state and federal regulations. For the reasons above, the AA also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness and makes this rule effective immediately upon publication. This rule is exempt from the procedures of the Regulatory Flexibility Act (RFA) because the rule is issued without opportunity for prior notice and opportunity for public comment. Therefore, RFA analysis is not required and none has been prepared.

## **List of Subjects in 50 CFR Part 660**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 15, 2017.

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

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

**PART 660—FISHERIES OFF WEST COAST STATES**

1. The authority citation for 50 CFR part 660 continues to read as follows:

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

2. In § 660.11, revise paragraph (10) of the definition for “Groundfish” to read as follows:

**§ 660.11 General definitions.**

\* \* \* \* \*

*Groundfish* \* \* \*

\* \* \* \* \*

(10) “Ecosystem component species” means species that are included in the PCGFMP but are not “in the fishery” and therefore not actively managed and do not require harvest specifications. Ecosystem component species are not targeted in any fishery, not generally retained for sale or personal use, and are not determined to be subject to overfishing, approaching an overfished condition, or overfished, nor are they likely to become subject to overfishing or overfished in the absence of conservation and management measures. Ecosystem component species include: All skates listed here in paragraph (2), except longnose skate and big skate; all grenadiers listed here in paragraph (5); soupfin shark; ratfish; and finescale codling.

\* \* \* \* \*

3. In § 660.230, revise paragraph (a) to read as follows:

**§ 660.230 Fixed gear fishery—management measures.**

(a) General. Most species taken in limited entry fixed gear (longline and pot/trap) fisheries will be managed with cumulative trip limits (see trip limits in Tables 2 (North) and 2 (South) of this subpart), size limits (see § 660.60(h)(5)), seasons (see trip limits in Tables 2 (North) and 2 (South) of this subpart and sablefish primary season details in § 660.231), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (d) of this section and §§ 660.70 through 660.79). Cowcod retention is prohibited in all fisheries, and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (d)(10) of this section and § 660.70). Yelloweye rockfish retention is prohibited in the limited entry fixed gear fisheries. Regulations governing and tier limits for the limited entry, fixed gear sablefish primary season north of 36° N. lat. are found in § 660.231. Vessels not participating in the sablefish primary season are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see § 660.230(e). The trip limits in Table 2 (North) and Table 2 (South) of this subpart apply to vessels participating in the limited entry groundfish fixed gear fishery and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally-managed groundfish.

\* \* \* \* \*

4. In § 660.231, revise paragraph (b)(3)(i) to read as follows:



**§ 660.231 Limited entry fixed gear sablefish primary fishery.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(i) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. During the primary season, each vessel authorized to fish in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the permits registered for use with that vessel (*i.e.*, stacked permits). If multiple limited entry permits with sablefish endorsements are registered for use with a single vessel, that vessel may land up to the total of all cumulative limits announced in this paragraph for the tiers for those permits, except as limited by paragraph (b)(3)(ii) of this section. Up to 3 permits may be registered for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than 3 primary season sablefish cumulative limits in any one year. A vessel registered for use with multiple limited entry permits is subject to per vessel limits for species other than sablefish, and to per vessel limits when participating in the daily trip limit fishery for sablefish under §660.232. In 2017, the following annual limits are in effect: Tier 1 at 45,120 lb (20,466 kg), Tier 2 at 20,509 lb (9,303 kg), and Tier 3 at 11,720 lb (5,316 kg). In 2018 and beyond, the following annual limits are in effect: Tier 1 at 47,050 lb (21,342 kg), Tier 2 21,386 lb (9,701 kg), and Tier 3 12,221 lb (5,543 kg).

