

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 01/29/2009

Department of Commerce
National Oceanic and Atmospheric Administration
FOR CERTIFYING OFFICIAL: Suzanne Hilding
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 06/24/2008

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200806-0648-017
AGENCY ICR TRACKING NUMBER:
TITLE: Northwest Region Vessel Identification Requirements
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0355

The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 01/31/2012

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	1,693	1,270	59,000
New	1,693	1,270	59,255
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	0	0	255
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official:

Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Northwest Region Vessel Identification Requirements			50 CFR 660.305(a), (b) and (c)

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
7. Title	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Agency form number(s) (<i>if applicable</i>)	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
9. Keywords	10. Abstract
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator or head of MB staff for L.O.s, or of the Director of a Program or Staff Office)	
Signature	Date
Signature of NOAA Clearance Officer	
Signature	Date

**SUPPORTING STATEMENT
NORTHWEST REGION VESSEL IDENTIFICATION REQUIREMENTS
OMB CONTROL NO. 0648-0355**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

This submission requests renewal of Office of Management and Budget (OMB) approval for a vessel identification requirement in the Pacific Coast Groundfish Fishery.

The success of fisheries management programs depends significantly on regulatory compliance. The vessel identification requirement is essential to facilitate enforcement. The ability to link fishing or other activity to the vessel owner or operator is crucial to enforcement of regulations issued under the authority of the **Magnuson-Stevens Fishery Conservation and Management Act, as amended** (including provisions at 16 U.S.C. 1853).

Vessel identification is required by all open access and limited entry commercial vessels over 25 ft. in length in the Northwest region. Vessel identification requirements are set forth in the regulations implementing the Pacific Coast Groundfish Fisheries Management Plan at **50 CFR 660.305 (a), (b), and (c)**.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

A vessel's official number must be displayed on the port and starboard sides of the deckhouse or hull, and on a weather deck. The number identifies each vessel and should be visible from a distance at sea and in the air. The official number provides law enforcement personnel with a means to monitor fishing, at-sea processing, and other related activities, to ascertain whether the vessel's observed activities are in accordance with those authorized for that vessel. This identifying number is used by the National Marine Fisheries Service, the United States Coast Guard (USCG), and other marine agencies in issuing violations, prosecutions, and other enforcement actions. Law enforcement personnel rely on this information to assure compliance with fisheries management regulations. Vessels that qualify for particular fisheries are readily identified and gear violations are more readily prosecuted, allowing for more cost-effective enforcement. Cooperating fishermen also use the number to report suspicious activities. Regulation-compliant fishermen ultimately benefit as unauthorized and illegal fishing is deterred and more burdensome regulations are avoided.

The information collected will not be disseminated to the public; as it consists solely of marking vessels with the appropriate vessel number. This information is not submitted to National Marine Fisheries Service (NMFS).

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The requirement that each vessel display an identification number on its deckhouse or hull, and its weather deck, does not lend itself to technology. Other means of vessel identification, e.g. transponders and vessel monitoring system units, require technology and are comparatively very expensive. No other technology appears to be less costly and still capable of providing the necessary information to support enforcement. Vessel monitoring system units have been required for the limited entry groundfish fleet since 2004 and for the open access groundfish fleet since 2008. However, a vessel identification number requirement continues to be useful for basic enforcement.

4. Describe efforts to identify duplication.

Existing Federal and State reporting requirements have been reviewed to ascertain that no duplication of information collection results from this action. There is no duplication with other collections. The USCG requires the name of the vessel and hailing port be marked on its stern for documented vessels (46 CFR 67) and state-issued block numbers on the forward half of the vessel for undocumented vessels (i.e., small boats that are registered with the state) (33 CFR 173); however, vessel names, ports, and block numbers may be changed, making tracking and identification of the vessel more difficult and complex. The USCG also requires documented vessels to have their official identification number permanently marked on the vessel. However, this is usually done on an interior structural beam in the engine room. For efficient enforcement and accurate reporting, an identifying number is required on the outside of the vessel in large numbers by the National Marine Fisheries Service because a vessel's identification number does not change.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

Although nearly all vessels in the respective fisheries are categorized as small businesses, the collection of information will not have a significant economic impact or burden on small businesses in terms of time and resources. Therefore, no special modifications of the requirements were considered necessary.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

NMFS and the USCG could not enforce the fisheries management measures if this collection were conducted less frequently. The numbers must periodically be maintained to remain legible.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

This collection is consistent with the guidelines.

8. Provide a copy of the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice was published on February 4, 2008 (73 FR 6482). No comments were received.

Consultation outside the agency is assured by the Pacific Coast Groundfish regulatory process, set forth in the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations (Pacific Coast Groundfish Fishery Management Plan and 50 CFR 660, Subpart G). There are no issues that have not already been resolved.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payments or gifts are provided.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

No confidentiality is promised; the information is on public display.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no sensitive questions.

12. Provide an estimate in hours of the burden of the collection of information.

The estimated total number of vessels affected is 1,693 vessels (406 limited entry vessels and 1,287 open access vessels). This number is an overestimate because it includes vessels under 25 feet, limited entry permits not registered to a vessel, and limited entry permits that may be stacked on the same vessel. The identifying number must be displayed on the vessel in three locations and maintained in good condition. Given the adverse weather conditions and salt water, we expect each number will need to be repainted or repaired annually. The estimated time to display or otherwise affix the number at each location is 15 minutes; 45 minutes for marking one vessel = 1 response, for a total of 1,693 responses. Estimated burden of total annual response time: 1,693 vessels x 45 minutes/60 minutes = 1,270 hours.

Labor costs probably range between \$10 and \$15 per hour, producing an annualized cost to respondents of the time burden between \$12,700 and \$19,050.

13. Provide an estimate of the total annual cost burden to the respondents or recordkeepers resulting from the collection (excluding the value of the burden hours in #12 above).

The cost to fishermen is minimal. Materials needed are paint and paintbrush, and possibly a stencil. At an estimated cost of \$35 per vessel, the total cost burden is 1,693 vessels x \$35 = \$59,255. Given the adverse weather conditions and salt water, we expect each number will need to be repainted or repaired annually.

14. Provide estimates of annualized cost to the Federal government.

No annualized cost to the Federal government.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

No changes or adjustments were reported in this renewal. In ROCIS, there appears to be a cost adjustment, because when the ICR was migrated to ROCIS, the cost was rounded down to the nearest thousand.

16. For collections whose results will be published, outline the plans for tabulation and publication.

No results are published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) **REQUIRED PROVISIONS.**—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

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(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, charter fishing, and fish processing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, economic information necessary to meet the requirements of this Act, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

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(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—

(A) participants in the fisheries and fishing communities affected by the plan or amendment;

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and

(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

16 U.S.C. 1853
MSA § 303

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

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(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors;

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(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery and;

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(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

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(2)(A) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

(C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure—

- (i) is based on the best scientific information available;
- (ii) includes criteria to assess the conservation benefit of the closed area;
- (iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and
- (iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

- (A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);
- (B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and
- (C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

109-479

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;

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(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

- (A) present participation in the fishery;
- (B) historical fishing practices in, and dependence on, the fishery;
- (C) the economics of the fishery;
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries;
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities;
- (F) the fair and equitable distribution of access privileges in the fishery; and
- (G) any other relevant considerations;

16 U.S.C. 1853
MSA § 303

(7) require fish processors who first receive fish that are subject to the plan to submit data which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research;

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(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and

(14)[sic]¹⁵ prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

97-453, 104-297

(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.

¹⁵ So in original.

P.L. 109-479, sec. 104(b), MSA § 303 note

16 U.S.C. 1853 note

EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.—The amendment made by subsection (a)(10)¹⁶—

(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

(B) in fishing year 2011 for all other fisheries; and

(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and

(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).

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SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

16 U.S.C. 1853a

(a) **IN GENERAL.**—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

(b) **NO CREATION OF RIGHT, TITLE, OR INTEREST.**—Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this Act—

(1) shall be considered a permit for the purposes of sections 307, 308, and 309;

(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

¹⁶ Section 104(a)(10) of P.L. 109-479 added section 303(a)(15).

(c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—

(1) IN GENERAL.—Any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—

(A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding;

(B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;

(C) promote—

(i) fishing safety;

(ii) fishery conservation and management; and

(iii) social and economic benefits;

(D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege;

(E) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States);

(F) specify the goals of the program;

(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years);

(H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems;

(I) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges;

(J) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

- (A) the fishery has historically processed the fish outside of the United States; and
- (B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

(3) FISHING COMMUNITIES.—

(A) IN GENERAL.—

(i) ELIGIBILITY.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

- (I) be located within the management area of the relevant Council;
- (II) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and
- (IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

- (B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—
- (i) traditional fishing or processing practices in, and dependence on, the fishery;
 - (ii) the cultural and social framework relevant to the fishery;
 - (iii) economic barriers to access to fishery;
 - (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
 - (v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and
 - (vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

(4) REGIONAL FISHERY ASSOCIATIONS.—

(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

- (i) be located within the management area of the relevant Council;
- (ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (iii) be a voluntary association with established by-laws and operating procedures;
- (iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;
- (v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that is [sic]¹⁷ members contribute; and
- (vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

¹⁷ So in original.

(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

- (i) traditional fishing or processing practices in, and dependence on, the fishery;
- (ii) the cultural and social framework relevant to the fishery;
- (iii) economic barriers to access to fishery;
- (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
- (v) the administrative and fiduciary soundness of the association; and
- (vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

- (i) current and historical harvests;
- (ii) employment in the harvesting and processing sectors;
- (iii) investments in, and dependence upon, the fishery; and
- (iv) the current and historical participation of fishing communities;

(B) consider the basic cultural and social framework of the fishery, especially through—

- (i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and
- (ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

- (i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and
- (ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges; and

(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

(6) PROGRAM INITIATION.—

(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

(D) NEW ENGLAND AND GULF REFERENDUM.—

(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than 2/3 of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

(vi) In this subparagraph, the term ‘individual fishing quota’ does not include a sector allocation.

(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(c) or 304(g).

