



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 260414-0100]

RIN 0648-BO02

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 36; Limited Entry Fixed Gear Follow-On Actions

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues these proposed regulations to implement amendment 36 to the Pacific Coast Groundfish Fishery Management Plan (Groundfish FMP). The proposed regulations include management measures that would apply to vessels registered to limited entry fixed gear (LEFG) endorsed permits and LEFG permit owners in the Pacific Coast groundfish fishery. Specifically, NMFS proposes to add flexibility to the LEFG permits' gear endorsements, remove the base permit designation of LEFG permits, remove the start and end times (*i.e.*, hours of the day) for the open dates of the primary sablefish season, and develop a cost recovery program for the LEFG primary sablefish fishery. The purpose of this action is to provide increased flexibility to LEFG participants while reducing administrative burdens and to develop a cost recovery program to meet the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments on this proposed rule must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2025-0372>. You may submit comments on this document, identified by NOAA-NMFS-2025-0372, by the following method:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and type NOAA-NMFS-2025-0372 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review - Open for Public Comments” or by using the search function.

Electronic copies of amendment 36 and the analysis that addresses the National Environmental Policy Act (NEPA), Presidential Executive Order 12866, the Regulatory Flexibility Act (RFA), and the statutory requirements of the Magnuson-Stevens Act (the Analysis), may be obtained from <https://www.regulations.gov/docket/NOAA-NMFS->

2025-0372 and the NMFS West Coast Region website at

<https://www.fisheries.noaa.gov/region/west-coast>.

FOR FURTHER INFORMATION CONTACT: Megan Mackey, 206-526-6140,

megan.mackey@noaa.gov.

SUPPLEMENTARY INFORMATION: The Pacific Coast groundfish fishery in the U.S. exclusive economic zone (EEZ) seaward of Washington, Oregon, and California is managed under the Groundfish FMP. The Pacific Fishery Management Council (Council) developed the Groundfish FMP pursuant to the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* The Secretary of Commerce approved the Groundfish FMP and implemented the provisions of the plan at 50 CFR part 660, subparts C through G. Species managed under the Groundfish FMP include species of groundfish, flatfish, rockfish, sharks, and skates.

This proposed rule (also referred to as “this proposed action”) outlines implementing regulations for amendment 36 to the Groundfish FMP. Consistent with Magnuson-Stevens Act section 303(c)(1), the Council deemed the proposed regulations consistent with and necessary to implement amendment 36 in a December 8, 2025 letter. The Notice of Availability for amendment 36 that published on December 16, 2025, (90 FR 58183) describes the Groundfish FMP changes that would be implemented through this proposed action. NMFS approved amendment 36 to the Groundfish FMP on March 11, 2026. NMFS is seeking comment on the measures recommended by the Council and approved by NMFS in amendment 36 that would be implemented via this proposed rule.

Background

The history of the LEFG program (or LEFG fishery) in the Pacific Coast groundfish fishery dates back to the 1980s and is detailed in Section 1.2 of the Analysis. In June 2022, the Council completed its second review of the LEFG fishery with the adoption of a final report (2022 LEFG Program Review) that includes research and data needs and recommendations for program changes.

In June 2023, the Council considered a series of potential new management measures for the LEFG fishery and provided guidance on the development of a range of alternatives (ROA) for these measures. The Council also recommended that these items be split into two rulemaking packages: 1) fixed gear marking and entanglement risk reduction and 2) LEFG follow-on actions. The Council took final action on the fixed gear marking and entanglement risk reduction measures in June 2024, and a proposed rule including the associated regulations was published on February 6, 2026 (91 FR 5408).

In September 2023, the Council adopted a purpose and need and ROA for this proposed action for the LEFG follow-on actions. At its March 2025 meeting, the Council adopted a preliminary preferred alternative (PPA), and in June 2025 it adopted a final preferred alternative (FPA).

Amendment 36

On March 11, 2026, NMFS approved amendment 36 to the Groundfish FMP in alignment with the Council's recommendation in June 2025, and the Notice of Availability (NOA) published on December 16, 2025 (90 FR 58183). The regulatory changes included in this proposed rule implement amendment 36.

Proposed Rule

Four action items are included in this proposed rule as part of the LEFG follow-on actions. Overall, the four action items included in this proposed rule would provide increased flexibility in the LEFG fishery while reducing administrative burdens. These proposed measures would also ensure the LEFG program meets the Magnuson-Stevens Act requirements for limited access privilege programs (LAPP).

The action items are:

1. Adding flexibility to the LEFG permit gear endorsements,
2. Removing the base permit designation of LEFG permits,

3. Removing the start and end times (*i.e.*, hours of the day) for the open dates of the primary tier season, and
4. Developing a cost recovery program for the LEFG primary sablefish fishery.

With regard to the first action item on flexibility for gear endorsements, the most recent LEFG fishery review illustrated changing and unpredictable ocean and market conditions and an aging fleet, indicating a need to increase flexibility for LEFG participants to use their quota in the most efficient way possible and to encourage new participation in the fishery. The Council determined that this need could be met by allowing LEFG permitted vessels to use different legal non-trawl gear in addition to the gear currently endorsed on their permit to harvest their LEFG quotas and that allowing such gear flexibility could increase efficiency as well as opportunities for LEFG vessels and participants to more fully utilize annual groundfish allocations.

The Council considered a range of three action alternatives with increasing levels of flexibility for the proposed gear endorsement flexibility action item (see Section 2.1 of the Analysis). The first alternative would have allowed vessels registered to bottom longline-endorsed permits to also use slinky pots to harvest their quota. The second alternative would have broadened the flexibility by allowing an LEFG permit holder to use bottom longline or pot gear, including traditional and slinky pots. The third alternative, which is included in the FPA, would allow the most flexibility with respect to gear use by creating a single LE non-trawl permit that would permit vessels to use any legal non-trawl groundfish gear, except for set nets or other entangling nets, to harvest their LEFG sablefish tier limits and groundfish trip limits. This flexibility is currently allowed for vessels fishing in the directed open access (OA) sector and for vessels fishing individual fishing quota (IFQ) under the gear switching provisions of the shorebased IFQ Program. Under this proposed rule, all LEFG vessels would be allowed to use pot and bottom longline gears and vertical hook-and-line or other legal non-trawl gear

configurations to harvest groundfish. This proposed action would also remove crossover provisions currently applicable to the limited entry (LE) and OA sectors (*e.g.*, those listed 50 CFR 660.230(b)(2)) in order to reduce regulatory and enforcement complexity.

The FPA for the gear endorsement flexibility action item includes a provision (referred to in supporting documentation as a suboption) that would exclude entangling nets from the gears permitted. The suboption was included to address concerns about the potential for the expanded use of set nets within the LEFG fishery under this action. Set nets are included in the broader category of entangling nets, which also includes gillnets and trammel nets. Set nets are currently allowed in the OA groundfish fishery south of 38° North latitude (N lat.) but prohibited north of 38° N lat. (50 CFR 660.330(b)(2)(ii)). Without the suboption, LEFG vessels would have been able to use set nets. The proposed rule would prohibit the use of all entangling nets, including set nets, for the LE sector. There has been no record of directed groundfish vessels using set nets or other entangling nets to harvest groundfish off the U.S. West Coast (see Section 4.5.1 of the Analysis).

