fully funded when funds become available.

[FR Doc. 01–13811 Filed 5–31–01; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001121328–1041–02; I.D. 052501E]

Fisheries of the Northeastern United States; Scup Fishery; Commercial Quota Harvested for Summer Period

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

ACTION: Commercial quota harvest.

SUMMARY: NMFS announces that the scup commercial quota available in the Summer period to the coastal states from Maine to North Carolina has been harvested. Federally permitted commercial vessels may not land scup in these states for the remainder of the 2001 Summer quota period (through October 31, 2001). Regulations governing the scup fishery require publication of this notification to advise the coastal states from Maine through North Carolina that the quota has been harvested and to advise Federal vessel permit holders and Federal dealer permit holders.

DATES: Effective 0001 hrs local time, June 1, 2001, through 2400 hrs local time, October 31, 2001.

FOR FURTHER INFORMATION CONTACT: Jennifer L. Anderson, Fishery Management Specialist, (978) 281–9226.

SUPPLEMENTARY INFORMATION: Regulations governing the scup fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is allocated into three quota periods. The Summer commercial quota (May through October) is distributed to the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the seasonal allocation is described in § 648.120.

The total commercial quota for scup for the 2001 calendar year was set at 4,444,600 lb (2,016,037 kg)(66 FR 12902; March 1, 2001). The Summer period quota was initially set at 1,731,172 lb (785,246 kg). As specified in § 648.120, landings in excess of the commercial quota in the 2000 Summer period were deducted from the Summer period allocation this year, resulting in a final Summer quota allocation of 1,147,861 lb (520,661 kg).

Section 648.121 requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the commercial scup quota for each quota period and, based upon dealer reports, state data, and other available information, to determine when the commercial quota has been harvested. NMFS is required to publish notification in the **Federal Register** advising and notifying federally permitted commercial vessels and federally permitted dealers that, effective upon a specific date, the scup commercial quota has been harvested. The Regional Administrator has determined, based upon dealer reports and other available information, that the scup commercial quota for the 2001 Summer period has been harvested.

The regulations at § 648.4(b) provide that Federal scup moratorium permit holders agree as a condition of the permit not to land scup in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for the period has been harvested and that no commercial quota for scup is available. Therefore, effective 0001 hours, June 1, 2001, further landings of scup by vessels holding Federal scup moratorium permits are prohibited through October 31, 2001. The Winter II period for commercial scup harvest will open on November 1, 2001. Effective 0001 hours, June 1, 2001, federally permitted dealers are also advised that they may not purchase scup from federally permitted vessels that land in coastal states from Maine through North Carolina for the remainder of the Summer period (through October 31, 2001).

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: May 25, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–13832 Filed 5–29–01; 4:36 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 001030303–1127–02; I.D. 091800E]

RIN 0648–AO41

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 13

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

ACTION: Final rule; announcement of approval of an amendment to a fishery management plan.

SUMMARY: NMFS issues this final rule to implement Amendment 13 to the Pacific Coast Groundfish Fishery Management Plan (FMP). This final rule implements Amendment 13 by establishing an increased utilization program for catcher/processor and mother ships in the at-sea whiting fisheries which carry multiple observers for at least 90 percent of the fishing days during a cumulative trip limit period, by revising the regulatory provisions for the routine management measures process, and by removing regulatory references to limited entry permit endorsements other than the ''A'' endorsement.

DATES: This rule is effective July 2, 2001, except for § 660.323 (a)(3)(vi) which is effective June 1, 2001.

ADDRESSES: Copies of Amendment 13 to the Pacific Coast Groundfish FMP and the environmental assessment/regulatory impact review (EA/RIR) are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201. Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in this final rule, including suggestions for reducing the burden, to the Office of Management and Budget (OMB), Washington, D.C. 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier or Becky Renko at: phone, 206–526–6140; fax, 206–526–6736, and e-mail, *yvonne.dereynier@noaa.gov* or *becky.renko@noaa.gov*; or Svein Fougner at: phone, 562–980–4000; fax, 562–980–4047; and e-mail, *svein.fougner@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the Internet at the website of the Office of the Federal Register: *http://www.access.gpo.gov/su-docs/aces/aces140.html.*