(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term ‘antitrust laws’ has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

16 U.S.C. 1853a
MSA § 303A

(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

(f) CHARACTERISTICS.—A limited access privilege established after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is a permit issued for a period of not more than 10 years that—

(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have committed an act prohibited by section 307 of this Act; and

(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 53706(a)(7) of title 46, United States Code, to issue obligations that aid in financing—

(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

(h) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

(i) TRANSITION RULES.—

(1) IN GENERAL.—The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, except that—

(A) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program;

(B) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

(C) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

(2) PACIFIC GROUND FISH PROPOSALS.—The requirements of this section, other than subparagraphs (A) and (B) of subsection (c)(1) and subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, shall not apply to any proposal authorized under section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 that is submitted within the timeframe prescribed by that section.

16 U.S.C. 1853a note, 1854
MSA §§ 303A note, 304

P.L. 109-479, sec. 106(e), MSA § 303A note

16 U.S.C. 1853a note

APPLICATION WITH AMERICAN FISHERIES ACT.—Nothing in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as added by subsection (a) [P.L. 109-479], shall be construed to modify or supersede any provision of the American Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851 note; et alia).

P.L. 104-297, sec. 108(i), MSA § 303 note

EXISTING QUOTA PLANS.—Nothing in this Act [P.L.104-297] or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

SEC. 304. ACTION BY THE SECRETARY

16 U.S.C. 1854

104-297

(a) REVIEW OF PLANS.—

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) take into account the information, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

(A) the applicable law with which the plan or amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

e-CFR Data is current as of June 17, 2008

Title 33: Navigation and Navigable Waters

PART 173—VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING

Authority: 31 U.S.C. 9701; 46 U.S.C. 2110, 6101, 12301, 12302; OMB Circular A-25; Department of Homeland Security Delegation No. 0170.

Source: CGD 72-54R, 37 FR 21399, Oct. 7, 1972, unless otherwise noted.

Subpart A—General

§ 173.1 Purpose.

This part prescribes requirements for numbering vessels and for reporting casualties and accidents to implement sections 6101, 6102, 12301 and 12302 of Title 46, United States Code.

[CGD 89-048, 54 FR 27002, June 27, 1989, as amended by USCG-2003-15404, 68 FR 37741, June 25, 2003]

§ 173.3 Definitions.

As used in this part:

- (a) [Reserved]
- (b) *Issuing authority* means a State that has a numbering system approved by the Coast Guard or the Coast Guard where a number system has not been approved. Issuing authorities are listed in Appendix A of this part.
- (c) *Operator* means the person who is in control or in charge of a vessel while it is in use.
- (d) *Owner* means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such possession.
- (e) *Person* means an individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity and includes a trustee, receiver, assignee, or similar representative of any of them.
- (f) *Reporting authority* means a State that has a numbering system approved by the Coast Guard or the Coast Guard where a numbering system has not been approved. Reporting authorities are listed in Appendix A of this part.
- (g) *State* means a State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.
- (h) *State of principal use* means the State on whose waters a vessel is used or to be used most during a calendar year.
- (i) *Use* means operate, navigate, or employ.

[CGD 72-54R, 37 FR 21399, Oct. 7, 1972, as amended by CGD 77-117A, 43 FR 17941, Apr. 27, 1978; CGD 89-048, 54 FR 2702, June 27, 1989]

Subpart B—Numbering

§ 173.11 Applicability.

This subpart applies to each vessel equipped with propulsion machinery of any type used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for vessels owned in the United States except:

- (a) Foreign vessels temporarily using waters subject to U.S. jurisdiction;
- (b) Military or public vessels of the United States, except recreational-type public vessels;
- (c) A vessel whose owner is a State or subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such;
- (d) Ships' lifeboats;
- (e) A vessel which has or is required to have a valid marine document as a vessel of the United States.

§ 173.13 Exemptions.

Where the Coast Guard issues numbers, the following classes of vessels are exempt, under Section 12303 of Title 46, United States Code, from the numbering provisions of Sections 12301 and 12302 of Title 46, United States Code, and this part:

- (a) A vessel that is used exclusively for racing.
- (b) A vessel equipped with propulsion machinery of less than 10 horsepower that:
 - (1) Is owned by the owner of a vessel for which a valid certificate of number has been issued;

- (2) Displays the number of that numbered vessel followed by the suffix "1" in the manner prescribed in §173.27; and
- (3) Is used as a tender for direct transportation between that vessel and the shore and for no other purpose.

§ 173.15 Vessel number required.

(a) Except as provided in §173.17, no person may use a vessel to which this part applies unless:

- (1) It has a number issued on a certificate of number by the issuing authority in the State in which the vessel is principally used; and
- (2) The number is displayed as described in §173.27.

(b) This section does not apply to a vessel for which a valid temporary certificate has been issued to its owner by the issuing authority in the State in which the vessel is principally used.

§ 173.17 Reciprocity.

(a) Section 12302(c) of Title 46, United States Code, states:

When a vessel is numbered in a State, it is deemed in compliance with the numbering system of a State in which it temporarily is operated.

(b) Section 12302(d) of Title 46, United States Code, states:

When a vessel is removed to a new State of principal operation, the issuing authority of that State shall recognize the validity of the number issued by the original State for 60 days.

[CGD 89-048, 54 FR 27002, June 27, 1989]

§ 173.19 Other numbers prohibited.

No person may use a vessel to which this part applies that has any number that is not issued by an issuing authority for that vessel on its forward half.

§ 173.21 Certificate of number required.

(a) Except as provided in §§173.13 and 173.17, no person may use a vessel to which this part applies unless it has on board:

- (1) A valid certificate of number or temporary certificate for that vessel issued by the issuing authority in the State in which the vessel is principally used; or
- (2) For the vessel described in paragraph (b) of this section, a copy of the lease or rental agreement, signed by the owner or his or her authorized representative and by the person leasing or renting the vessel, that contains at least:
 - (i) The vessel number that appears on the certificate of number; and
 - (ii) The period of time for which the vessel is leased or rented.

(b) Section 12304(a) of Title 46, United States Code, states in part: The certificate of number for a vessel less than 26 feet in length and leased or rented to another for the latter's noncommercial operation of less than 7 days may be retained on shore by the vessel's owner or representative at the place from which the vessel departs or returns to the possession of the owner or the owner's representative.

[CGD 72-54R, 37 FR 21399, Oct. 7, 1972, as amended by CGD 77-117A, 43 FR 17941, Apr. 27, 1978; CGD 89-048, 54 FR 27002, June 27, 1989; USCG-2003-15404, 68 FR 37742, June 25, 2003]

§ 173.23 Inspection of certificate.

Each person using a vessel to which this part applies shall present the certificate or lease or rental agreement required by §173.21 to any Federal, State, or local law enforcement officer for inspection at his or her request.

[CGD 72-54R, 37 FR 21399, Oct. 7, 1972, as amended by USCG-2003-15404, 68 FR 37742, June 25, 2003]

§ 173.25 Location of certificate of number.

No person may use a vessel to which this part applies unless the certificate or lease or rental agreement required by §173.21 is carried on board in such a manner that it can be handed to a person authorized under §173.23 to inspect it.

§ 173.27 Numbers: Display; size; color.

(a) Each number required by §173.15 must:

- (1) Be painted on or permanently attached to each side of the forward half of the vessel except as allowed by paragraph (b) or required by paragraph (c) of this section;
- (2) Be in plain vertical block characters of not less than 3 inches in height;
- (3) Contrast with the color of the background and be distinctly visible and legible;
- (4) Have spaces or hyphens that are equal to the width of a letter other than "1" or a number other than "1" between the letter and number groupings (Example: DC 5678 EF or DC-5678-EF); and
- (5) Read from left to right.

(b) When a vessel is used by a manufacturer or by a dealer for testing or demonstrating, the number may be painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel.

(c) On vessels so configured that a number on the hull or superstructure would not be easily visible, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel.

(d) Each number displayed on a tender exempted under §173.13 must meet the requirements of paragraph (a) of this section and have a space or hyphen that is equal to the width of a letter other than "l" or a number other than "1" between the suffix and the number. (Example: DC 5678 EF 1 or DC- 5678-EF-1.)

§ 173.29 Notification to issuing authority.

A person whose name appears as the owner of a vessel on a certificate of number shall, within 15 days, notify the issuing authority in a manner prescribed by the issuing authority of:

- (a) Any change in his or her address;
- (b) The theft or recovery of the vessel;
- (c) The loss or destruction of a valid certificate of number;
- (d) The transfer of all or part of his or her interest in the vessel; and
- (e) The destruction or abandonment of the vessel.

[CGD 72-54R, 37 FR 21399, Oct. 7, 1972, as amended by USCG-2003-15404, 68 FR 37742, June 25, 2003]

§ 173.31 Surrender of certificate of number.

A person whose name appears as the owner of a vessel on a certificate of number shall surrender the certificate in a manner prescribed by the issuing authority within 15 days after it becomes invalid under paragraph (b), (c), (d), or (e) of §173.77.

§ 173.33 Removal of number.

The person whose name appears on a certificate of number as the owner of a vessel shall remove the number and validation sticker from the vessel when:

- (a) The vessel is documented by the Coast Guard;
- (b) The certificate of number is invalid under paragraph (c) of §173.77; or
- (c) The vessel is no longer principally used in the State where the certificate was issued.

§ 173.35 Coast Guard validation sticker.

No person may use a vessel except a vessel exempted in §173.13 that has a number issued by the Coast Guard unless it has the validation sticker issued with the certificate of number displayed within 6 inches of the number.

Subpart C—Casualty and Accident Reporting

§ 173.51 Applicability.

(a) This subpart applies to each vessel used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for vessels owned in the United States that:

- (1) Is used by its operator for recreational purposes; or
- (2) Is required to be numbered under this part.

(b) This subpart does not apply to a vessel subject to inspection under Title 46 U.S.C. Chapter 33.

[CDG 72-54R, 37 FR 21399, Oct. 7, 1972, as amended by CDG 84-099, 52 FR 47533, Dec. 14, 1987]

§ 173.53 Immediate notification of death or disappearance.

(a) When, as a result of an occurrence that involves a vessel or its equipment, a person dies or disappears from a vessel, the operator shall, without delay, by the quickest means available, notify the nearest reporting authority listed in Appendix A of this part of:

- (1) The date, time, and exact location of the occurrence;
- (2) The name of each person who died or disappeared;
- (3) The number and name of the vessel; and
- (4) The names and addresses of the owner and operator.