To add flexibility to gear endorsements, this proposed rule would replace references to “fixed gear” as well as language specific to longline and pot gear endorsements with “non-trawl” throughout § 660. The notice of departure rule in § 660.216(b) would also be updated to require vessels carrying an observer to give NMFS a 48-hour notification of intended departure time, along with identifying the gear type they intend to use. This would replace the current 24-hour notification requirement.

The second action item included in this proposed rule concerns the base permit designation of LEFG permits. The base permit designation was used to determine that at least one permit in a sablefish permit stack had a length endorsement that was long enough for the vessel. It was highlighted during the 2022 LEFG program review, however, that the requirement to designate a base permit is duplicative and unnecessary because the vessel length requirement is already covered by a separate regulation within

§ 660.25(b)(3)(iii), subpart C. Therefore, the 2022 program review concluded that the base permit designation is not necessary to enforce the vessel length requirement, and the Council and NMFS found that the designation of a base permit for LEFG vessels creates an unnecessary administrative burden on fishery participants and NMFS staff (see Section 2.2 of the Analysis). This proposed action would therefore remove this requirement from the regulations.

To remove the base permit designation of LEFG permits, the definition of “base permit” would be removed from § 660.11 and language regarding the base permit designation would be removed from § 660.25(b)(3)(iii)(C).

The third proposed action concerns the season start times (*i.e.*, hours of the day) for the open dates for the sablefish primary season. Historically, the specification of the time of day for the opening and closing of the primary season was necessary for monitoring and enforcement purposes, particularly when seasons were very short. This specification is no longer necessary, however, and the references to noon local time would be removed from the regulations as part of this proposed action (see Section 2.4 of the Analysis).

To remove the time-specific language for the open dates of the primary tier season, “noon local time” would be removed while maintaining the start and end days of the year (April 1 and December 31, respectively) in § 660.231(b)(1).

Cost recovery

The fourth proposed action would establish a cost recovery program for the LEFG primary sablefish fishery (also known as the tier program), which is a LAPP. The Magnuson-Stevens Act specifies that NMFS must collect fees to recover the actual costs of management, data collection and analysis, and enforcement associated with a LAPP (16 U.S.C. 1853a(e) and 1854(d)(2)) (see Section 2.5 of the Analysis). This proposed rule

would require the owner(s) or authorized representative of a vessel that makes landings of sablefish in the tier program to be responsible for paying the fee.

A summary of the proposed cost recovery program is provided below.

Structure

The sablefish primary fishery would be treated as a single sector of the overall Pacific Coast groundfish fishery for the purposes of cost recovery, whereby costs and the fee percentage would be calculated for the sector.

Who pays

The owner(s) or authorized representative of the vessel that makes landings of sablefish in the tier program would be responsible for paying the fee.

Calculation of fishery value

Fishery value would be calculated using the ex-vessel value of sablefish landed in the most recent complete primary season based on PacFIN electronic fish ticket information. If additional payments are made after landing, the fishery value will reflect those post-landing value adjustments as reflected in revised fish tickets.

Calculation of direct program costs

The direct program costs would be calculated by compiling the actual incremental costs for the previous fiscal year directly related to the management, data collection and analysis, and enforcement of the tier program. Actual incremental costs are those costs that would not have been incurred but for the implementation of the tier program.

Incremental costs may be accrued by the NMFS West Coast Region, the Northwest Fisheries Science Center, Southwest Fisheries Science Center, and/or the Office of Law Enforcement. Recoverable costs include staff time (both full time employees and contractors), travel, supplies, and equipment related to incremental tasks. An initial evaluation of potential incremental tasks was provided in Agenda Item E.4.a., NMFS Report, March 2022.

How fee percentage is calculated

The fee percentage would be calculated by taking the direct program costs from the most recent complete fiscal year and dividing that by the fishery value from the most recent complete fishery season; the MSA requires that the fee percentage not exceed 3 percent of the ex-vessel value of fish landed under the tier program.

When the fee percentage is announced

NMFS would calculate an annual fee percentage and notify the public in the first quarter of the calendar year, prior to the start of the primary season on April 1.

How the fee amount is determined

The fee amount would be calculated by multiplying the ex-vessel value of applicable landings (including post-landing adjustments) by the annual fee percentage. The vessel owner or authorized representative would be required to collect the fee amount at the time of each landing. When payment of the fees is due, NMFS would generate an annual bill and provide it electronically following the end of each primary season to each vessel owner that has applicable landings. Payment of the fees would be due 30 calendar days after the bill date. Payments would be able to be made throughout the year, if desired, but any remaining balance would be required to be received no later than 30 calendar days after receipt of the annual bill. NMFS intends to work with Pacific States Marine Fisheries Commission (PSMFC) to explore adding the fee percentage and calculated fee amount for each sablefish tier landing to electronic fish tickets to facilitate within-year payments by vessel owners, if desired.

How cost recovery fees are paid

The vessel owner or authorized representative would remit fees electronically through pay.gov. Payment methods would include credit card and automated clearing house (ACH) payments.

Penalties

Under the proposed rule, failure to pay on time could result in penalties for the vessel owner. Before penalties would be issued, NMFS would deliver an Initial Administrative Determination (IAD), to which the vessel owner or authorized representative must respond within 30 days by either paying the amount due or appealing in writing. The proposed rule provides that if an account is unpaid for 30 days after the due date, penalties (*e.g.*, fines, interest, sanctions) may begin to accrue, and if the account is not paid within 30 calendar days following a final decision on the IAD or appeal, such penalties may include the vessel not being able to fish in the sablefish tier fishery until the fee liability is satisfied.

Reporting

NMFS would generate a publicly available annual report. This annual report would include information on the fee percentage calculation, program costs, ex-vessel value for the fishery, and total fees collected by NMFS from the previous year.

Language detailing the new cost recovery program for the sablefish primary fishery would be added in § 660.231(c), and additional sections of the regulations that address the requirements for recordkeeping and reporting, as well as permits, would be updated, accordingly.

NMFS has evaluated tasks that would be considered cost recoverable, which include an electronic fish ticket requirement and future program reviews, and determined the cost of these administrative tasks would not be significant, as discussed further in the Classification section of this proposed rule. Pending unforeseen changes to the cost structure of the LEFG tier fishery, the fees associated with this proposed cost recovery program would be considered minimal.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the

Groundfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

This proposed rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

There are no relevant Federal rules that may duplicate, overlap, or conflict with this action.

Regulatory Impact Review (RIR)

An RIR was prepared to assess all costs and benefits of available regulatory alternatives. A copy of this Analysis is available from NMFS (see **ADDRESSES** section). NMFS is proposing to implement amendment 36 and the regulatory revisions in this proposed rule based on its assessment of the net benefits to the Nation of these measures.

Regulatory Flexibility Act (RFA)

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Although this action would apply to all LEFG permit owners and the majority of those permit owners are considered small entities, as explained below, this proposed rule would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

For purposes of the RFA (5 U.S.C. 601 *et seq.*) only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in

commercial fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. This standard applies to all businesses classified under North American Industry Classification System (NAICS) code 11411 for commercial fishing, including all businesses classified as commercial finfish fishing (NAICS 114111), commercial shellfish fishing (NAICS 114112), and other commercial marine fishing (NAICS 114119) businesses (50 CFR 200.2; 13 CFR 121.201).