Background

The Pacific Fishery Management Council (Council) prepared Amendment 13 to address the bycatch requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Act). Amendment 13 establishes an observer program and other standardized reporting methodologies and by providing bycatch reduction measures. The bycatch requirements of the Magnuson-Stevens Act were initially included in Amendment 11 to the FMP, but NMFS rejected those as inadequate. Amendment 13 is intended to address that rejection. Amendment 13 also provides increased flexibility in the groundfish annual specifications and management measures process to allow the Council to more easily craft measures that protect overfished and depleted species. Finally, Amendment 13 revises the limited entry permit provisions to remove unused and outdated limited entry permit endorsements. A more complete description of Amendment 13 can be found in the preamble to the proposed rule for this action at 65 FR 69898 (November 21, 2000). The notice of availability for Amendment 13 was published on September 22, 2000 (65 FR 57308), and NMFS requested public comments on Amendment 13 through November 21, 2000. A proposed rule to implement Amendment 13 was published on November 21, 2000 (65 FR 69898). NMFS requested comments on the proposed rule through January 5, 2001. During the comment period on the notice of availability, NMFS received two letters of comment, which are addressed later in this preamble. NMFS received no letters of comment on the proposed rule itself.

Approval and Implementation of Amendment 13

NMFS approved Amendment 13 on December 21, 2000. Thisfinal rule to implement Amendment 13 establishes an increased utilization program for catcher/processors and mother ships in the at-sea whiting fisheries which carry multiple observers for at least 90 percent of the fishing days during a cumulative trip limit period, and revises the annual specifications and management measures framework to better equip the Council to meet some of the overfishing and bycatch requirements of its FMP during the annual specifications and management measures process. Overfished species protection measures for 2001, which were included in the Pacific Coast groundfish annual specifications and management measures (January 11, 2001, 66 FR 2338), include: time/area closures to protect canary rockfish and cowcod, differential management measures for different gear types to reduce opportunities for vessels to incidentally intercept overfished species, and changes to discard rates for longspine and shortspine thornyhead and to sablefish based on updated discard information for those species.

This final rule also removes regulatory provisions for limited entry permits with provisional ''A'' endorsements, ''B'' endorsements, and designated species ''B'' endorsements, which have either expired or are no longer used. The removal of these endorsements from the FMP's limited entry provisions and from the groundfish regulations is essentially a ''housekeeping'' measure.

Concurrent with the proposed and final rule process for Amendment 13, NMFS and the Council have developed proposed regulations for a comprehensive observer program. The final rule implementing the coastwide observer program framework was published on April 24, 2001 (66 FR 20609). This program is consistent with Amendment 13 provisions on standardized reporting methodologies.

Comments and Responses

During the comment period for Amendment 13, NMFS received two letters of comment. Both letters of comment were written by environmental advocacy organizations. Writers of the comment letters asked for the disapproval of Amendment 13 based on their judgments that Amendment 13 did not meet requirements of the Magnuson-Stevens Act on minimizing bycatch and on standardized reporting methodologies. NMFS received no comments on the proposed regulations to implement Amendment 13. Comments within the two letters are categorized and responded to as follows.

Comment 1: Amendment 13 violates the Magnuson-Stevens Act because it makes implementation of an observer program contingent on funding. The Magnuson-Stevens Act requires that FMP's include standardized reporting methodologies.

Response: NMFS agrees that the Magnuson-Stevens Act requires the establishment of standardized reporting methodologies, but disagrees that Amendment 13 violates the Magnuson-Stevens Act. Observers are but one of several standardized reporting methodologies supported by Amendment 13. While Amendment 13 itself does not require implementation of an observer program, the Council has decided to implement an observer program either as soon as funding becomes available or with a requirement that vessels pay for observers. Amendment 13 leaves open the issue of whether the observer program will be funded by the industry or through government or private sources. For 2001, NMFS has secured over $2 million to implement a West Coast groundfish observer program. NMFS expects that this funding will begin a period of cooperative government/private efforts to improve West Coast groundfish fisheries observer data.

In addition to providing guidance for observer program coverage development, Amendment 13 supports technological supplements to an observer program, including electronic/paper logbooks with bycatch reporting, catch monitoring by camera, and VMS monitoring. Current standardized reporting methodologies would remain in place: a voluntary observer program and a voluntary logbook in the at-sea whiting fisheries; incidental groundfish landings reported in a marine mammal directed observer program for the California halibut setnet fishery, and; dockside observer coverage in the shoreside whiting fishery associated with exempted fishing permits. NMFS will soon publish a proposed rule for mandatory observer coverage in the at-sea whiting fisheries.