(b) When the operator of a vessel cannot give the notice required by paragraph (a) of this section, each person on board the vessel shall notify the casualty reporting authority or determine that the notice has been given.

§ 173.55 Report of casualty or accident.

(a) The operator of a vessel shall submit the casualty or accident report prescribed in §173.57 to the reporting authority prescribed

in §173.59 when, as a result of an occurrence that involves the vessel or its equipment:

- (1) A person dies;
- (2) A person is injured and requires medical treatment beyond first aid;
- (3) Damage to vessels and other property totals \$2,000 or more or there is a complete loss of any vessel;
- (4) A person disappears from the vessel under circumstances that indicate death or injury.

(b) A report required by this section must be made:

- (1) Within 48 hours of the occurrence if a person dies within 24 hours of the occurrence;
- (2) Within 48 hours of the occurrence if a person is injured and requires medical treatment beyond first aid, or disappears from a vessel; and
- (3) Within 10 days of the occurrence or death if an earlier report is not required by this paragraph.

(c) When the operator of a vessel cannot submit the casualty or accident report required by paragraph (a) of this section, the owner shall submit the casualty or accident report.

[CGD 72-54R, 37 FR 21399, Oct. 7, 1972, as amended by CGD 76-155, 44 FR 5308, Jan. 25, 1979; CGD 82-015, 54 FR 5610, Feb. 6, 1989; USCG-1999-6094, 66 FR 21675, May 1, 2001; 66 FR 33845, June 26, 2001; USCG-1999-6094, 67 FR 14645, Mar. 27, 2002]

§ 173.57 Contents of report.

Each report required by §173.55 must be in writing, dated upon completion, and signed by the person who prepared it and must contain, if available, at least the following information about the casualty or accident:

- (a) The numbers and names of each vessel involved.
- (b) The name and address of each owner of each vessel involved.
- (c) The name of the nearest city or town, the county, the State, and the body of water.
- (d) The time and date the casualty or accident occurred.
- (e) The location on the water.
- (f) The visibility, weather, and water conditions.
- (g) The estimated air and water temperatures.
- (h) The name, address, age, or date of birth, telephone number, vessel operating experience, and boating safety training of the operator making the report.
- (i) The name and address of each operator of each vessel involved.
- (j) The number of persons on board or towed on skis by each vessel.
- (k) The name, address, and date of birth of each person injured or killed.
- (l) The cause of each death.
- (m) Weather forecasts available to, and weather reports used by, the operator before and during the use of the vessel.
- (n) The name and address of each owner of property involved.
- (o) The availability and use of personal flotation devices.
- (p) The type and amount of each fire extinguisher used.
- (q) The nature and extent of each injury.
- (r) A description of all property damage and vessel damage with an estimate of the cost of all repairs.
- (s) A description of each equipment failure that caused or contributed to the cause of the casualty.
- (t) A description of the vessel casualty or accident.
- (u) The type of vessel operation (cruising, drifting, fishing, hunting, skiing, racing, or other), and the type of accident (capsizing, sinking, fire, or explosion or other).
- (v) The opinion of the person making the report as to the cause of the casualty, including whether or not alcohol or drugs, or both, was a cause or contributed to causing the casualty.
- (w) The make, model, type (open, cabin, house, or other), beam width at widest point, length, depth from transom to keel, horsepower, propulsion (outboard, inboard, inboard outdrive, sail, or other), fuel (gas, diesel, or other), construction (wood, steel, aluminum, plastic, fiberglass, or other), and year built (model year), of the reporting operator's vessel.
- (x) The name, address, and telephone number of each witness.

- (y) The manufacturer's hull identification number, if any, of the reporting operator's vessel.
- (z) The name, address, and telephone number of the person submitting the report.

[CGD 72-54R, 37 FR 21399, Oct. 7, 1972, as amended by CGD 84-099, 52 FR 47533, Dec. 14, 1987; USCG-2003-15404, 68 FR 37742, June 25, 2003]

§ 173.59 Where to submit report.

A report required by §173.55 must be submitted to:

- (a) The reporting authority listed in Appendix A of this part where the vessel number was issued, or, if the vessel has no number, where the vessel is principally used; or
- (b) The reporting authority where the casualty or accident occurred, if it occurred outside the State where the vessel is numbered or principally used.

Subpart D—Issue of Certificate of Number

§ 173.71 Application for certificate of number.

Any person who is the owner of a vessel to which §173.11 applies may apply for a certificate of number for that vessel by submitting to the issuing authority, listed in Appendix A of this part, where the vessel will principally be used:

- (a) An application on a form and in a manner prescribed by the issuing authority; and
- (b) The fee required by the issuing authority.

§ 173.73 Duplicate certificate of number.

If a certificate of number is lost or destroyed, the person whose name appears on the certificate as the owner may apply for a duplicate certificate by submitting to the issuing authority that issued the certificate:

- (a) An application on a form or in a manner prescribed by the issuing authority; and
- (b) The fee required by the issuing authority, if any.

§ 173.75 Temporary certificate.

A temporary certificate valid for not more than 60 days after it is issued may be issued by an issuing authority pending the issue of a certificate of number. A temporary certificate is not valid after the date that the owner receives the certificate of number from the issuing authority.

§ 173.77 Validity of certificate of number.

- (a) Except as provided in paragraphs (b), (c), (d), and (e) of this section, a certificate of number is valid until the date of expiration prescribed by the issuing authority.
- (b) A certificate of number issued by an issuing authority is invalid after the date upon which:
 - (1) The vessel is documented or required to be documented under Part 67 of Title 46, Code of Federal Regulations;
 - (2) The person whose name appears on the certificate of number as owner of the vessel transfer all of his or her ownership in the vessel; or
 - (3) The vessel is destroyed or abandoned.
- (c) A certificate of number issued by an issuing authority is invalid if:
 - (1) The application for the certificate of number contains a false or fraudulent statement; or
 - (2) The fees for the issuance of the certificate of number are not paid.
- (d) A certificate of number is invalid 60 days after the day on which the vessel is no longer principally used in the State where the certificate was issued.
- (e) The certificate of number is invalid when the person whose name appears on the certificate involuntarily loses his or her interest in the numbered vessel by legal process.

[CGD 72-54R, 37 FR 21399, Oct. 7, 1972, as amended by USCG-2003-15404, 68 FR 37742, June 25, 2003]

§ 173.79 Expiration of Coast Guard certificate of number.

A certificate of number issued by the Coast Guard expires 3 years from the date it is issued.

§ 173.81 Coast Guard forms for numbering and casualty reporting.

- (a) In a State where the Coast Guard is the issuing authority, the following Coast Guard forms must be used:
 - (1) Each application for a certificate of number or renewal must be made on two-part Form CG-3876 and 3876A, Application for Number and Temporary Certificate.
 - (2) Each notification required by §173.29(b) must be made on Form CG- 2921, Notification of Change in Status of Vessel.

- (3) Each notification required by §173.29(a) must be made on Form CG– 3920, Change of Address Notice.
 - (4) Each notification required by §173.29(c) must be made in writing.
 - (5) Each application for a duplicate certificate of number must be made on two-part Form CG–3919 and CG–3919A, Application for Duplicate Certificate of Number and Temporary Duplicate Certificate.
 - (6) Each vessel casualty required to be reported by §173.55 must be made on Form CG–3865.
- (b) Each surrender of a certificate of number required by §173.31 may be made in any form but must contain a written statement as to why the certificate is being surrendered.

§ 173.83 Availability of Coast Guard forms.

In a State where the Coast Guard is the issuing authority, forms required by §173.81 are available at all manned Coast Guard shore units, except light and loran stations and except for Form CG–3865, at all first- and second-class and some third- and fourth-class post offices.

§ 173.85 Fees levied by the Coast Guard.

- (a) In a State where the Coast Guard is the issuing authority, the fees for issuing certificates of number are:
- (1) Original or transferred certificate of number and two validation stickers—\$24.
 - (2) Renewed certificate of number and two validation stickers—\$16.
 - (3) Duplicate certificate of number—\$9.
 - (4) Replacement of lost or destroyed validation stickers—\$9.
- (b) Fees are payable by check or money-order made payable to the “U.S. Coast Guard”; by major credit card (MasterCard or Visa); or, when the owner applies in person, in cash.

[USCG–1998–3386, 64 FR 36243, July 6, 1999]

Appendix A to Part 173—Issuing Authorities and Reporting Authorities

- (a) The State is the issuing authority and reporting authority in: state

Alabama—AL.
 Alaska—AK.
 American Samoa—AS.
 Arizona—AZ.
 Arkansas—AR. California—CF.
 Colorado—CL.
 Connecticut—CT.
 Delaware—DL.
 District of Columbia—DC.
 Florida—FL.
 Georgia—GA.
 Guam—GU.
 Hawaii—HA.
 Idaho—ID.
 Illinois—IL.
 Indiana—IN.
 Iowa—IA.
 Kansas—KA.
 Kentucky—KY.
 Louisiana—LA.
 Maine—ME.
 Maryland—MD.
 Massachusetts—MS.
 Michigan—MC.
 Minnesota—MN.
 Mississippi—MI.
 Missouri—MO.
 Montana—MT.
 Nebraska—NB.
 Nevada—NV.
 New Hampshire—NH.
 New Jersey—NJ.
 New Mexico—NM.
 New York—NY.
 North Carolina—NC.
 North Dakota—ND.
 Northern Mariana Islands—CM.
 Ohio—OH.
 Oklahoma—OK.
 Oregon—OR.
 Pennsylvania—PA.
 Puerto Rico—PR.

Rhode Island—RI.
South Carolina—SC.
South Dakota—SD.
Tennessee—TN.
Texas—TX.
Utah—UT.
Vermont—VT.
Virginia—VA.
Virgin Islands—VI.
Washington—WN.
West Virginia—WV.
Wisconsin—WS.
Wyoming—WY.

(b) The Coast Guard is the issuing authority and reporting authority in: state [Reserved]

(c) The abbreviations following the names of the State listed in paragraphs (a) and (b) are the two capital letters that must be used in the number format to denote the State of principal use as prescribed in §174.23 of this chapter.