All LEFG groundfish participants (permit owners or vessels registered to permits) operating in the EEZ off Washington, Oregon, and California managed under the Groundfish FMP may be affected by this action. However, some action items may only impact those owning or fishing with LEFG permits with a sablefish endorsement (*i.e.*, tier fishery; cost recovery, base permit designation, start/end times) while others (LEFG permit gear endorsement flexibility) may impact all LEFG participants (permit owners and vessels utilizing LEFG permits).

A description of the vessels participating in the LEFG sector can be found in Section 1.5.2 of the Analysis. Using the NMFS permit owner database, table 1 below shows the number of permit owners in 2024 by LEFG permit endorsement (gear and sablefish endorsement). Overall, there are an estimated 141 unique permit owners in 2024 (some permit owners may own different types of permits and therefore may be counted in multiple rows). As part of the permit application process, NMFS asks permit applicants if they considered themselves a small business based on a review of the Small Business Administration size criteria and asks each permit applicant to provide detailed ownership information. Of the 223 LEFG permits, 24 were owned by 16 permit owners that self-reported as large entities (table 2). For sablefish-endorsed LEFG permits, 18 of the 164 were owned by 12 permit owners that self-reported as large entities (table 2). Note that

owner counts in each column of table 2 may not sum to the total for that column because an owner could own permits with another gear endorsement.

Table 1 -- Number of estimated owners by LEFG permit (all and sablefish endorsed only) by gear endorsement, 2024.

Gear Endorsement	All LEFG Permit	Sablefish Endorsed
Bottom Longline	131	91
Pot	22	22
Pot and Bottom Longline	4	4

Table 2 -- Number of permit owners (and associated permits in parentheses) by gear endorsement and small business designation, 2024.

Gear Endorsement	All LEFG Permit		Sablefish Endorsed	
	Small	Large	Small	Large
Entity Size	Small	Large	Small	Large
Bottom Longline	116 (170)	15 (21)	80 (117)	11 (15)
Pot	19 (25)	3 (3)	19 (25)	3 (3)
Pot and Bottom Longline	4 (4)	0 (0)	4 (4)	0 (0)
Total	125 (199)	16 (24)	89 (146)	12 (18)

Note that there is not a strict one-to-one correlation between vessels and entities, nor between permits and entities; therefore, some persons or firms likely have ownership interests in more than one vessel or permit. Therefore, the actual number of entities regulated by this proposed action may be lower than the estimates presented here.

Given that small entities make up the majority of LEFG permit owners, it is anticipated that this proposed rule would affect a substantial number of small entities. However, none of the proposed measures are expected to have significant impacts. Two of the action items in this proposed rule (removal of the base permit designation and of the season start times on open dates) are strictly administrative and would not impact entities.

The proposed gear flexibility action item would not disproportionately disadvantage small entities as compared to large entities. The proposed gear flexibility measures are expected to increase profitability due to the ability to use any legal non-trawl gear type (except entangling nets) to harvest quotas/limits. Participants have the

option to invest in new gear to take advantage of the new flexibility, which could somewhat decrease any beneficial impacts to small entities. There could be a slight reduction in profit for pot endorsed permit owners if the lease fees they can charge for pot permits decline due to all permits having the same gear allowances. Of the pot permits that are leased, it is likely that the majority are small entities given that 29 of the 32 pot or dual-endorsed permits are owned by small entities. However, it is difficult to ascertain what the impact would be given the limited information available on permit pricing and lease fees.

With regard to the cost recovery action item, depending on the cost recovery fee collected (maximum of 3 percent of the ex-vessel value of fish harvested), entities with a smaller profit margin may be impacted by the cost recovery fee. However, the limited information on profitability for LEFG participants suggests that small entities do not uniformly have smaller profit margins, and in any event the impact would be limited to 3 percent of the ex-vessel value of fish harvested.

In sum, although this action would apply to all LEFG permit owners and the majority of those permit owners are considered small entities, none of the measures included in this proposed rule would have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required for this action and none has been prepared. The agency requests comments on the decision to certify this rule based on the analysis above.

Paperwork Reduction Act

This proposed 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 would revise and extend the existing requirements for the collection of information under OMB Control Number 0648-0663, “Northwest Region, Pacific Coast Groundfish Fishery: Trawl Rationalization Cost

Recovery Program,” by adding a cost recovery collection for the sablefish primary fishery and by changing the title from “Northwest Region, Pacific Coast Groundfish Fishery: Trawl Rationalization Cost Recovery Program” to “West Coast Region, Pacific Coast Groundfish Fishery: Cost Recovery” to better align the title with the fisheries subject to the information collection. One additional form would be added to the existing information collection to allow vessels in this sablefish primary fishery to make cost recovery payments. The anticipated increase in the number of respondents is at most 164, which represents the universe of sablefish primary fishery tier permit holders, but likely on average closer to 100 new respondents due to permit stacking. The public reporting burden hours per response is expected to continue to be 1 hour and the responses are annual. The public reporting burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Therefore, this revision would add 100 hours to the annual burden estimate for this collection.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection of information at <http://www.reginfo.gov/public/do/PRAMain>.

Notwithstanding any other provisions of the law, no person is required to respond or, 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, Reporting and recordkeeping requirements.

Dated: April 14, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 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 § 660.11 by:

a. Removing the definition of “Base permit”;

b. Revising the definition of “Conservation area(s)” by revising paragraph (1)(vi)(B);

c. Revising the definition of “Joint registration”;

d. Revising the definition of “Limited entry gear”;

e. Revising the definition of “Limited entry permit” by revising paragraph (1);

f. Revising the definition of “Non-trawl fishery”;

g. Revising the definition of “Open access gear”; and

h. Revising the definition of “Overage.”

The revisions read as follows:

§ 660.11 General definitions.

* * * * *

Conservation area(s) * * *

(1) * * *

(vi) * * *

(B) *Non-Trawl (Limited Entry Non-Trawl and Open Access Non-Trawl Gears)*

RCAs.

* * * * *

Joint registration or jointly registered means simultaneously registering both trawl-endorsed and non-trawl-endorsed limited entry permits for use with a single vessel in one of the configurations described in § 660.25(b)(4)(iv).

* * * * *

Limited entry gear means non-trawl gear, except entangling nets (defined at § 660.11 “Fishing gear” (4)) or groundfish trawl gear used under the authority of a valid limited entry permit affixed with an endorsement for that gear.

Limited entry permit means: * * *

(1) The Federal permit required to fish in the limited entry fishery, and includes any gear, size, or species endorsements affixed to the permit, or

* * * * *

Non-trawl fishery means:

(1) For the purpose of allocations at § 660.55, subpart C, non-trawl fishery means the limited entry non-trawl fishery, the open access fishery, and the recreational fishery.

(2) For the purposes of all other management measures in subparts C through G of this part, non-trawl fishery means fishing with any legal limited entry non-trawl gear or open access non-trawl groundfish gear other than trawl gear (groundfish trawl gear and non-groundfish trawl gear), but does not include the recreational fishery.

* * * * *

Open access gear means all types of fishing gear except groundfish trawl.

* * * * *

Overage means the amount of fish harvested by a vessel in excess of:

- (1) The applicable trip limit for any fishery to which a trip limit applies;
- (2) The amount authorized by the applicable permit for trawl fisheries at subpart D of this part;
- (3) The amount authorized by the applicable sablefish-endorsed permits for non-trawl sablefish fisheries at subpart E of this part.