Comment 2: Amendment 13 states that ''The Regional Administrator may implement an observer program through a Council-recommended Federal regulatory framework.'' This implies that the Regional Administrator has the option of not implementing an observer program, which is a violation of the Magnuson-Stevens Act.

Response: This language gives the Regional Administrator the authority to implement an observer program, consistent with a Council-recommended Federal regulatory framework. The Council has already recommended a regulatory framework for a comprehensive observer program for the West Coast groundfish fishery. As mentioned earlier, NMFS published a proposed rule to implement that framework on September 14, 2000 (65 FR 55495). NMFS, the States of Washington, Oregon, and California, and the Pacific States Marine Fisheries Commission (PSMFC) have been developing an observer coverage plan

over the past several months. An observer coverage plan describes how many vessels in which sectors of the fisheries will be covered by observers, based on the goals of the observer program. The coverage plan under development is intended to provide total catch (landed catch plus discard) information for the groundfish trip limit fisheries. Amendment 13 states that ''NMFS will publish an announcement of the authorization of the observer program and description of the observer coverage program in the **Federal Register**.''

Comment 3: The EA/RIR for Amendment 13 states that ''there are not enough individual fishers participating in the West Coast groundfish fisheries who can afford to carry observers to provide statistically sound sampling of fleet behavior.'' We cannot find support for this assertion.

Response: The RIR portion of the EA/RIR contains a discussion of the estimated cost to a vessel in carrying an observer under a government funded program. Most recently, this information has been summarized in the draft Final Regulatory Flexibility Analysis (FRFA) for the final rule for an observer program regulatory framework. In summary, the FRFA states that the impacts of the rule on individual vessels will depend on what portion of the observer costs the vessel pays for, and on the nature and size of the program and the coverage approach that is chosen - all vessels in the groundfish fleet or a small portion of the vessels. Vessel costs depend on the observer coverage strategy, particularly on how often each vessel is expected to carry an observer or multiple observers within a cumulative limit period. Observer costs to a vessel could include: the observer's or observers' salary, liability insurance to cover the observer or observers, food and living accommodations on the vessel, outfitting the vessel to meet observer safety requirements, and providing adequate sample space and time for the observer. Many of the vessels at the higher end of the revenue range have already carried and paid for observers, either as at-sea vessels in the whiting fleet, or as voluntary participants in the Experimental Data Collection Program, described in the EA/RIR. These observer programs have provided valuable information on the pelagic whiting fisheries, and on the deepwater bottom trawl fisheries for Dover sole, longspine and shortspine thornyheads, and sablefish (DTS complex). The largest number of groundfish vessels are in fishery sectors where there is the greatest information need. These vessels tend to be smaller, lower-income (less than $25,000 annually) vessels that would have difficulty absorbing the cost of carrying an observer. The FRFA indicates that the costs to the individual vessel are expected to range between $157 and $3,334 per year, depending on whether NMFS pays the salary of the observers and on the coverage strategy and the number of days fished per year. An upper value of $11,044 per vessel is an extreme that would only occur if a vessel fished every day of the year and carried an observer at all times. If a vessel had to pay observer salaries, the cost could be approximately $300 per observer per day. This sum would include salary, payroll taxes, employment insurance, medical insurance, and travel costs. This would result in a substantially higher observer cost per vessel than under a government-funded program.

Comment 4: The EA/RIR for Amendment 13 describes a vessel incentive program with higher landings limits for vessels with lower bycatch rates as impracticable without an observer program. An observer program is practicable; therefore, this option is practicable.

Response: NMFS disagrees. While a limited observer program is practicable at current funding levels, the type of observer program that would be needed to implement a vessel incentive program is not practicable. NMFS, the states, and PSMFC are developing an observer coverage plan for the groundfish fleet that would focus on total catch (landings + discard) information. This observer program will collect this kind of information by sampling only a portion of the fleet, possibly as low as 10 percent. An observer coverage plan for a vessel incentive program would require 100-percent observer coverage, and would focus on compliance as much as on scientific sampling. For the foreseeable future, NMFS anticipates that the West Coast groundfish observer program will be a scientific sampling program, not a compliance program.