[CGD 72–54R, 37 FR 21399, Oct. 7, 1972, as amended by CGD 76–076, 41 FR 23401, June 10, 1976; CGD 89–048, 54 FR 27002, June 27, 1989; USCG–2001–9286, 66 FR 33642, June 25, 2001]

e-CFR Data is current as of June 17, 2008

Title 46: Shipping

PART 67—DOCUMENTATION OF VESSELS

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2107, 2110, 12106, 12120, 12122; 46 U.S.C. app. 841a, 876; Department of Homeland Security Delegation No. 0170.1.

Source: CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993, unless otherwise noted.

Subpart A—General

§ 67.1 Purpose.

A Certificate of Documentation is required for the operation of a vessel in certain trades, serves as evidence of vessel nationality, and permits a vessel to be subject to preferred mortgages.

§ 67.3 Definitions.

The following definitions are for terms used in this part.

Acknowledgment means:

- (a) An acknowledgment or notarization in any form which is in substantial compliance with the Uniform Acknowledgments Act, the Uniform Recognition of Acknowledgments Act, the Uniform Law on Notarial Acts, or the statutes of the State within which it is taken, made before a notary public or other official authorized by a law of a State or the United States to take acknowledgment of deeds;
- (b) An acknowledgment or notarization before a notary or other official authorized to take acknowledgments of deeds by the law of a foreign nation which is a party to the Hague Convention Abolishing the Requirement for Legalisation of Public Documents, 1961, provided that the acknowledgment or notarization is accompanied by the certificate described in Article 3 of that Convention; or
- (c) Any attestation which is substantially in the following form:

State:

County:

On [date] the person(s) named above acknowledged execution of the foregoing instrument in their stated capacity(ies) for the purpose therein contained.

Notary Public

My commission expires: [date]

Captured vessel means a vessel which has been taken by citizens of the United States during a period of war and is thereafter condemned as a prize by a court of competent jurisdiction.

Certification of Documentation means form CG–1270.

Citizen, unless expressly provided otherwise, means a person meeting the applicable citizenship requirements of subpart C of this part as a United States citizen.

Coastwise trade includes the transportation of passengers or merchandise between points embraced within the coastwise laws of the United States.

Commandant means the Commandant of the United States Coast Guard.

Documentation officer means the Coast Guard official who is authorized to process and approve applications made under this part, and record instruments authorized to be filed and recorded under this part.

Documented vessel means a vessel which is the subject of a valid Certificate of Documentation.

Endorsement means an entry which may be made on a Certificate of Documentation, and which, except for a recreational endorsement, is conclusive evidence that a vessel is entitled to engage in a specified trade.

Note: Rulings and interpretations concerning what activities constitute coastwise trade and the fisheries can be obtained from the U.S Customs Service, 1300 Pennsylvania Avenue, NW, Ronald Reagan Building, Washington DC 20229 (Entry Procedures and Carriers Branch).

Exclusive Economic Zone (EEZ) means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983 (48 FR 10105, 3 CFR, 1983 Comp., p. 22).

Fisheries includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the Exclusive Economic Zone.

Forfeited vessel means a vessel:

(1) Which has been adjudged forfeited by a Federal District Court to the Federal Government of the United States for a breach of its laws; or

(2) Which has been forfeited under an administrative forfeiture action to the Federal Government of the United States for a breach of its laws; or

(3) Which has been seized by the Federal Government of the United States for a breach of its laws and which has been sold at an interlocutory sale, the proceeds of which have been adjudged forfeited by a Federal District Court to the Federal Government of the United States. A vessel is considered forfeited within the meaning of this definition even if the proceeds, though adjudged forfeited to the United States, do not actually accrue to the United States.

Hull means the shell, or outer casing, and internal structure below the main deck which provide both the flotation envelope and structural integrity of the vessel in its normal operations. In the case of a submersible vessel, the term includes all structural members of the pressure envelope.

Manufacturer's Certificate of Origin means a certificate issued under the law or regulation of a State, evidencing transfer of a vessel from the manufacturer as defined in 33 CFR part 181 to another person.

National Vessel Documentation Center means the organizational unit designated by the Commandant to process vessel documentation transactions and maintain vessel documentation records. The address is: National Vessel Documentation Center, 792 T.J. Jackson Drive, Falling Waters, WV 25419. Telephone: (800) 799-VDOC (8362).

New vessel means a vessel:

(1) The hull and superstructure of which are constructed entirely of new materials; or

(2) Which is constructed using structural parts of an existing vessel, which parts have been torn down so that they are no longer advanced to a degree which would commit them to use in the building of a vessel.

Officer in Charge, Marine Inspection (OCMI) means the Coast Guard official designated as such by the Commandant, under the superintendence and direction of a Coast Guard District Commander, who is in charge of an inspection zone in accordance with regulations set forth in 46 CFR part 1.

Person means an individual; corporation; partnership; limited liability partnership; limited liability company; association; joint venture; trust arrangement; and the government of the United States, a State, or a political subdivision of the United States or a State; and includes a trustee, beneficiary, receiver, or similar representative of any of them.

Registration means a certificate of number issued pursuant to rules in 33 CFR part 173, a record under the maritime laws of a foreign country, or a certificate issued by a political subdivision of a foreign country.

Secretary means the Secretary of Transportation.

State means a State of the United States or a political subdivision thereof, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

Superstructure means the main deck and any other structural part above the main deck. *United States*, when used in a geographic sense means the States of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States, except that for purposes of §67.19(d)(3) trust territories are not considered to be part of the United States.

Vessel includes every description of watercraft or other contrivance capable of being used as a means of transportation on water, but does not include aircraft.

Wrecked vessel, under the provisions of 46 U.S.C. app. 14, means a vessel which:

(1) Has incurred substantial damage to its hull or superstructure as a result of natural or accidental causes which occurred in the United States or its adjacent waters; and

(2) Has undergone, in a shipyard in the United States or its possessions, repairs equaling three times the appraised salved value of the vessel.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993, as amended by CGD 95-014, 60 FR 31603, June 15, 1995; CDG 94-070, 60 FR 40241, Aug. 7, 1995; CGD 95-012, 60 FR 48050, Sept. 18, 1995; USCG-1998-4442, 63 FR 52190, Sept. 30, 1998; USCG-2001-8825, 69 FR 5400, Feb. 4, 2004; USCG-2004-18884, 69 FR 58346, Sept. 30, 2004; USCG-2005-20258, 71 FR 61417, Oct. 18, 2006]

§ 67.5 Vessels eligible for documentation.

Any vessel of at least five net tons wholly owned by a citizen or citizens of the United States is eligible for documentation under this part. This includes, but is not limited to, vessels used exclusively for recreational purposes and vessels used in foreign trade.

§ 67.7 Vessels requiring documentation.

Any vessel of at least five net tons which engages in the fisheries on the navigable waters of the United States or in the Exclusive Economic Zone, Great Lakes trade, or coastwise trade, unless exempt under §67.9(c), must have a Certificate of Documentation bearing a valid endorsement appropriate for the activity in which engaged.

§ 67.9 Vessels excluded from or exempt from documentation.

(a) A vessel of less than five net tons is excluded from documentation.

(b) A vessel which does not operate on the navigable waters of the United States or in the fisheries in the Exclusive Economic Zone is exempt from the requirement to have a Certificate of Documentation.

(c) A non-self-propelled vessel, qualified to engage in the coastwise trade is exempt from the requirement to be documented with a coastwise endorsement when engaged in coastwise trade:

- (1) Within a harbor;
- (2) On the rivers or lakes (except the Great Lakes) of the United States; or
- (3) On the internal waters or canals of any State.

(d) A vessel exempt from the requirement to be documented by paragraph (b) or (c) of this section may be documented at the option of the owner, provided it meets the other requirements of this part.

§ 67.11 Restriction on transfer of an interest in documented vessels to foreign persons; foreign registry or operation.

(a) Unless approved by the Maritime Administration—

(1) A documented vessel or a vessel last documented under the laws of the United States may not be placed under foreign registry or operated under the authority of a foreign country.

(2) A documented vessel or a vessel last documented under the laws of the United States owned by a citizen of the United States as defined in section 2 of the Shipping Act, 1916 (46 U.S.C. app. 802), may not be sold, mortgaged, leased, chartered, delivered, or otherwise transferred to any person who is not a citizen of the United States as defined in section 2 of the Shipping Act, 1916 (46 U.S.C. app. 802).

(b) The restrictions in paragraph (a)(2) of this section do not apply to a vessel that has been operated only as:

- (1) A fishing vessel, fish processing vessel, or fish tender vessel as defined in 46 U.S.C. 2101;
- (2) A recreational vessel; or
- (3) Both.

Note: For purposes of carrying out its responsibilities under the provisions of this part only, the Coast Guard will deem a vessel which has been documented exclusively with a fishery or recreational endorsement or both from the time it was first documented, or for a period of not less than one year prior to foreign transfer or registry, to qualify for the exemption granted in paragraph (b) of this section.

(c) The exemption in paragraph (b) of this section does not relieve all vessels from meeting the fishery endorsement requirements of this part. If your vessel is less than 100 feet in length and is a fishing vessel, fish processing vessel, or fish tender vessel as defined in 46 U.S.C. 2101, you must meet the fishery endorsement requirements set out in this part. Each vessel 100 feet and greater in length applying for a fishery endorsement is regulated by the Maritime Administration requirements found in 46 CFR part 356.

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1003, as amended by USCG–1999–6095, 65 FR 76575, Dec. 7, 2000]

§ 67.12 Right of appeal.

Any person directly affected by a decision or action taken under this part by or on behalf of the Coast Guard may appeal there from in accordance with subpart 1.03 of this chapter.