* * * * *

3. Amend § 660.12 by revising paragraph (a)(6) to read as follows:

§ 660.12 General groundfish prohibitions.

* * * * *

(a) * * *

(6) Take and retain, possess, or land more than a single cumulative limit of a particular species, per vessel, per applicable cumulative limit period, except for sablefish taken in the primary limited entry non-trawl sablefish season from a vessel authorized to fish in that season, as described at § 660.231, subpart E.

* * * * *

4. Amend § 660.13 by revising paragraphs (a)(2)(ii), (d)(4)(iv)(A)(1), (30) and (31) to read as follows:

§ 660.13 Recordkeeping and reporting.

(a) * * *

(2) * * *

(ii) The limited entry non-trawl trip limit fisheries subject to the trip limits in tables 2b (North) and 2b (South) to subpart E of this part, and primary sablefish fisheries, as defined at § 660.211; and

* * * * *

(d) * * *

(4) * * *

(iv) * * *

(A) * * *

(I) Limited entry non-trawl, not including shorebased IFQ (declaration code 10);

* * * * *

(30) Limited entry non-trawl non-bottom contact stationary vertical jig gear (allowed inside or outside the Non-Trawl RCA) (declaration code 12);

(31) Limited entry non-trawl non-bottom contact groundfish troll gear (allowed inside or outside the Non-Trawl RCA) (declaration code 13);

* * * * *

5. Amend § 660.14 by revising paragraph (b)(1) to read as follows:

§ 660.14 Vessel Monitoring System (VMS) requirements.

* * * * *

(b) * * *

(1) Any vessel registered for use with a limited entry permit (*i.e.*, not an MS permit) that fishes in state or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California (0-200 nm offshore).

* * * * *

6. Amend § 660.16 by removing the words “Fixed Gear” from the table in paragraph (c) and adding, in their place, the word “Non-trawl”.

§§ 660.18 and 660.21 [Amended]

7. Amend §§ 660.18 and 660.21 by removing the words “fixed gear” wherever they appear and adding, in their place, the word “non-trawl”.

8. Amend § 660.20 by revising paragraph (b) to read as follows:

§ 660.20 Vessel and gear identification.

* * * * *

(b) *Gear identification.* Gear identification requirements specific to fisheries using non-trawl gear (limited entry and open access) are described at § 660.219, subpart E and § 660.319, subpart F.

9. Amend § 660.25 by:

- a. Revising paragraph (b)(1)(i);
- b. Removing and reserving paragraph (b)(3)(i);
- c. Revising paragraphs (b)(3)(ii), (b)(3)(iii)(C), (b)(3)(iv)(A) introductory text, (b)(3)(iv)(C)(1), and (b)(3)(vii);
- d. Adding paragraph (b)(4)(i)(H);
- e. Revising introductory paragraph (b)(4)(ii), and paragraphs (b)(4)(ii)(A), (b)(4)(iv)(A) and (B), and (b)(4)(vii)(B).

The revisions and additions read as follows:

§ 660.25 Permits.

* * * * *

(b) * * *

(1) * * *

(i) *General.* In order for a vessel to fish in the limited entry fishery, the vessel owner must hold a limited entry permit and, through SFD, must register that vessel for use with a limited entry permit. When participating in the limited entry fishery, a vessel is authorized to fish with the gear type endorsed on the limited entry permit registered for

use with that vessel, except that the MS permit does not have a gear endorsement. There are two types of gear endorsements: trawl and non-trawl. All limited entry permits, except the MS permit, have size endorsements; a vessel registered for use with a limited entry permit must comply with the vessel size requirements of this subpart. A sablefish endorsement is also required for a vessel to be used to fish in the primary season for the limited entry non-trawl sablefish fishery, north of 36° N lat. Certain limited entry permits will also have endorsements required for participation in a specific fishery, such as the MS/CV endorsement and the C/P endorsement.

* * * * *

(3) * * *

(ii) *Gear endorsement.* There are two types of gear endorsements: trawl and non-trawl. Gear endorsement(s) assigned to the permit at the time of issuance will be permanent and shall not be modified. Vessels registered to a permit with a single limited entry non-trawl endorsement may use any legal non-trawl groundfish gear to harvest their quota, except entangling nets (defined at § 660.11 “Fishing gear” (4)). An MS permit does not have a gear endorsement.

(iii) * * *

(C) *Size endorsement requirements for sablefish-endorsed permits.*

Notwithstanding paragraphs (b)(3)(iii)(A) and (B) of this section, when multiple permits are “stacked” on a vessel, as described in paragraph (b)(4)(iii) of this section, at least one of the permits must meet the size requirements of those sections. Any additional permits that are stacked for use with a vessel participating in the limited entry non-trawl primary sablefish fishery may be registered for use with a vessel even if the vessel even if the vessel does not meet the size endorsed on the “stacked” permit.

(iv) * * *

(A) *General.* Participation in the limited entry non-trawl sablefish fishery during the primary season north of 36° N lat., described in § 660.231, Subpart E, requires that an owner of a vessel hold (by ownership or lease) a limited entry permit, registered for use with that vessel, with a non-trawl endorsement and a sablefish endorsement. Up to three permits with sablefish endorsements may be registered for use with a single vessel. Limited entry permits with sablefish endorsements are assigned to one of three different cumulative trip limit tiers, based on the qualifying catch history of the permit.

* * * * *

(C) * * *

(1) *Qualifying criteria.* The three qualifying criteria for an ownership limitation exemption are: The vessel owner currently has no more than 20 percent ownership interest in a vessel registered to the sablefish endorsed permit, the vessel owner currently has ownership interest in Alaska sablefish individual fishing quota, and the vessel has fished in the past 12-month period in both the West Coast groundfish limited entry non-trawl fishery and the Sablefish IFQ Program in Alaska. The best evidence of a vessel owner having met these qualifying criteria will be state fish tickets or landing receipts from the West Coast states and Alaska. The qualifying vessel owner may seek an ownership limitation exemption for sablefish endorsed permits registered to no more than two vessels.

* * * * *

(vii) *Endorsement and exemption restrictions.* Gear endorsements, sablefish endorsements and sablefish tier assignments, and C/P endorsements may not be registered to another permit owner (*i.e.*, change in permit ownership or ownership interest) or to another vessel (*i.e.*, change in vessel registration) separately from the limited entry permit. At-sea processing exemptions, specified at paragraph (b)(6) of this

section, are associated with the vessel and not with the limited entry permit and may not be registered to another permit owner or to another vessel without losing the exemption.

(4) * * *

(i) * * *

(H) A vessel may not be registered to any limited entry non-trawl permits with a sablefish endorsement until payment of all cost recovery program fees required pursuant to § 660.231(c) has been made. The IAD, appeals, and final decision process for the cost recovery program is specified in § 660.231(c)(5)(i).

(ii) *Combining limited entry permits.* Two or more limited entry permits with gear endorsements for the same type of limited entry gear may be combined and reissued as a single permit with a larger size endorsement as described in paragraph (b)(3)(iii) of this section.

(A) *Sablefish-endorsed permit.* With respect to limited entry permits endorsed for non-trawl gear, a sablefish endorsement will be issued for the new permit only if all of the permits being combined have sablefish endorsements. If two or more permits with sablefish endorsements are combined, the new permit will receive the same tier assignment as the tier with the largest cumulative landings limit of the permits being combined.