Comment 5: Amendment 13 does not fully analyze discard caps as a bycatch reduction measure, and refers to discard caps as impracticable without an observer program. An observer program is practicable, therefore this option is practicable.

Response: NMFS disagrees. A fishery managed with discard caps would be one in which a fleet's total catch is monitored and all fishing operations shut down when the fleet is estimated to have caught a set amount of a protected, incidentally caught species, regardless of the amount of directed species taken. An observer program designed for scientific sampling could be used for a discard cap program, wherein an entire fishery would close upon achievement of a discard limit for a particular species. Observer information from sampled vessels could be expanded to draw a picture of overall fleet discard levels. However, a discard cap program with only limited observer coverage tends to exaggerate the ''observer effect'' in information about vessels sampled, meaning that the vessels carrying observers have a significant incentive to change their fishing behavior to lower their bycatch rates and keep the entire fishery open. Unobserved vessels do not have this same incentive to reduce discards; thus, there is a strong chance that the whole fleet would reach the discard cap before the observed fleet's expanded data indicated that the cap has been reached. Stronger observer effect under incentives like discard cap management leads to less scientific accuracy from the observer program.

Comment 6: Amendment 13 does not fully analyze marine protected areas (MPAs) as a bycatch reduction measure, and states that implementation of MPAs is beyond the scope of Amendment 13. This argument is circular and MPAs should not have been rejected as a bycatch reduction measure.

Response: NMFS disagrees. No-take MPAs generally eliminate all fishing within a certain geographic area, which means that all catch (directed and incidental) is eliminated. Bycatch would not necessarily be eliminated through MPAs, although the fishing area for vessels that may discard catch would be smaller. Amendment 13 does not state that the Council will not implement MPAs. On the contrary, the EA/RIR describes the efforts of the Council's Marine Reserves Committee (MRC) outside of the Amendment 13 process. The Council approved Amendment 13 at its June 2000 meeting. In its September 2000 meeting, the Council gave its support to the conclusions of the MRC that the Council should proceed with designing and siting MPAs as part of its overall groundfish management scheme. According to the recommendations of the MRC and the Council, MPAs for West Coast groundfish would be designed to provide some protection for overfished species and their habitats. The MRC and the Council are now designing a process for bringing scientists and the public together to discuss West Coast MPA site selection.

Comment 7: A bycatch reduction option that is not discussed is to use catch ratios for co-occurring species to set landings limits for relatively

abundant species to prevent exceeding the landings limits of species with more restrictive limits.

Response: The practice the commenter advocates has been used by the Council for several years and has recently been an important part of the Council's overfished species protection strategy. These measures were discussed in the sections of Amendment 13 addressing protection of overfished species through the annual specifications and management measures process. For example, past cumulative landings limits for the ''DTS complex'' have been based on catch ratios between the four species in the complex—Dover sole, thornyheads (shortspine and longspine), and sablefish. Often, harvest of the more abundant species in the DTS complex (e.g., longspine thornyhead, Dover sole) i.e., is? curtailed to prevent overharvest of the less abundant species (shortspine thornyhead). Management measures to protect bocaccio, an overfished species, have included significant reductions in the chilipepper rockfish limits, an abundant species that co-occurs with bocaccio. Similarly, 2001 shelf rockfish fisheries have been severely curtailed to protect overfished species in the shelf rockfish complex, such as canary rockfish, bocaccio, and cowcod.

Comment 8: Amendment 13 fails to analyze measures to avoid bycatch in the whiting fishery and instead opts for full retention, which does not minimize bycatch.

Response: NMFS disagrees. Bycatch is defined in the Magnuson-Stevens Act and in Amendment 13 as, ''fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards * * *.'' The full utilization program would allow whiting vessels to use incidentally caught non-whiting groundfish that they would otherwise discard. As discussed in the EA/RIR for Amendment 13, non-whiting groundfish annually account for less than 5 percent of the at-sea whiting fleet's total catch. Whiting at-sea vessels already work to reduce incidental interception of non-target species, both to comply with Endangered Species Act (ESA) requirements on salmon protection and with Magnuson-Stevens Act requirements on overfished species protection. Inseason, the fleet communicates through radio and satellite to move vessels away from waters where species other than whiting are concentrated. The Amendment 13 full utilization program would allow the vessels to use their incidentally caught non-whiting groundfish either by processing that groundfish into meal, mince, or oil products to be sold, or by donating the groundfish to a hunger relief organization. Under the Magnuson-Stevens definition of bycatch, incidentally caught fish that is retained and used is not bycatch.