§ 67.13 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the Federal Register and the material must be available to the public. All approved material may be inspected at the U.S. Coast Guard, National Vessel Documentation Center, 792 T.J. Jackson Drive, Falling Waters, WV 25419 and is available from the source indicated in paragraph (b) of this section or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) The material approved for incorporation by reference in this part and the section affected is as follows:

U.S. Department of Commerce, National Technical Information Service, Springfield, VA 22181 Federal Information Processing Standards Publication 55DC, Guideline: Codes For Named Populated Places, Primary County Divisions, And Other Locational Entities of the United States and Outlying Areas (1987)—67.119

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993, as amended by CGD 95–070, 60 FR 40241, Aug. 7, 1995; USCG–2004–18884, 69 FR 58346, Sept. 30, 2004]

§ 67.14 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
Part 67	1625–0027
Part 68	1625–0027

Subpart B—Forms of Documentation; Endorsements; Eligibility of Vessel

§ 67.15 Form of document—all endorsements.

- (a) The form of document is a Certificate of Documentation, form CG–1270.
- (b) Upon application in accordance with subpart K of this part and determination of qualification by the Director, National Vessel Documentation Center, a Certificate of Documentation may be issued with a registry, coastwise, Great Lakes, fishery, or recreational endorsement.
- (c) A Certificate of Documentation may bear simultaneous endorsements for recreation and more than one trade, including operation under 46 CFR part 68.

Note: Where a vessel possesses a Certificate of Documentation bearing more than one endorsement, the actual use of the vessel determines the endorsement under which it is operating.

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95–014, 60 FR 31604, June 15, 1995; USCG–1999–6216, 64 FR 53225, Oct. 1, 1999]

§ 67.17 Registry endorsement.

- (a) A registry endorsement entitles a vessel to employment in the foreign trade; trade with Guam, American Samoa, Wake, Midway, or Kingman Reef; and any other employment for which a coastwise, Great Lakes, or fishery endorsement is not required.
- (b) Any vessel eligible for documentation under §67.5 is eligible for a registry endorsement.
- (c) A vessel otherwise eligible for a registry endorsement for which the Maritime Administration has not given approval for unrestricted transfer pursuant to 46 CFR part 221 loses that eligibility during any period in which it is mortgaged to a person not identified in §67.233(b).

§ 67.19 Coastwise or Great Lakes endorsement.

- (a) A coastwise endorsement entitles a vessel to employment in unrestricted coastwise trade, dredging, towing, and any other employment for which a registry, fishery, or Great Lakes endorsement is not required.
- (b) A Great Lakes endorsement entitles a vessel to employment in the Great Lakes trade, towing in the Great Lakes, and any other employment for which a registry, fishery, or coastwise endorsement is not required.
- (c) If eligible for documentation and not restricted from coastwise or Great Lakes trade by paragraph (d) or (e) of this section, the following vessels are eligible for a coastwise or Great Lakes endorsement or both:
 - (1) Vessels built in the United States (§67.97);
 - (2) Forfeited vessels (§67.131);
 - (3) Vessels granted coastwise trading privileges by special legislation (§67.132);
 - (4) Wrecked vessels (§67.133);
 - (5) Captured vessels (§67.134); and
 - (6) Vessels purchased, chartered, or leased from the Secretary of Transportation by persons who are citizens of the United States (46 U.S.C. app. 808).
- (d) A vessel otherwise eligible for a coastwise or Great Lakes endorsement under paragraph (c) of this section permanently loses that eligibility if:
 - (1) It is thereafter sold in whole or in part to an owner:
 - (i) Not a citizen as defined in subpart C of this part, or
 - (ii) Not a person permitted to document vessels pursuant to 46 CFR part 68;
 - (2) It is thereafter registered under the laws of a foreign country;
 - (3) It undergoes rebuilding as defined in §67.177 outside of the United States; or
 - (4) It is a crude oil tanker of 20,000 deadweight tons or above, and after October 17, 1978, has segregated ballast tanks, a crude oil washing system, or an inert gas system installed outside of the United States as defined in §67.3.
- (e) A vessel otherwise eligible for a coastwise or Great Lakes endorsement under paragraph (c) of this section loses that eligibility, except as provided in paragraph (f) of this section, during any period in which it is:
 - (1) Owned by a corporation which does not meet the citizenship requirements of §67.39(c);
 - (2) Owned by a partnership which does not meet the citizenship requirements of §67.35(a); or
 - (3) Mortgaged to a person not identified in §67.233(b).
- (f) The restriction imposed by paragraph (e)(2) of this section does not apply to any vessel for which the Maritime Administration has given approval for unrestricted transfer pursuant to regulations set forth in 46 CFR part 221.

§ 67.21 Fishery endorsement.

(a) A fishery endorsement entitles a vessel to employment in the fisheries as defined in §67.3, subject to Federal and State laws regulating the fisheries, and in any other employment for which a registry, coastwise, or Great Lakes endorsement is not required. A fishery endorsement entitles a vessel to land its catch, wherever caught, in the United States.

(b) If eligible for documentation and not restricted from the fisheries by paragraph (c) of this section, the following vessels are eligible for a fishery endorsement:

- (1) Vessels built in the United States (§67.97);
- (2) Forfeited vessels (§67.131);
- (3) Vessels granted fisheries privileges by special legislation (§67.132);
- (4) Wrecked vessels (§67.133); and
- (5) Captured vessels (§67.134).

(c) A vessel otherwise eligible for a fishery endorsement under paragraph (b) of this section permanently loses that eligibility if it undergoes rebuilding as defined in §67.177 outside of the United States.

(d) A vessel otherwise eligible for a fishery endorsement under paragraph (b) of this section loses that eligibility during any period in which it is:

- (1) Owned by a partnership which does not meet the requisite citizenship requirements of §67.35(b);
- (2) Owned by a corporation which does not meet the citizenship requirements of §67.39(b); or
- (3) Chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement, except that time charters, voyage charters and other charters that are not a demise of the vessel may be entered into with Non-Citizens for the charter of dedicated Fish Tender Vessels and Fish Processing Vessels that are not engaged in the harvesting of fish or fishery resources without the vessel losing its eligibility for a fishery endorsement.

(e) A vessel operating with a fishery endorsement on October 1, 1998, under the authority of the Western Pacific Fishery Management Council, or a purse seine vessel engaged in tuna fishing outside of the EEZ of the United States or pursuant to the South Pacific Regional Fisheries Treaty may continue to operate as set out in 46 U.S.C. 12102(c)(5), provided that the owner of the vessel continues to comply with the fishery endorsement requirements that were in effect on October 1, 1998.

(f) An individual or entity that is otherwise eligible to own a vessel with a fishery endorsement shall be ineligible if an instrument or evidence of indebtedness, secured by a mortgage of the vessel, to a trustee eligible to own a vessel with a fishery endorsement is issued, assigned, transferred, or held in trust for a person not eligible to own a vessel with a fishery endorsement, unless the Commandant determines that the issuance, assignment, transfer, or trust arrangement does not result in an impermissible transfer of control of the vessel and that the trustee:

- (1) Is organized as a corporation that meets §67.39(b) of this part, and is doing business under the laws of the United States or of a State;
- (2) Is authorized under those laws to exercise corporate trust powers which meet §67.36(b) of this part;
- (3) Is subject to supervision or examination by an official of the United States Government or a State;
- (4) Has a combined capital and surplus (as stated in its most recent published report of condition) of at least \$3,000,000; and
- (5) Meets any other requirements prescribed by the Commandant.

For vessels greater than or equal to 100 feet in length, approval of such an arrangement from the Maritime Administration will be accepted as evidence that the above conditions are met and will be approved by the Commandant. For vessels less than 100 feet, a standard loan and mortgage agreement that has received general approval under 46 CFR 356.21 will be accepted as evidence that the above conditions are met and will be approved by the Commandant.

[CGD 89-007, CGD 89-007A, 58 FR 60266, Nov. 15, 1993, as amended by CGD 94-040, 61 FR 17815, Apr. 22, 1996; USCG-1999-6095, 65 FR 76575, Dec. 7, 2000]

§ 67.23 Recreational endorsement.

- (a) A recreational endorsement entitles a vessel to pleasure use only.
- (b) Any vessel eligible for documentation under §67.5 is eligible for a recreational endorsement.

Note: A vessel having a Certificate of Documentation endorsed only for recreation may be bareboat chartered only for recreational use. Guidance on the elements of a valid bareboat charter should be obtained through private legal counsel.

Subpart C—Citizenship Requirements for Vessel Documentation

§ 67.30 Requirement for citizen owner.

Certificates of Documentation may be issued under this part only to vessels which are wholly owned by United States citizens. Pursuant to extraordinary legislation at 46 U.S.C. app. 883-1 (Bowater Amendment) and 46 U.S.C. 12106(d) (Oil Pollution Act of 1990), Certificates of Documentation with limited endorsements may be issued in accordance with part 68 of this chapter to vessels

owned by certain persons who are not citizens as defined in this part.

§ 67.31 Stock or equity interest requirements.

(a) The stock or equity interest requirements for citizenship under this subpart encompass: Title to all classes of stock; title to voting stock; and ownership of equity. An otherwise qualifying corporation or partnership may fail to meet stock or equity interest requirements because: Stock is subject to trust or fiduciary obligations in favor of non-citizens; non-citizens exercise, directly or indirectly, voting power; or non-citizens, by any means, exercise control over the entity. The applicable stock or equity interest requirement is not met if the amount of stock subject to obligations in favor of non-citizens, non-citizen voting power, or non-citizen control exceeds the percentage of the non-citizen interest permitted.

(b) For the purpose of stock or equity interest requirements for citizenship under this subpart, control of non-fishing industry vessels includes an absolute right to: Direct corporate or partnership business; limit the actions of or replace the chief executive officer, a majority of the board of directors, or any general partner; direct the transfer or operations of any vessel owned by the corporation or partnership; or otherwise exercise authority over the business of the corporation or partnership. Control does not include the right to simply participate in these activities or the right to receive a financial return, e.g., interest or the equivalent of interest on a loan or other financing obligations.

(c) For the purpose of this section, control of a fishing industry vessel means having:

- (1) The right to direct the business of the entity that owns the vessel;
- (2) The right to limit the actions of or to replace the chief executive officer, the majority of the board of directors, any general partner, or any person serving in a management capacity of the entity that owns the vessel;
- (3) The right to direct the transfer, the operation, or the manning of a vessel with a fishery endorsement.