\* \* \* \* \*

5. In § 660.330, revise paragraph (a) to read as follows:

**§ 660.330 Open access fishery—management measures.**

(a) *General.* Groundfish species taken in open access fisheries will be managed with cumulative trip limits (see trip limits in Tables 3 (North) and 3 (South) of this subpart), size limits (see § 660.60(h)(5)), seasons (see seasons in Tables 3 (North) and 3 (South) of this subpart), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (d) of this section and §§660.70 through 660.79). Unless otherwise specified, a vessel operating in the open access fishery is subject to, and must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery. Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (d)(11) of this section and § 660.70). Retention of yelloweye rockfish is prohibited in all open access fisheries. For information on the open access daily/weekly trip limit fishery for sablefish, see § 660.332 of this subpart and the trip limits in Tables 3 (North) and 3 (South) of this subpart. Open access vessels are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see paragraph (e) of this section. Open access vessels that fish with non-groundfish trawl gear or in the salmon troll fishery north of 40°10' N. lat. are subject the cumulative limits and closed areas (except the pink shrimp fishery which is not subject to RCA restrictions) listed in Tables 3 (North) and 3 (South) of this subpart. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally managed groundfish.

6. In § 660.360, revise paragraphs (c)(3)(i)(B) and (C), (c)(3)(ii)(A)(2), and (c)(3)(iv) to read as follows:

**§ 660.360 Recreational fishery—management measures.**

(c) \* \* \*

(3) \* \* \*

(i) \* \* \*

(B) *Cowcod conservation areas.* The latitude and longitude coordinates of the Cowcod Conservation Areas (CCAs) boundaries are specified at § 660.70. In general, recreational fishing for all groundfish is prohibited within the CCAs, except that fishing for petrale sole, starry flounder, and “other flatfish” is permitted within the CCAs as specified in paragraph (c)(3)(iv) of this section. However, recreational fishing for the following species is permitted shoreward of the 20 fm (37 m) depth contour when the season for those species is open south of 34°27' N. lat.: Minor nearshore rockfish, cabezon, kelp greenling, lingcod, California scorpionfish, shelf rockfish, petrale sole, starry flounder, and “other flatfish” (subject to gear requirements at paragraph (c)(3)(iv) of this section during January-February). Retention of yelloweye rockfish, bronzespotted rockfish and cowcod is prohibited within the CCA. [Note: California state regulations also permit recreational fishing for California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos* shoreward of the 20 fm (37 m) depth contour in the CCAs when the season for the RCG complex is open south of 34°27' N. lat.] It is unlawful to take and retain, possess, or land groundfish within the CCAs, except for species authorized in this section.

(C) *Cordell Banks.* Recreational fishing for groundfish is prohibited in waters less than 100 fm (183 m) around Cordell Banks as defined by specific latitude and longitude coordinates at §660.70, subpart C, except that recreational fishing for petrale sole, starry flounder, and “other flatfish” is permitted around Cordell Banks as specified in paragraph (c)(3)(iv) of this section.

[Note: California state regulations also prohibit fishing for all greenlings of the genus Hexagrammos, California sheephead and ocean whitefish.]

\* \* \* \* \*

(ii) \* \* \*

(A) \* \* \*

(2) Between 40°10' N. lat. and 38°57.50' N. lat. (Mendocino Management Area), recreational fishing for the RCG Complex is open from May 1 through December 31 (*i.e.*, it's closed from January 1 through April 30).

\* \* \* \* \*

(iv) “*Other flatfish,*” *petrale sole, and starry flounder.* Coastwide off California, recreational fishing for “other flatfish,” petrale sole, and starry flounder, is permitted both shoreward of and within the closed areas described in paragraph (c)(3)(i) of this section. “Other flatfish” are defined at §660.11, subpart C, and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole. Recreational fishing for “other flatfish,” petrale sole, and starry flounder, is permitted within the closed areas. “Other flatfish,” except for Pacific sanddab, petrale sole, and starry flounder, are subject to the overall 20-fish bag limit for all species of finfish, of which there may be no more than 10 fish of any one species. There is no season restriction or size limit for “other flatfish,” petrale sole, and starry flounder however, it is prohibited to filet “other flatfish,” petrale sole, and starry flounder, at sea.

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