Comment 9: Amendment 13 fails to assess existing bycatch in the groundfish fishery.

Response: NMFS disagrees. Amendment 13 summarizes the limited amount of current knowledge on bycatch in the groundfish fishery. The EA/RIR for Amendment 13 provides background on the Council's efforts to account for and minimize bycatch from 1982 through 2000. This background information includes a discussion of the current state of scientific information on bycatch in the fisheries and how that information is used to shape groundfish management measures. Analyses of data collection methods discuss current knowledge of bycatch in the groundfish fishery and where more information is needed on bycatch. The EA/RIR also references the Council's Stock Assessment and Fishery Evaluation Report, which annually provides information on bycatch and discards in the fishery as a whole, and on species-specific bycatch issues.

Comment 10: The EA/RIR should be rejected because it fails to evaluate the potential that the Council will not implement an observer program.

Response: NMFS disagrees. Four alternatives are analyzed under the ''Standardized Reporting Methodology'' portion of Amendment 13, including status quo (no new observer programs beyond those already in place), and mandatory logbook reporting with no new observer programs already in place. In addition, as already mentioned, NMFS and the states are now implementing a largely government-funded observer program.

Comment 11: The EA/RIR should be rejected because it does not analyze short-and long-term impacts of bycatch on benthic life and on species relationships within the marine ecosystem.

Response: NMFS disagrees. Four alternatives are analyzed under the ''Bycatch Reduction Provisions'' portion of Amendment 13, including status quo, which would not introduce any new bycatch reduction or management measures to the groundfish fishery. Three alternatives are analyzed under the ''Annual Management Measures Framework Provisions'' portion of Amendment 13, which addresses, among other things, reducing overfished species discard. The status quo alternative for this issue discusses the effects of not implementing bycatch reduction measures to protect overfished species. The analysis of these various alternatives for the different issues discusses the effects of bycatch on the environment and the potential effects of the alternative management options on the environment.

Classification

The Administrator, Northwest Region, NMFS, determined that Amendment 13 to the FMP is necessary for the conservation and management of the West Coast groundfish fishery, and that it is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed, that this rule, if adopted as proposed, would not have a significant economic impact on a substantial number of small entities. No comments were received on the economic impacts of this rule on small entities and the basis for this certification has not changed. Accordingly, a regulatory flexibility analysis was not prepared.

Because the portion of this rule that implements an increased utilization program for the at-sea whiting fishery, by allowing fishery participants to use their incidentally caught non-whiting groundfish either by processing that groundfish into meal, mince, or oil products to be sold, or by donating the groundfish to hunger relief organizations, relieves a restriction, under 5 U.S.C. 553(d)(1) it is not subject to a 30-day delay in effectiveness.

NMFS issued Biological Opinions (BO) under the Endangered Species Act (ESA) on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the groundfish fishery on chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal, Oregon coastal), chum salmon (Hood Canal, Columbia River), sockeye salmon (Snake River, Ozette Lake), steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south-central California, southern California),

and cutthroat trout (Umpqua River, southwest Washington/Columbia River)). NMFS has concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. NMFS has re-initiated consultation on the Pacific whiting fishery associated with the BO issued on December 15, 1999. During the 2000 whiting season, the whiting fisheries exceeded the chinook bycatch amount specified in the BO's incidental take estimates of 11,000 fish, by approximately 500 fish. The re-initiation will focus primarily on additional actions that the whiting fisheries would take to reduce chinook interception, such as time/area management. NMFS expects that the re-initiated BO will be completed by May 2001. During the reinitiation, fishing under the FMP is within the scope of the December 15, 1999, BO, so long as the annual incidental take of chinook stays under the 11,000-fish bycatch limit. NMFS has concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. This action is within the scope of these consultations.

This final rule clarifies entries for a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). The Product Transfer/Offloading Log has been approved under OMB control number 0648–0271 with an estimated response time of 20 minutes. Furthermore, this final rule reduces a collection-of-information requirement (approved under OMB control number 0648–0203) associated with the ''designated species B'' permit endorsement program.