(d) For purposes of meeting the stock or equity interest requirements for citizenship under this subpart where title to a vessel is held by an entity comprised, in whole or in part, of other entities which are not individuals, each entity contributing to the stock or equity interest qualifications of the entity holding title must be a citizen eligible to document vessels in its own right with the trade endorsement sought.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1003, as amended by USCG-1999-6095, 65 FR 76575, Dec. 7, 2000; USCG-2004-18884, 69 FR 58346, Sept. 30, 2004]

§ 67.33 Individual.

An individual is a citizen if native-born, naturalized, or a derivative citizen of the United States, or otherwise qualifies as a United States citizen.

§ 67.35 Partnership.

A partnership meets citizenship requirements if all its general partners are citizens, and:

- (a) For the purpose of obtaining a registry or recreational endorsement, at least 50 percent of the equity interest in the partnership is owned by citizens.
- (b) For the purpose of obtaining a fishery endorsement, at least 75 percent of the equity interest in the partnership, at each tier of the partnership and in the aggregate, is owned by citizens.
- (c) For the purpose of obtaining a coastwise or Great Lakes endorsement or both, at least 75 percent of the equity interest in the partnership is owned by citizens or the vessel qualifies under §68.60 or §68.105 of this chapter.

[CGD 94-008, 59 FR 49846, Sept. 30, 1994, as amended by USCG-1999-6095, 65 FR 76575, Dec. 7, 2000; USCG-2001-8825, 69 FR 5401, Feb. 4, 2004; USCG-2005-20258, 71 FR 61417, Oct. 18, 2006]

§ 67.36 Trust.

(a) For the purpose of obtaining a registry or recreational endorsement, a trust arrangement meets citizenship requirements if:

- (1) Each of its trustees is a citizen; and
- (2) Each beneficiary with an enforceable interest in the trust is a citizen.

(b) For the purpose of obtaining a fishery endorsement, a trust arrangement meets citizenship requirements if:

- (1) It meets all the requirements of paragraph (a) of this section; and
- (2) At least 75 percent of the equity interest in the trust, at each tier of the trust and in the aggregate, is owned by citizens.

(c) For the purpose of obtaining a coastwise or Great Lake endorsement or both, a trust arrangement meets citizenship requirements if:

- (1) It meets the requirements of paragraph (a) of this section and at least 75 percent of the equity interest in the trust is owned by citizens; or
- (2) It meets the requirements of §68.60 or §68.105 of this chapter.

[CGD 94-008, 59 FR 49846, Sept. 30, 1994, as amended by USCG-1999-6095, 65 FR 76576, Dec. 7, 2000; USCG-2001-8825, 69 FR 5401, Feb. 4, 2004; USCG-2005-20258, 71 FR 61417, Oct. 18, 2006]

§ 67.37 Association or joint venture.

- (a) An association meets citizenship requirements if each of its members is a citizen.
- (b) A joint venture meets citizenship requirements if each of its members is a citizen. [USCG–1999–6095, 65 FR 76576, Dec. 7, 2000]

§ 67.39 Corporation.

- (a) For the purpose of obtaining a registry or a recreational endorsement, a corporation meets citizenship requirements if:
 - (1) It is incorporated under the laws of the United States or of a State;
 - (2) Its chief executive officer, by whatever title, is a citizen;
 - (3) Its chairman of the board of directors is a citizen; and
 - (4) No more of its directors are non-citizens than a minority of the number necessary to constitute a quorum.
- (b) For the purpose of obtaining a fishery endorsement, a corporation meets citizenship requirements if:
 - (1) It meets all the requirements of paragraph (a) of this section; and
 - (2) At least 75 percent of the stock interest in the corporation, at each tier of the corporation and in the aggregate, is owned by citizens.
- (c) For the purpose of obtaining a coastwise or Great Lakes endorsement or both, a corporation meets citizenship requirements if:
 - (1) It meets the requirements of paragraph (a) of this section and at least 75 percent of the stock interest in the corporation is owned by citizens; or
 - (2) It meets the requirements of §68.60 or §68.105 of this chapter.
- (d) A corporation which does not meet the stock interest requirement of paragraph (c) of this section may qualify for limited coastwise trading privileges by meeting the requirements of part 68 of this chapter.

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993, as amended by CGD 94–008, 59 FR 49847, Sept. 30, 1994; USCG–1999–6095, 65 FR 76576, Dec. 7, 2000; USCG–2001–8825, 69 FR 5401, Feb. 4, 2004; USCG–2005–20258, 71 FR 61417, Oct. 18, 2006]

§ 67.41 Governmental entity.

A governmental entity is a citizen for the purpose of obtaining a vessel document if it is an entity of the Federal Government of the United States or of the government of a State as defined in §67.3.

§ 67.43 Evidence of citizenship.

When received by the Coast Guard, a properly completed original Application for Initial Issue, Exchange, or Replacement of Certificate of Documentation; or Redocumentation (form CG–1258) establishes a rebuttable presumption that the applicant is a United States citizen.

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993]

§ 67.47 Requirement for Maritime Administration approval.

- (a) The following transactions, among others, require approval of the Maritime Administration in accordance with 46 CFR part 221:
 - (1) Placement of the vessel under foreign registry;
 - (2) Operation of the vessel under the authority of a foreign country; and
 - (3) Sale or transfer of an interest in or control of the vessel from a citizen, as defined in section 2 of the Shipping Act, 1916 (46 U.S.C. app. 802), to a person not a citizen within the meaning of section 2 of that act.
- (b) A Certificate of Documentation may not be issued for a vessel which subsequent to the last issuance of a Certificate of Documentation has undergone any transaction listed in paragraph (a) of this section, even if the owner meets the citizenship requirements of this subpart, unless evidence is provided that the Maritime Administration approved the transaction.
- (c) The restriction imposed by paragraph (b) of this section does not apply to a vessel identified in §67.11(b).

Subpart D—Title Requirements for Vessel Documentation

§ 67.50 Requirement for title evidence.

The owner of a vessel must present title evidence in accordance with one of the methods specified in this subpart:

- (a) When application is made for a coastwise or a Great Lakes endorsement for a vessel which has not previously been qualified for such endorsement;
- (b) For initial documentation of a vessel;
- (c) When the ownership of a documented vessel changes in whole or in part;
- (d) When the general partners of a partnership owning a documented vessel change by addition, deletion, or substitution, without

dissolution of the partnership; or

(e) When a vessel which has been deleted from documentation is returned to documentation and there has been an intervening change in ownership.

§ 67.53 Methods of establishing title.

Title to a vessel may be established through one of the following methods:

(a) *Simplified method without evidence of build.* The owner must produce a copy of the last registration of the vessel (State, Federal, or foreign) and evidence which establishes chain of title from that registration to the present owner.

(b) *Simplified method with evidence of build.* The owner must produce a copy of the last registration of the vessel (State, Federal, or foreign) and evidence which establishes chain of title from that registration to the present owner along with evidence of the facts of build in accordance with subpart F of this part.

(c) *Complete chain of title, without evidence of citizenship for each entity in that chain of title.* The owner must provide evidence which establishes:

(1) The facts of build in accordance with subpart F of this part; and

(2) A complete chain of title for the vessel from the person for whom the vessel was built to the present owner.

(d) *Complete chain of title, with evidence of citizenship for each entity in that chain of title.* The owner must provide evidence which establishes:

(1) The facts of build in accordance with subpart F of this part; and

(2) A complete chain of title for the vessel from the person for whom the vessel was built to the present owner, accompanied by competent and persuasive evidence establishing the citizenship of each entity in the chain of title.

§ 67.55 Requirement for removal from foreign registry.

The owner of a vessel must present evidence of removal of the vessel from foreign registry whenever:

(a) The owner applies for initial documentation of a vessel that has at any time been registered under the laws of a foreign country; or

(b) The owner applies for reentry into documentation of a vessel that had been registered under the laws of a foreign country since it was last documented under the laws of the United States.

§ 67.57 Extent of title evidence required for initial documentation.

(a) Vessels never registered under any system:

(1) Where a coastwise or Great Lakes endorsement is sought, the only title evidence required for a vessel being documented by the owner for whom it was built is the certification of the builder (form CG-1261) described in §67.99. Any other applicant must present title evidence in accordance with §67.53(d).

(2) Where a fishery endorsement is sought, the only title evidence required for a vessel being documented by the owner for whom it was built is the certification of the builder (form CG-1261) described in §67.99. Any other applicant must present title evidence in accordance with either paragraph

(c) or (d) of §67.53.

(3) Where a registry or recreational endorsement is sought, the only title evidence required for a vessel being documented by the first owner of the vessel is the certification of the builder (form CG-1261) described in §67.99, or a Manufacturer's Certificate of Origin. Any other applicant must also present title evidence in accordance with either paragraph (c)(2) or (d)(2) of §67.53.

Note: Manufacturer's Certificates of Origin are sometimes used as shipping documents for vessels, and may recite as the first owner a person other than the person for which the vessel was built. Therefore, a chain of title which begins with a Certificate of Origin will be deemed incomplete.

(b) Vessels previously registered under the laws of a State or a foreign government:

(1) Where a coastwise or a Great Lakes endorsement is sought, title evidence must be presented in accordance with §67.53(d).

(2) Where a fishery endorsement is sought, title evidence must be presented in accordance with paragraph (b), (c), or (d) of §67.53.

(3) Where a registry or recreational endorsement is sought, title evidence must be presented in accordance with paragraph (a), (b), (c), or (d) of §67.53.

§ 67.59 Extent of title evidence required for change in ownership of a documented vessel.

When the ownership of a documented vessel changes, in whole or in part, the applicant for documentation must present:

(a) Title evidence in accordance with subpart E of this part to reflect all ownership changes subsequent to the last issuance of a Certificate of Documentation; and

(b) Where a registry, fishery, or recreational endorsement is sought, evidence of the citizenship of all owners subsequent to the last owner for whom the vessel was documented except for a vessel:

(1) Identified in §67.11(b); or

(2) For which the Maritime Administration has granted approval for transfer or sale under 46 CFR part 221.

(c) Where a coastwise or Great Lakes endorsement is sought, evidence establishing the citizenship of all owners subsequent to the last owner for whom the vessel was documented with a coastwise or Great Lakes endorsement, if such evidence is not already on file with the Coast Guard. If the vessel has never been documented with a coastwise or Great Lakes endorsement, evidence must be presented to establish the citizenship of each owner of the vessel for whom such evidence is not already on file with the Coast Guard.