* * * * *

(iv) * * *

(A) *General.* “Joint registration” of limited entry permits, as defined at § 660.11, is the practice of simultaneously registering both trawl-endorsed and non-trawl-endorsed limited entry permits for use with a single vessel.

(B) *Restrictions.* Subject to vessel size endorsements in paragraph (b)(3)(iii) of this section, any limited entry permit with a trawl endorsement and any limited entry

permit with a non-trawl endorsement may be jointly registered for use with a single vessel but only in one of the following configurations:

(1) A single trawl-endorsed limited entry permit and one, two or three sablefish endorsed non-trawl-endorsed limited entry permits; or

(2) A single trawl-endorsed limited entry permit and one non-trawl-endorsed limited entry permit for use with a single vessel.

* * * * *

(vii) * * *

(B) *Limited entry non-trawl and trawl-endorsed permits (without MS/CV or C/P endorsements)*. Limited entry non-trawl and trawl-endorsed permits (without MS/CV or C/P endorsements) may not be registered for use with a different vessel more than once per calendar year, except in cases of death of a vessel owner or if the vessel registered to the permit is totally lost as defined in § 660.11. The exception for death of a vessel owner applies for a vessel owned by a partnership or a corporation if the person or persons with at least 50 percent of the ownership interest in the entity dies.

* * * * *

10. Amend § 660.55 by removing the words “fixed gear” in each instance where they occur and adding, in their place, the word “non-trawl.”

11. Amend § 660.60 by revising paragraphs (h)(7)(ii)(A)(2), (h)(7)(ii)(B)(2) and (3) to read as follows:

§ 660.60 Specifications and management measures.

* * * * *

(h) * * *

(7) * * *

(ii) * * *

(A) * * *

(2) Vessels with a valid limited entry non-trawl permit fishing inside the Non-Trawl RCA with stationary vertical jig gear or groundfish troll gear as defined at § 660.320(b)(6). Vessels fishing with one of these two approved hook-and-line gear configurations may fish up to the limited entry non-trawl gear trip limits in table 2b (North) and table 2b (South) of subpart E, either inside or outside the Non-Trawl RCA. This provision only applies on fishing trips where the vessel made the appropriate declaration (specified at § 660.13(d)(4)(iv)(A)).

(B) * * *

(2) *Vessel registered to a limited entry non-trawl permit.* Vessels registered to a limited entry non-trawl permit cannot cross over in the open access fishery.

(3) *Vessel jointly registered to more than one limited entry permit.* Vessels jointly registered (under the provisions at § 660.25(b)(4)(iv)(B)) may fish with open access gear (defined at § 660.11), excluding entangling nets (defined at § 600.11 “Fishing gear” (4)), if they meet the requirements of paragraph (h)(7)(ii)(B)(1) of this section.

* * * * *

12. Amend Note 1 to table 1a (North) and table 1a (South), Subpart D, by removing the words “limited entry fixed gear” where they appear.

13. Amend § 660.112 by revising paragraph (b)(1)(xvii) to read as follows:

§ 660.112 Trawl fishery—prohibitions.

* * * * *

(b) * * *

(1) * * *

(xvii) When declared into the limited entry groundfish non-trawl Shorebased IFQ fishery, retain fish caught with non-trawl gear in more than one IFQ management area, specified at § 660.140(c)(1), on the same trip.

* * * * *

14. Amend § 660.140 by revising paragraphs (c)(2), (e)(1)(i), (k)(1) introductory text, and (k)(1)(iv) to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(c) * * *

(2) *Moving pot or trap gear between multiple IFQ management areas.* A vessel using non-trawl gear declared into the limited entry groundfish non-trawl Shorebased IFQ fishery may deploy pot or trap gear in multiple IFQ management areas on a trip provided the vessel does not retrieve gear from more than one IFQ management area during a trip.

* * * * *

(e) * * *

(1) * * *

(i) *Gear exception.* Vessels registered to a limited entry trawl permit using the following gears would not be required to cover groundfish catch with QP or Pacific halibut catch with IBQ pounds: Non-groundfish trawl, gear types defined in the coastal pelagic species FMP, gear types defined in the highly migratory species FMP, salmon troll, crab pot, and limited entry non-trawl gear when the vessel also has a limited entry permit endorsed for non-trawl gear and has declared that it is fishing in the limited entry non-trawl fishery. Vessels using gears falling under this exception are subject to the open access fishery restrictions and limits when declared in to an open access fishery.

* * * * *

(k) * * *

(1) Participants in the Shorebased IFQ Program may take IFQ species using any legal groundfish non-trawl gear (*i.e.*, gear switching) and are exempt from the gear endorsements at § 660.25(b)(3) for limited entry non-trawl permits, provided the following requirements are met:

* * * * *

(iv) The vessel must comply with prohibitions applicable to the limited entry non-trawl fishery as specified at § 660.212, gear restrictions applicable to limited entry non-trawl gear as specified in §§ 660.219 and 660.230(b), and management measures specified in § 660.230(d), including restrictions on the non-trawl gear allowed onboard, its usage, and applicable non-trawl groundfish conservation area restrictions, except that the vessel will not be subject to limited entry non-trawl trip limits when fishing in the Shorebased IFQ Program. Vessels using bottom longline and snap gears as defined at § 660.11 are subject to the requirements of the Seabird Avoidance Program described in § 660.21.

* * * * *

15. Amend the title of Part 660, Subpart E by removing the words “Fixed Gear” and adding, in their place, the word “Non-Trawl” so that the title reads as follows:

Subpart E West Coast Groundfish—Limited Entry Non-Trawl Fisheries

* * * * *

§§ 660.210, 660.211, 660.212, 660.213, 660.220, 660.231, and 660.232 [Amended]

16. Amend §§ 660.210, 660.211, 660.212, 660.213, 660.220, 660.231, and 660.232 by removing the words “fixed gear” wherever they appear and adding, in their place, the word “non-trawl”.

17. Amend § 660.211 by:

a. Revising the section heading;

- b. Adding a new definition for “Ex-vessel value”;
- c. Revising “Limited entry fixed gear fishery” to read “Limited entry non-trawl fishery” and revising its definition;
- d. Revising the definitions of “Sablefish primary fishery”, “Sablefish primary season” and “Tier limit”.

The revisions and addition read as follows:

§ 660.211 Non-trawl fishery – definitions.

* * * * *

Ex-vessel value means, for the purposes of the limited entry non-trawl sablefish primary fishery cost recovery program specified at § 660.231(c), all compensation received for sablefish landed to a sablefish endorsed permit and includes the value of all in-kind compensation and all other goods or services exchanged in lieu of cash.

Limited entry non-trawl fishery means the fishery composed of vessels registered to limited entry permits with a non-trawl endorsement.

Sablefish primary fishery means, for the limited entry non-trawl sablefish fishery north of 36° N lat., the fishery where vessels registered to at least one limited entry permit with both an endorsement for non-trawl gear and a sablefish endorsement fish up to a specified tier limit and when they are not eligible to fish in the DTL fishery.

Sablefish primary season means, for the limited entry non-trawl sablefish fishery north of 36° N lat., the period when vessels registered to at least one limited entry permit with both an endorsement for non-trawl gear and a sablefish endorsement are allowed to fish in the sablefish primary fishery described at § 660.231 of this subpart.