This final rule also contains new collection-of-information requirements subject to review and approval by OMB under the PRA. This requirement is for vessels participating in the voluntary increased utilization program to notify authorized officers of their intent to offload retained overages as a donation to a tax-exempt hunger relief organization. The public reporting burden for this collection of information is estimated to average 5 minutes to make a telephone call to NMFS enforcement to indicate an intent to offload fish in excess of cumulative limits for the purpose of donating that fish to a hunger relief organization. This 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. This collection of information requirement has been approved by OMB under OMB control number 0648–0427. Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in this final rule, including suggestions for reducing the burden, to one of the NMFS addresses and to OMB, Washington, D.C. 20503 (ATTN: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to 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

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: May 25, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

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

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

2. In § 660.302, new definitions for ''Overage'' and ''Tax-exempt organization'' are added in alphabetical order to read as follows:

§ 660.302 Definitions.

Overage means the amount of fish harvested by a vessel in excess of the applicable trip limit.

* * * * *

Tax-exempt organization means an organization that received a determination letter from the Internal Revenue Service recognizing tax exemption under 26 CFR part 1(§§ 1.501 to 1.640).

* * * * *

3. In § 660.321, paragraph (b) is revised to read as follows:

§ 660.321 Specifications and management measures.

* * * * *

(b) *Annual actions.* The Pacific Coast Groundfish fishery is managed on a calendar year basis. Even though specifications and management measures are announced annually, they may apply for more than 1 year. In general, management measures are designed to achieve, but not exceed, the specifications, particularly optimum yields (harvest guidelines and quotas), commercial harvest guidelines and quotas, limited entry and open access allocations, or other approved fishery allocations, and to protect overfished and depleted stocks.

* * * * *

4. In § 660.323, paragraph (a)(3)(vi) is added and paragraph (b) is revised to read as follows:

§ 660.323 Catch restrictions.

(a) * * *

(3) * * *

(vi) *Bycatch reduction and full utilization program for at-sea processors (optional).* If a catcher/processor or mothership in the whiting fishery carries more than one NMFS-approved observer for at least 90 percent of the fishing days during a cumulative trip limit period, then groundfish trip limits may be exceeded without penalty for that cumulative trip limit period, if the conditions in paragraph (a)(3)(vi)(A) of this section are met. For purposes of this program, ''fishing day'' means a 24-hour period, from 0001 hours through 2400 hours, local time, in which fishing gear is retrieved or catch is received by the vessel, and will be determined from the vessel's observer data, if available. Changes to the number of observers required for a vessel to participate in the program will be announced prior to the start of the fishery, generally concurrent with the annual specifications and management measures. Groundfish consumed on board the vessel must be within any applicable trip limit and recorded as retained catch in any applicable logbook or report. [**Note**: For a mothership, non-whiting groundfish landings are limited by the cumulative landings limits of the catcher vessels delivering to that mothership.]

(A) *Conditions.* Conditions for participating in the voluntary full utilization program are as follows:

(*1*) All catch must be made available to the observers for sampling before it is sorted by the crew.

(*2*) Any retained catch in excess of cumulative trip limits must either be:

(*i*) Converted to meal, mince, or oil products, which may then be sold; or

(*ii*) Donated to a bona fide tax-exempt hunger relief organization (including food banks, food bank networks or food bank distributors), and the vessel operator must be able to provide a receipt for the donation of groundfish landed under this program from a tax-exempt hunger relief organization immediately upon the request of an authorized officer.

(*3*) No processor or catcher vessel may receive compensation or otherwise benefit from any amount in excess of a cumulative trip limit unless the overage is converted to meal, mince, or oil products. Amounts of fish in excess of cumulative trip limits may only be sold as meal, mince, or oil products.

(*4*) The vessel operator must contact the NMFS enforcement office nearest to the place of landing at least 24 hours before landing groundfish in excess of cumulative trip limits for distribution to a hunger relief agency. Cumulative trip limits and a list of NMFS enforcement offices are found on the NMFS, Northwest Region homepage at *http://www.nwr.noaa.gov.*

(*5*) If the meal plant on board the whiting processing vessel breaks down, then no further overages may be retained for the rest of the cumulative trip limit period unless the overage is donated to a hunger relief organization.

(*6*) Prohibited species may not be retained.