§ 67.61 Extent of title evidence required for vessels returning to documentation.

(a) When the owner of a vessel which has been deleted from documentation applies to have the vessel returned to documentation, the owner must, except as provided in paragraphs (b) and (c) of this section, provide evidence establishing the complete chain of title from the last owner under documentation, and citizenship evidence for all owners in that chain of title.

(b) When a vessel is returned to documentation after having been under foreign registry, the owner must provide a copy of the last foreign registry, the evidence of removal from foreign registry required by §67.55, and evidence establishing the complete chain of title from the last owner under foreign registry. No citizenship evidence need be provided for owners in that chain of title.

(c) The owner of a vessel identified in §67.11(b) or for which the Maritime Administration has granted approval for transfer or sale, either by written order or by general approval in 46 CFR part 221, and which was under a State or Federal registration or titling system, must provide a copy of the last registration or title, the evidence of removal from foreign registry required by §67.55, if applicable, and evidence establishing the complete chain of title from the last owner under such registry or title. No citizenship evidence need be provided for owners in that chain of title.

Note: Although vessels returned to documentation without a complete chain of title are not eligible for coastwise or Great Lakes endorsements, this does not preclude such an endorsement if the chain of title, with citizenship evidence, is completed at a later date.

§ 67.63 Extent of title evidence required for captured, forfeited, special legislation, and wrecked vessels.

(a) In the case of a captured or forfeited vessel, the owner must provide evidence establishing the chain of title from the judicial decree of capture or decree of forfeiture, or the evidence of administrative forfeiture described in §67.131(b). Citizenship evidence for all owners in the chain of title is required only if a coastwise or Great Lakes endorsement is sought.

(b) In the case of a vessel which is the subject of special legislation or a wrecked vessel, the owner must provide:

(1) For initial documentation of a vessel or return to documentation of a vessel deleted from documentation, a copy of the last Federal, State, or foreign registration, the evidence of removal from foreign registry required by §67.55, if applicable, and evidence establishing the chain of title from the last registration. If a coastwise or Great Lakes endorsement is sought, the owner must present citizenship evidence for all owners in the chain of title from the grant of special legislation or the determination by the Director, National Vessel Documentation Center that the vessel is eligible for documentation under 46 U.S.C. app. 14.

(2) For a documented vessel, the title evidence reflecting all ownership changes subsequent to the last documented owner of record. In addition, unless the vessel qualifies for exemption under §67.11(b) or the vessel is the subject of Maritime Administration approval for unrestricted transfer, citizenship evidence must be presented for all owners in that chain of title.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993, 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31604, June 15, 1995; USCG-1998-4442, 63 FR 52191, Sept. 30, 1998]

Subpart E—Acceptable Title Evidence; Waiver

§ 67.70 Original owner.

The builder's certification described in §67.99 serves as evidence of the original owner's title to a vessel.

§ 67.73 Transfers prior to documentation.

A transfer of vessel title prior to documentation may be evidenced by:

(a) Completion of the transfer information on the reverse of the builder's certification on form CG-1261;

(b) Completion of the transfer information on the reverse of the Manufacturer's Certificate of Origin; or

(c) A bill of sale which meets the criteria for filing and recording set forth in subpart P of this part.

§ 67.75 Transfers by sale or donation subsequent to documentation.

(a) Except as otherwise provided in this subpart, transfers of vessel title must be evidenced by a bill of sale which meets the criteria for filing and recording set forth in subpart P of this part. Except as otherwise provided in subpart O of this part, each bill of sale must be accompanied by a declaration of citizenship from the new owner, executed on the appropriate Maritime Administration form described in §67.211.

(b) The bill of sale form used may be form CG-1340 or form CG-1356, as appropriate.

(c) An applicant for documentation who cannot produce required title evidence in the form of an instrument eligible for filing and recording in accordance with subpart P of this part may apply for a waiver of that requirement in accordance with the provisions of §67.89.

§ 67.77 Passage of title by court action.

(a) When title to a vessel has passed by court action, that passage must be established by copies of the relevant court order(s) certified by an official of the court.

(b) When authority to transfer a vessel has been conferred by court action, that authority must be established by copies of the relevant court order(s) certified by an official of the court.

§ 67.79 Passage of title without court action following death of owner.

(a) When title to a vessel formerly owned in whole or in part by an individual now deceased passes without court action, an applicant for documentation must present:

- (1) When title passes to a surviving joint tenant or tenants or to a tenant by the entirety, a copy of the death certificate, certified by an appropriate State official; or
- (2) Where the laws of cognizant jurisdiction permit passage of title without court action, evidence of compliance with applicable State law.

(b) Passage of title subsequent to devolutions such as those described in paragraph (a) of this section, must be established in accordance with the remainder of this subpart.

§ 67.81 Passage of title in conjunction with a corporate merger or similar transaction.

When the title to a vessel has passed as the result of a corporate merger or similar transaction wherein the assets of one corporation have been transferred to another, the passage of title must be established by:

- (a) Materials, such as a resolution of the board of directors or shareholders of the corporation which held title to the vessel before the transaction, which either unequivocally transfers all of the assets of the corporation or which specifically identifies the vessel as being among the assets transferred; and
- (b) In jurisdictions where there is an official recognition of corporate mergers and similar transactions, a copy of such official recognition certified by the cognizant official of that jurisdiction.

§ 67.83 Passage of title by extra-judicial repossession and sale.

When title to a documented vessel has passed by reason of an extra-judicial repossession and sale, such passage must be established by:

- (a) A copy of the instrument under which foreclosure was made;
- (b) An affidavit from the foreclosing party setting forth the reasons for foreclosure, the chronology of foreclosure, the statute(s) under which foreclosure was made, and the steps taken to comply with the relevant instrument and statute(s);
- (c) Evidence of substantial compliance with the relevant instrument and statute(s); and
- (d) A bill of sale which meets the criteria for filing and recording set forth in subpart P of this part from the foreclosing party as agent for the defaulting owner(s).

§ 67.85 Change in general partners of partnership.

When the general partners of a partnership owning a documented vessel change by addition, deletion, or substitution without dissolution of the partnership, the change must be established by a written statement from a surviving general partner detailing the nature of the change.

§ 67.87 Change of legal name of owner.

- (a) When the name of a corporation which owns a documented vessel changes, the corporation must present certification from the appropriate governmental agency evidencing registration of the name change.
- (b) When the name of an individual who owns a documented vessel changes for any reason, competent and persuasive evidence establishing the change must be provided.

§ 67.89 Waiver of production of a bill of sale eligible for filing and recording.

(a) When the evidence of title passage required by this subpart is a bill of sale which meets the criteria for filing and recording set forth in subpart P of this part, and the applicant is unable to produce a bill of sale meeting those criteria, the applicant may request that the Director, National Vessel Documentation Center waive that requirement.

(b) No waiver of the requirement to produce a bill of sale eligible for filing and recording may be granted unless the applicant provides:

- (1) A written statement detailing the reasons why an instrument meeting the filing and recording criteria of this part cannot be obtained; and
- (2) Competent and persuasive evidence of the passage of title.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31604, June 15, 1995; USCG-1998-4442, 63 FR 52191, Sept. 30, 1998]

§ 67.91 Passage of title pursuant to operation of State law.

When title to a documented vessel has passed by operation of State law for reasons other than those specified in this subpart, such passage must be established by:

- (a) A copy of the statute permitting transfer of title to the vessel and setting forth procedures to be followed in disposing of the vessel;

(b) An affidavit from the party acting against the vessel, setting forth the basis for selling the vessel, and the steps taken to comply with the requirements of the statute under which title passes;

(c) Evidence of substantial compliance with the relevant statute(s); and

(d) A bill of sale which meets the criteria for filing and recording set forth in subpart P of this part from the acting party as agent for the owner(s) of record.

Note: State law authorizing a marina to dispose of abandoned vessels is an example of passage of title by operation of law contemplated by §67.91.

Subpart F—Build Requirements for Vessel Documentation

§ 67.95 Requirement for determination.

Evidence that a vessel was built in the United States must be on file for any vessel for which a coastwise, Great Lakes, or fishery endorsement is sought, unless the vessel is otherwise qualified for those endorsements under subpart J of this part.

§ 67.97 United States built.

To be considered built in the United States a vessel must meet both of the following criteria:

(a) All major components of its hull and superstructure are fabricated in the United States; and

(b) The vessel is assembled entirely in the United States.

§ 67.99 Evidence of build.

(a) Evidence of the facts of build may be either a completed original form CG-1261, or other original document containing the same information, executed by a person having personal knowledge of the facts of build because that person:

(1) Constructed the vessel;

(2) Supervised the actual construction of the vessel; or

(3) Is an officer or employee of the company which built the vessel and has examined the records of the company concerning the facts of build of the vessel.

(b) A vessel owner applying for documentation must file a separate certificate from each builder involved in the construction of the vessel.

(c) A Manufacturer's Certificate of Origin is not evidence of the facts of build.

§ 67.101 Waiver of evidence of build.

(a) A vessel owner applying for documentation unable to obtain the evidence of build required by §67.99 may apply for a waiver of that requirement to the Director, National Vessel Documentation Center.

(b) No waiver of the requirement in §67.99 to produce evidence of build may be granted unless the applicant provides:

(1) A written request for the waiver, explaining why the evidence required by §67.99 cannot be furnished; and

(2) Competent and persuasive evidence of the facts of build.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993, 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31604, June 15, 1995; USCG-1998-4442, 63 FR 52190, Sept. 30, 1998]

Subpart G—Tonnage and Dimension Requirements for Vessel Documentation

§ 67.105 Requirement for determination.

The gross and net tonnage and dimensions of a vessel must be determined:

(a) For initial documentation;

(b) Whenever there is a change in the gross or net tonnage or dimensions of a documented vessel; or

(c) When the gross or net tonnage of a vessel returning to documentation has changed since the vessel was last documented.

§ 67.107 System of measurement; evidence.

(a) The gross and net tonnage and dimensions of a vessel for purposes of this part are determined in accordance with 46 CFR part 69.