Tier limit means a specified amount of sablefish that may be harvested by a vessel registered to a limited entry non-trawl permit(s) with a Tier 1, Tier 2, and/or Tier 3 designation; a gear endorsement for non-trawl gear; and a sablefish endorsement.

18. Amend § 660.212 by revising the section heading and paragraph (c)(1) and adding paragraph (e) to read as follows:

§ 660.212 Non-trawl fishery – prohibitions.

* * * * *

(c) * * *

(1) Operate a vessel registered to a limited entry permit with a non-trawl or trawl endorsement and non-trawl gear onboard in an applicable GCA (as defined at § 660.230(d)), except for purposes of continuous transiting, with all groundfish non-trawl gear stowed in accordance with § 660.212(a) or except as authorized in the groundfish management measures at § 660.230.

* * * * *

(e) *Cost Recovery.*

(1) Fail to fully pay or collect any fee due under the cost recovery program specified at § 660.231 and/or otherwise avoid, decrease, interfere with, hinder, or delay any such payment or collection.

(2) Fail to maintain records as required by § 660.213 and/or fail to make reports to NMFS as required under § 660.213.

(3) Refuse to allow NMFS employees, agents, or contractors to review and audit all records and other information required to be maintained as set forth in § 660.213.

(4) Make any false statement to NMFS, including any NMFS employee, agent or contractor, concerning a matter related to the cost recovery program described in this subpart.

(5) Obstruct, prevent, or delay, or attempt to obstruct, prevent, or delay, any audit or investigation NMFS employees, agents, or contractors conduct, or attempt to conduct, in connection with any of the matters in the cost recovery program described in this subpart.

19. Amend § 660.213 by revising the section heading and adding paragraph (f) to read as follows:

§ 660.213 Non-trawl fishery – recordkeeping and reporting.

* * * * *

(f) *Cost recovery program.* The vessel owner, as defined at § 660.11, is required to comply with the following recordkeeping and reporting requirements:

(1) *Reporting.* The vessel owner, or authorized representative, must submit a cost recovery form at the time cost recovery fees are paid to NMFS as specified at § 660.231(c). The cost recovery form requires providing information that may include, but is not limited to, vessel owner's name, address, phone number, permit number, month and year of landings, weight of landings, ex-vessel value, fish ticket numbers for landings, and fee due.

(2) *Recordkeeping.* The vessel owner or authorized representative must maintain the following records for all landings of sablefish in the primary fishery for at least three years:

- (i) The date of landing,
- (ii) The weight of sablefish landed,
- (iii) Information sufficient to specifically identify the fishing vessel which landed the sablefish,
- (iv) The ex-vessel value of sablefish,
- (v) The identity of the payee to whom the ex-vessel value is paid, if different than the vessel owner,
- (vi) The date the ex-vessel value was paid,
- (vii) The total fee amount collected as a result of all sablefish.

20. Amend the section headings of §§ 660.216, 220, and 230 by removing the words "Fixed gear" and adding, in their place, the word "Non-trawl."

21. Amend § 660.216 by revising introductory paragraph (b) to read as follows:

§ 660.216 Non-trawl fishery—observer requirements.

* * * * *

(b) *Notice of departure basic rule.* At least 48 hours before departing on a fishing trip, a harvesting vessel that has been notified by NMFS that it is required to carry an observer must notify NMFS (or its designated agent) of the vessel's intended time of departure, place or port of departure, and the gear type to be used.

* * * * *

22. Amend § 660.219 by revising the section heading to read as follows:

§ 660.219 Non-trawl fishery – gear identification and marking.

* * * * *

23. Amend § 660.230 by:

- a. Revising paragraphs (a) and (b)(1);
- b. Removing paragraph (b)(2);
- c. Redesignating paragraphs (b)(3) through (b)(6) as (b)(2) through (b)(5);
- d. Revising newly redesignated paragraphs (b)(2) and introductory paragraph (b)(5), introductory paragraph (c)(2), introductory paragraph (d), (d)(2), (d)(5) through (14), and paragraph (g).

The revisions read as follows:

§ 660.230 Non-trawl fishery – management measures.

(a) *General.* Most species taken in limited entry non-trawl fisheries will be managed with cumulative trip limits (see trip limits in tables 2b (North) and 2b (South) of this subpart), size limits (see §660.60(h)(5)), seasons (see trip limits in tables 2b (North) and 2b (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, yelloweye, and California quillback

rockfish retention is prohibited in all fisheries, and groundfish vessels operating south of Point Conception must adhere to GEA restrictions (see paragraph (d)(16) of this section and § 660.70). Regulations governing tier limits for the limited entry non-trawl sablefish primary season north of 36° N lat. are found in § 660.231. Vessels not participating in the sablefish primary season are subject to weekly sablefish limits in addition to cumulative limits for each cumulative limit period. The trip limit for black rockfish caught with hook-and-line gear also applies, see paragraph (e) of this section. The trip limits in tables 2b (North) and 2b (South) of this subpart apply to vessels participating in the limited entry groundfish non-trawl fishery and may not be exceeded.

(b) * * *

(1) Non-trawl gear (defined at § 660.11 “Fishing gear” (8)) except entangling nets (defined at § 660.11 “Fishing gear” (4)) is authorized in the limited entry non-trawl fishery, providing the gear is in compliance with the restrictions set forth in this section, and gear marking requirements described in § 660.219 of this subpart.

(2) All fixed gear (longline, trap or pot, and stationary hook-and-line gear, including commercial vertical hook-and-line gear) gear used in the limited entry non-trawl fishery must be attended at least once every 7 days.

* * * * *

(5) Inside the Non-Trawl RCA, only legal non-bottom contact hook-and-line gear configurations may be used for target fishing for groundfish by vessels that participate in the limited entry non-trawl sector as defined at § 660.11. On a fishing trip where any fishing will occur inside the Non-Trawl RCA, only one type of legal non-bottom contact gear may be carried on board, and no other fishing gear of any type may be carried on board or stowed during that trip. The vessel may fish inside and outside the Non-Trawl RCA on the same fishing trip, provided a valid declaration report as required at § 660.13(d) has been filed with NMFS OLE. Legal non-bottom contact hook-and-line gear

means stationary vertical jig gear not anchored to the bottom and groundfish troll gear, subject to the specifications in paragraphs (b)(5)(i) and (ii) of this section.

* * * * *

(c) * * *

(2) For limited entry non-trawl vessels, the following species must be sorted:

* * * * *

(d) *Groundfish conservation areas*. GCAs are defined by coordinates expressed in degrees of latitude and longitude. The latitude and longitude coordinates of the GCA boundaries are specified at §§ 660.70 through 660.74. A vessel that is authorized by this paragraph to fish within a GCA (*e.g.*, fishing for “other flatfish” with hook and line gear only), may not simultaneously have other gear on board the vessel that is unlawful to use for fishing within the GCA. The following GCAs apply to vessels using bottom contact gear, defined at § 660.11, and include limited entry non-trawl (*e.g.*, longline and pot/trap,) among other gear types.

* * * * *

(2) *North coast commercial yelloweye rockfish conservation area*. The latitude and longitude coordinates of the North Coast Commercial Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the North Coast Commercial YRCA. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the North Coast Commercial YRCA. Limited entry non-trawl vessels may transit through the North Coast Commercial YRCA with or without groundfish on board.