(*7*) Donation of fish to a hunger relief organization must be noted in the transfer log (Product Transfer/Offloading Log (PTOL)), in the column for total value, by entering a value of ''0'' or ''donation,'' followed by the name of the hunger relief organization receiving the fish. Any fish or fish product that is retained in excess of trip limits under this rule, whether donated to a hunger relief organization or converted to meal, must be entered separately on the PTOL so that it is distinguishable from fish or fish products that are retained under trip limits. The information on the Mate's Receipt for any fish or fish product in excess of trip limits must be consistent with the information on the PTOL. The Mate's Receipt is an official document that states who takes possession of offloaded fish, and may be a Bill of Lading, Warehouse Receipt, or other official document that tracks the transfer of offloaded fish or fish product. The Mate's Receipt and PTOL must be made available for inspection upon request of an authorized officer throughout the cumulative limit period during which such landings occurred and for 15 days thereafter.

* * * * *

(b) *Routine management measures.* In addition to the catch restrictions in this section, other catch restrictions that are likely to be adjusted on an annual or more frequent basis may be imposed and announced by a single notification in the **Federal Register** if they have been designated as routine through the two-meeting process described in PCGFMP. Management measures that have been designated as routine will be listed annually in the Council's Stock Assessment and Fishery Evaluation (SAFE) document.

(1) *Commercial limited entry and open access fisheries*—(i) *Trip landing and frequency limits, size limits, all gear.* Trip landing and frequency limits and size limits for species with those limits designated as routine may be imposed or adjusted on an annual or more frequent basis for the purpose of keeping landings within the harvest levels announced by NMFS, and for the other purposes given in paragraph (b)(1)(ii) of this section.

(A) *Trip landing and frequency limits.* To extend the fishing season; to minimize disruption of traditional fishing and marketing patterns; to reduce discards; to discourage target fishing while allowing small incidental catches to be landed; to allow small fisheries to operate outside the normal season; and, for the open access fishery only, to maintain landings at the historical proportions during the 1984-88 window period.

(B) *Size limits.* To protect juvenile fish; to extend the fishing season.

(ii) *Differential trip landing and frequency limits based on gear type, closed seasons.* Trip landing and frequency limits that differ by gear type and closed seasons may be imposed or adjusted on an annual or more frequent basis for the purpose of rebuilding and protecting overfished or depleted stocks.

(2) *Recreational fisheries—all gear types.* Routine management measures for all groundfish species, separately or in any combination, include bag limits, size limits, time/area closures, boat limits, hook limits, and dressing requirements. All routine management measures on recreational fisheries are intended to keep landings within the harvest levels announced by NMFS, to rebuild and protect overfished or depleted species, and to maintain consistency with state regulations, and for the other purposes set forth in this section.

(i) *Bag limits.* To spread the available catch over a large number of anglers; to avoid waste.

(ii) *Size limits.* To protect juvenile fish; to enhance the quality of the recreational fishing experience.

* * * * *

5. In § 660.333, paragraph (a) is revised, and paragraphs (h)(1)(i) and (ii) are removed, and paragraphs (h)(1)(iii) and (iv) are redesignated as (h)(1)(i) and (ii), respectively, to read as follows:

§ 660.333 Limited entry fishery— general.

(a) *General.* Participation in the limited entry fishery requires that the owner of a vessel hold (by ownership or otherwise) a limited entry permit affixed with a gear endorsement registered for use with that vessel for the gear being fished. A sablefish endorsement is also required for a vessel to participate in the regular and/or mop-up seasons for the nontrawl, limited entry sablefish fishery, north of 36° N. lat. There are three types of gear endorsements: trawl, longline, and pot (or trap). More than one type of gear endorsement may be affixed to a limited entry permit. While the limited entry fishery is open, vessels fishing under limited entry permits may also fish with open access gear; except that during a period when the limited entry fixed gear sablefish fishery is limited to those vessels with sablefish endorsements, a longline or pot (or trap) limited entry permit holder without a sablefish endorsement may not fish for sablefish with open access gear.

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§§ 660.335 and 660.337 [Removed and Reserved]

6. Sections 660.335 and 660.337 are removed and reserved.

§ 660.338 [Amended]

7. In § 660.338, paragraph (b) is removed, and paragraph (c) is redesignated as paragraph (b).

[FR Doc. 01–13835 Filed 5–31–01; 8:45 am]

BILLING CODE 3510–22–S