* * * * *

(5) *Tillamook YRCA*. The latitude and longitude coordinates that define the Tillamook YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited

entry non-trawl gear is prohibited within the Tillamook YRCA on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Tillamook YRCA on dates when the closure is in effect. The closure is not in effect at this time. This closure may be implemented through inseason adjustment. Limited entry non-trawl vessels may transit through the Tillamook YRCA at any time, with or without groundfish on board.

(6) *Newport YRCA*. The latitude and longitude coordinates that define the Newport YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Newport YRCA on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Newport YRCA on dates when the closure is in effect. The closure is not in effect at this time. This closure may be implemented through inseason adjustment. Limited entry non-trawl vessels may transit through the Newport YRCA at any time, with or without groundfish on board.

(7) *Florence YRCA*. The latitude and longitude coordinates that define the Florence YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Florence YRCA on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Florence YRCA on dates when the closure is in effect. The closure is not in effect at this time. This closure may be implemented through inseason adjustment. Limited entry non-trawl vessels may transit through the Florence YRCA at any time, with or without groundfish on board.

(8) *Heceta Bank YRCA*. The latitude and longitude coordinates that define the Heceta Bank YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Heceta Bank YRCA on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken

with limited entry non-trawl gear within the Heceta Bank YRCA on dates when the closure is in effect. The closure is currently in effect. This closure may be modified through inseason adjustment. Limited entry non-trawl vessels may transit through the Heceta Bank YRCA at any time, with or without groundfish on board.

(9) *Point St. George YRCA*. The latitude and longitude coordinates of the Point St. George YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Point St. George YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Point St. George YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Limited entry non-trawl vessels may transit through the Point St. George YRCA, at any time, with or without groundfish on board.

(10) *South Reef YRCA*. The latitude and longitude coordinates of the South Reef YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the South Reef YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the South Reef YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Limited entry non-trawl vessels may transit through the South Reef YRCA, at any time, with or without groundfish on board.

(11) *Reading Rock YRCA*. The latitude and longitude coordinates of the Reading Rock YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Reading Rock YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Reading Rock YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through

inseason adjustment. Limited entry non-trawl vessels may transit through the Reading Rock YRCA, at any time, with or without groundfish on board.

(12) *Point Delgada (North) YRCA*. The latitude and longitude coordinates of the Point Delgada (North) YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Point Delgada (North) YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Point Delgada (North) YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Limited entry non-trawl vessels may transit through the Point Delgada (North) YRCA, at any time, with or without groundfish on board.

(13) *Point Delgada (South) YRCA*. The latitude and longitude coordinates of the Point Delgada (South) YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Point Delgada (South) YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Point Delgada (South) YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Limited entry non-trawl vessels may transit through the Point Delgada (South) YRCA, at any time, with or without groundfish on board.

(14) *Non-trawl Rockfish Conservation Area (RCA)*. The Non-Trawl RCA is defined at § 660.11 and with latitude and longitude coordinates, at §§ 660.71 through 660.74 or the EEZ, where fishing for groundfish with non-trawl gear is prohibited. Boundaries for the Non-Trawl RCA throughout the year are provided in the header to Table 2 (North) and Table 2 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.60(c).

(i) It is unlawful to operate a vessel with limited entry non-trawl gear in the Non-Trawl RCA, except for the purpose of continuous transit, or when the use of limited entry non-trawl gear is authorized in this section. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Non-Trawl RCA, unless otherwise authorized in this section.

(ii) Limited entry non-trawl vessels may transit through the Non-Trawl RCA, with or without groundfish on board, provided all groundfish non-trawl gear is stowed either: Below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all lines, so that it is rendered unusable for fishing.

(iii) The Non-Trawl RCA restrictions in this section apply to vessels registered to limited entry non-trawl permits fishing for species other than groundfish with non-trawl gear on trips where groundfish species are retained. Unless otherwise authorized in this section, a vessel may not retain any groundfish taken on a fishing trip for species other than groundfish that occurs within the Non-Trawl RCA. If a vessel fishes in a non-groundfish fishery in the Non-Trawl RCA, it may not participate in any fishing for groundfish on that trip that is prohibited within the Non-Trawl RCA. [For example, if a vessel fishes in the salmon troll fishery within the RCA, the vessel cannot on the same trip fish in the sablefish fishery outside of the RCA.]

(iv) It is lawful to fish within the Non-Trawl RCA with limited entry non-trawl gear using hook and line gear only when trip limits authorize such fishing, and provided a valid declaration report as required at § 660.13(d), subpart C, has been filed with NMFS OLE.

(v) It is lawful to fish within the Non-Trawl RCA under the limited entry non-trawl trip limits specified in Table 2 (North) and Table 2 (South) of this subpart only when using the non-bottom contact hook-and-line gear types described in paragraph

(b)(5) of this section, and provided a valid declaration report as required at § 660.13(d), subpart C, has been filed with NMFS OLE.

* * * * *

(g) *Essential Fish Habitat Conservation Areas (EFHCA)*. EFHCAs, defined at § 660.11 and with latitude and longitude coordinates at §§ 660.75 through 660.79, apply to vessels using bottom contact gear, defined at § 660.11, and includes limited entry non-trawl (e.g., longline and pot/trap,) among other gear types. EFHCAs closed to bottom contact gear are listed at § 660.12(a).

24. Amend § 660.231 by:

a. Revising the section heading, paragraph (a), introductory text to paragraph (b), paragraph (b)(1);

b. Removing and reserving paragraph (b)(2); and

c. Adding paragraph (c).

The revisions and addition read as follows:

§ 660.231 Limited entry non-trawl sablefish primary fishery.

* * * * *

(a) *Sablefish endorsement*. In addition to requirements pertaining to fishing in the limited entry non-trawl fishery (described in subparts C and E), a vessel may not fish in the sablefish primary season for the limited entry non-trawl fishery, unless at least one limited entry permit with both a gear endorsement for non-trawl gear and a sablefish endorsement is registered for use with that vessel. Permits with sablefish endorsements are assigned to one of three tiers, as described at § 660.25(b)(3)(iv), subpart C.

(b) *Sablefish primary season for the limited entry non-trawl fishery* —

(1) *Season dates*. North of 36° N lat., the sablefish primary season for the limited entry non-trawl, sablefish-endorsed vessels begins on April 1 and closes on December 31, or closes for an individual vessel owner when the tier limit for the sablefish endorsed

permit(s) registered to the vessel has been reached, whichever is earlier, unless otherwise announced by the Regional Administrator through the routine management measures process described at § 660.60(c).

* * * * *

(c) *Sablefish primary fishery—cost recovery program.*

(1) *General.* The cost recovery program collects mandatory fees of up to three percent of the ex-vessel value of sablefish landed in the sablefish primary fishery in accordance with the Magnuson-Stevens Act. NMFS collects the fees to recover the actual costs directly related to the management, data collection, analysis, and enforcement of the sablefish primary fishery.

(2) *Fee percentage.* The annual fee percentage is calculated as described in paragraph (c)(2)(i) of this section. NMFS will establish the fee percentage each year and will announce the fee percentage in accordance with paragraph (c)(2)(ii) of this section. The fee percentage must not exceed three percent of the ex-vessel value of fish harvested, by sector, under the sablefish primary fishery, pursuant to the Magnuson-Stevens Act at 16 U.S.C. 1854(d)(2)(B).

(i) In the first quarter of each calendar year, NMFS will calculate the fee percentage based on information from the previous fiscal and calendar years. The fee percentage will be rounded to the nearest 0.1 percent and must not exceed three percent. NMFS will use the following equation to annually determine the fee percentage: Fee percentage = the lower of 3% or $(DPC/V) \times 100$, where:

(A) “DPC,” or direct program costs, are the actual incremental costs for the previous fiscal year directly related to the management, data collection, and enforcement of the sablefish primary fishery. Actual incremental costs mean those costs that would not have been incurred but for the implementation and administration of the sablefish primary fishery. If the amount of fees collected by NMFS is greater or less than the actual

incremental costs incurred, the DPC will be adjusted accordingly for calculation of the fee percentage in the following year.

(B) “V” is, for the sablefish primary fishery, the total ex-vessel value, as defined at § 660.211, from the previous calendar year attributable to the sablefish primary fishery.

(ii) During the first quarter of each calendar year, NMFS will announce:

(A) The fee percentage to be applied to sablefish primary fishery landings, that will be in effect for the calendar year, and

(B) Information on how to pay into the Fund subaccount as specified at paragraph (c)(4) of this section.

(3) *Fee amount.* The fee amount is the ex-vessel value of the sablefish primary fishery landing, as defined at § 660.211, multiplied by the fee percentage as announced in accordance with paragraph (c)(2)(ii) of this section.

(4) *Fee applicability, collection, and payment* —

(i) Fee applicability, payment, and collection in the sablefish primary fishery: Fees at the fee percentage rate announced in paragraph (2)(ii) of this section begin applying on April 1 and continue without interruption through December 31 each year. The vessel owner or authorized representative must collect the fee upon each sablefish primary fishery landing made by their vessel. The payment of the collected fees is described below.

(A) The vessel owner or authorized representative may make payments for the fees throughout the primary season.

(B) NMFS will issue an annual bill in the first quarter of the year following the fishing year ending on December 31. The annual bill will deduct any earlier payments of fees from vessel owner or authorized representative.

(C) Each vessel owner or authorized representative must pay the fee identified in the annual bill upon issuance of the annual bill for the ex-vessel value, as defined at §

660.211. Payment of the fee must be received no later than 30 days of the issuance of the annual bill.

(ii) Upon issuance of the annual bill, which will deduct any fee payments made by the vessel owner throughout the primary season, the vessel owner or authorized representative shall disburse the fee amount identified in the annual bill by electronic payment to the Pay.gov Fund subaccount. NMFS will announce information about how to make an electronic payment to the Fund subaccount in the notification on fee percentage specified in paragraph (c)(2)(ii) of this section as well as on the bill. Each disbursement must be accompanied by a cost recovery form provided by NMFS. Recordkeeping and reporting requirements are specified in § 660.213(f). The cost recovery form will be available on the pay.gov website.

(5) *Failure to pay or collect* —

(i) If NMFS determines the vessel owner or other responsible party has not submitted a complete cost recovery form and corresponding payment by the due date specified in paragraph (c)(4)(i)(A) of this section, NMFS will notify the vessel owner or other responsible party in writing via an initial administrative determination (IAD) letter.

(A) In the IAD, NMFS will state the discrepancy in payment and provide the person 30 calendar days to either pay the specified amount due or appeal the IAD in writing.

(B) If the vessel owner or authorized representative appeals an IAD, the appeal must be emailed to NMFS at *cost.recovery.wcr@noaa.gov* no later than 30 calendar days after the date on the IAD. If the last day of the time period is a Saturday, Sunday, or Federal holiday, the time period will extend to the close of business on the next business day. The appeal must be in writing, must allege credible facts or circumstances, and must include any relevant information or documentation to support the appeal.

(C) NMFS will make a final decision according to the steps below.

(1) For the appeal of an IAD, the Regional Administrator shall appoint an appeals officer. After determining there is sufficient information and that all procedural requirements have been met, the appeals officer will review the record and issue a recommendation on the appeal to the Regional Administrator, which shall be advisory only. The recommendation must be based solely on the record. Upon receiving the findings and recommendation, the Regional Administrator, acting on behalf of the Secretary of Commerce, will issue a written decision on the appeal which is the final decision of the Secretary of Commerce.

(2) If the vessel owner or authorized representative does not appeal the IAD within 30 calendar days, NMFS will notify the vessel owner or other responsible party in writing via a final decision letter. The final decision will be from the Regional Administrator acting on behalf of the Secretary of Commerce.

(3) If the final decision determines that the vessel owner is out of compliance, the final decision will require payment within 30 calendar days. If such payment is not received within 30 calendar days of issuance of the final decision, NMFS will refer the matter to the appropriate authorities for purposes of collection. NMFS will not register the vessel to any limited entry non-trawl permit with a sablefish primary fishery permit until the fees are paid.

(6) *Recordkeeping, reporting, and audits* —

(i) Each vessel owner or authorized representative shall retain records in accordance with § 660.213(f).

(ii) Each vessel owner or authorized representative shall submit reports in accordance with § 660.213(f).

(iii) NMFS or its agents may audit, in whatever manner NMFS determines reasonably necessary for the duly diligent administration of the cost recovery program, the financial records of vessel owners, in order to ensure proper fee payment, collection,

deposit, disbursement, accounting, recordkeeping, and reporting. Vessel owners or authorized representatives must respond to any inquiry by NMFS or a NMFS agent within 20 calendar days of the date of issuance of the inquiry, unless an extension is granted by NMFS. Vessel owners or authorized representatives shall make all relevant records available to NMFS or NMFS's agents at reasonable times and places and promptly provide all requested information reasonably related to these records. NMFS may employ a third-party agent to conduct the audits. The NMFS auditor may review and request copies of additional data provided by the submitter, including, but not limited to, previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data submitted.

25. Amend table 2b (North) to part 660, subpart E by revising the table headings to read as follows:

Table 2b (North) to Part 660, Subpart E—Trip Limits for Limited Entry Non-Trawl North of 40°10' N Lat.

TABLE 2b (NORTH) TO PART 660, SUBPART E—TRIP LIMITS FOR LIMITED ENTRY NON-TRAWL NORTH OF 40°10' N LAT.

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26. Amend table 2b (South) to part 660, subpart E by revising the table headings to read as follows:

Table 2b (South) to Part 660, Subpart E—Trip Limits for Limited Entry Non-Trawl South of 40°10' N Lat.

TABLE 2b (SOUTH) TO PART 660, SUBPART E—TRIP LIMITS FOR LIMITED ENTRY NON-TRAWL SOUTH OF 40°10' N LAT.

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27. Amend § 660.330 by revising paragraph (g) to read as follows:

§ 660.330 Open access fishery—management measures.

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(g) *Essential fish habitat conservation areas (EFHCA)*. EFHCAs, defined at § 660.11 and with latitude and longitude coordinates at §§ 660.75 through 660.79, apply to vessels using bottom trawl gear or bottom contact gear, defined at § 660.11, and includes non-groundfish trawl gear and limited entry non-trawl gear (*e.g.*, longline and pot/trap,) among other gear types. EFHCAs closed to bottom contact gear are listed at § 660.12(a). EFHCAs closed to bottom trawl gear are listed at § 660.312(d).

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