(b) A certificate of measurement issued by an authorized official is the only acceptable evidence of the gross and net tonnage of a vessel measured in accordance with subpart B, C, or D of 46 CFR part 69. A certificate of measurement is not issued for vessels measured under subpart E of 46 CFR part 69 since the gross and net tonnage are determined as part of the documentation process.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993, as amended by USCG-2001-10224, 66 FR 48620, Sept. 21, 2001]

Subpart H—Assignments and Designations Required for Vessel Documentation

§ 67.111 Assignment of official number.

(a) The owner of a vessel must submit an Application for Initial Issue, Exchange, or Replacement of Certificate of Documentation; or Redocumentation (form CG-1258) to the Director, National Vessel Documentation Center, to apply for an official number for the vessel when:

- (1) Application is made for initial documentation of the vessel; or
- (2) An existing vessel has been severed, with two or more vessels resulting. In this case, the official number of the original vessel is retired and the owner of each resulting vessel must apply for designation of a new official number.

(b) Upon receipt of form CG-1258, the Director, National Vessel Documentation Center will have an official number assigned to the vessel and furnish it to the vessel owner.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993, 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31604, June 15, 1995; USCG-1998-4442, 63 FR 52190, Sept. 30, 1998]

§ 67.113 Managing owner designation; address; requirement to report change of address.

The owner of each vessel must designate a managing owner on the Application for Initial Issue, Exchange, or Replacement of Certificate of Documentation; or Redocumentation (CG-1258).

- (a) The managing owner of a vessel owned by one person is the owner of the vessel.
- (b) The managing owner of a vessel owned by more than one person must be one of the owners. The person designated as managing owner must have an address in the United States except where no owner of the vessel has an address in the United States.
- (c) The managing owner of a vessel owned in a trust arrangement must be one of the trustees.
- (d) The address of the managing owner must be as follows:
 - (1) For an individual, any residence of the managing owner.
 - (2) For a partnership, its address:
 - (i) In the State under whose laws it is organized; or
 - (ii) Of its principal place of business.
 - (3) For a corporation, its address:
 - (i) For service of process within the State of incorporation; or
 - (ii) Of its principal place of business.
- (e) Whenever the address of the managing owner changes, the managing owner shall notify the Director, National Vessel Documentation Center within 10 days.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31604, June 15, 1995; USCG-1998-4442, 63 FR 52190, Sept. 30, 1998]

§ 67.117 Vessel name designation.

(a) The owner of a vessel must designate a name for the vessel on the Application for Initial Issue, Exchange, or Replacement of Certificate of Documentation; or Redocumentation (form CG-1258) submitted to the Director, National Vessel Documentation Center:

- (1) Upon application for initial documentation of the vessel; or
 - (2) When the owner elects to change the name of the vessel.
- (b) The name designated:
- (1) Must be composed of letters of the Latin alphabet or Arabic or Roman numerals;
 - (2) May not be identical, actually or phonetically, to any word or words used to solicit assistance at sea;
- and
- (3) May not contain nor be phonetically identical to obscene, indecent, or profane language, or to racial or ethnic epithets.
- (c) The name of a documented vessel may not be changed without the prior approval of the Director, National Vessel Documentation Center.
- (d) Until such time as the owner of a vessel elects to change the name of a vessel, the provisions of paragraph (b) of this section do not apply to vessels validly documented before January 1, 1994.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31604, June 15, 1995; USCG-1998-4442, 63 FR 52191, Sept. 30, 1998]

§ 67.119 Hailing port designation.

- (a) Upon application for any Certificate of Documentation in accordance with subpart K of this part, the owner of a vessel must designate a hailing port to be marked upon the vessel.
- (b) The hailing port must be a place in the United States included in the U.S. Department of Commerce's Federal Information

Processing Standards Publication 55DC.

- (c) The hailing port must include the State, territory, or possession in which it is located.
- (d) The Director, National Vessel Documentation Center has final authority to settle disputes as to the propriety of the hailing port designated.
- (e) Until such time as the vessel owner elects to designate a new hailing port, the provisions of paragraph (c) of this section do not apply to vessels which were issued a Certificate of Documentation before July 1, 1982.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993, as amended by CGD 95-014, 60 FR 31604, June 15, 1995; USCG-1998-4442, 63 FR 52191, Sept. 30, 1998]

Subpart I—Marking Requirements for Vessel Documentation

§ 67.120 General requirement.

No Certificate of Documentation issued under this part will be deemed valid for operation of the vessel until the vessel is marked in accordance with this subpart.

§ 67.121 Official number marking requirement.

The official number of the vessel, preceded by the abbreviation "NO." must be marked in block-type Arabic numerals not less than three inches in height on some clearly visible interior structural part of the hull. The number must be permanently affixed to the vessel so that alteration, removal, or replacement would be obvious. If the official number is on a separate plate, the plate must be fastened in such a manner that its removal would normally cause some scarring of or damage to the surrounding hull area.

§ 67.123 Name and hailing port marking requirements.

- (a) For vessels other than those covered in paragraphs (b) and (c) of this section, the name of the vessel must be marked on some clearly visible exterior part of the port and starboard bow and the stern of the vessel. The hailing port of the vessel must be marked on some clearly visible exterior part of the stern of the vessel.
- (b) *Vessels with square bow.* For vessels having a square bow, the name of the vessel must be marked on some clearly visible exterior part of the bow in a manner to avoid obliteration. The name and hailing port must be marked on some clearly visible exterior part of the stern.
- (c) *Recreational vessels.* For vessels documented exclusively for recreation, the name and hailing port must be marked together on some clearly visible exterior part of the hull.
- (d) The markings required by paragraphs (a), (b), and (c) of this section, which may be made by the use of any means and materials which result in durable markings, must be made in clearly legible letters of the Latin alphabet or Arabic or Roman numerals not less than four inches in height.

§ 67.125 Disputes.

The OCMI for the zone in which the vessel is principally operated has final authority in any disputes concerning the permanence, durability, legibility, or placement of a vessel's markings.

Subpart J—Application for Special Qualifications for Vessel Documentation

§ 67.130 Submission of applications.

All applications made under this subpart and all subsequent filings to effect documentation, except as provided in §67.133(b), must be submitted to the National Vessel Documentation Center.

[CGD 95-014, 60 FR 31604, June 15, 1995]

§ 67.131 Forfeited vessels.

In addition to any other submissions required by this part, the owner of a forfeited vessel applying for a Certificate of Documentation for that vessel must submit the following:

- (a) Where the vessel has been adjudged forfeit, or the proceeds of the sale of the vessel have been adjudged forfeit to the Federal Government of the United States by a Federal District Court, a copy of the court order certified by an official of the court;
- (b) Where the vessel was forfeited to the Federal Government of the United States under an administrative forfeiture action, an affidavit from an officer of the agency which performed the forfeiture who has personal knowledge of the particulars of the vessel's forfeiture or a Declaration of Forfeiture issued by the agency which performed the forfeiture.

§ 67.132 Special legislation.

- (a) Vessels not otherwise entitled to be operated in the coastwise trade, Great Lakes trade, or in the fisheries may obtain these privileges as a result of special legislation by the Congress of the United States.
- (b) In addition to any other submissions required by this part, the owner of a vessel which is entitled to engage in a specified trade because it is the subject of special legislation must include a copy of the legislation to establish the entitlement.

§ 67.133 Wrecked vessels.

- (a) A vessel owner requesting a determination that the vessel is wrecked within the meaning of 46 U.S.C. app. 14 must submit the following to the Director, National Vessel Documentation Center:

(1) Competent and persuasive evidence of the occasion and location of the casualty. Coast Guard situation or investigation reports are acceptable as casualty evidence. Other competent and persuasive evidence may be accepted in the discretion of the Director, National Vessel Documentation Center.

(2) A writing setting forth the physical location of the vessel, containing a guarantee that the requesting party assumes full responsibility for all costs, liabilities, and other expenses that arise in conjunction with the services performed by the board of appraisers, and stating that at the time of documentation the vessel will be owned by a citizen of the United States.

(b) In addition to other submissions required by this part, a vessel owner applying for a Certificate of Documentation for a vessel accorded privileges by the Wrecked Vessel Statute (46 U.S.C. app. 14) must include a copy of the determination of the Director, National Vessel Documentation Center that the vessel qualifies for documentation under the statute.

Note: The determination of the appraised salvaged value must be made by a board of three appraisers appointed by the Director, National Vessel Documentation Center. The board must determine that the repairs made upon the vessel are equal to three times the appraised salvage value. The determination of the appraised salvage value will include consideration of the fact that if the vessel is found in compliance with the Wrecked Vessel Statute it will attain coastwise and fishery privileges. The cost of the board must be borne by the applicant.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31604, June 15, 1995; USCG-1998-4442, 63 FR 52191, Sept. 30, 1998]

§ 67.134 Captured vessels.

In addition to other submissions required by this part, a vessel owner applying for a Certificate of Documentation for a vessel which qualifies as a captured vessel must include a copy of the court order stating that the vessel was lawfully captured and condemned as a prize.

Subpart K—Application for Documentation, Exchange or Replacement of Certificate of Documentation, or Return to Documentation; Mortgage Consent; Validation

§ 67.141 Application procedure; all cases.

The owner of a vessel applying for an initial Certificate of Documentation, exchange or replacement of a Certificate of Documentation, or return of a vessel to documentation after deletion from documentation must:

(a) Submit the following to the National Vessel Documentation Center:

- (1) Application for Initial Issue, Exchange, or Replacement of Certificate of Documentation; or Redocumentation (form CG-1258);
- (2) Title evidence, if applicable;
- (3) Mortgage consent on form CG-4593, if applicable; and
- (4) If the application is for replacement of a mutilated document or exchange of documentation, the outstanding Certificate of Documentation.

(b) Each vessel 100 feet and greater in length applying for a fishery endorsement must meet the requirements of 46 CFR part 356 and must submit materials required in paragraph (a) of this section.

(c) Upon receipt of the Certification of Documentation and prior to operation of the vessel, ensure that the vessel is marked in accordance with the requirements set forth in subpart I of this part.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31604, June 15, 1995; USCG-1999-6095, 65 FR 76576, Dec. 7, 2000]

§ 67.142 Penalties.

(a) An owner or operator of a vessel with a fishery endorsement who violates Chapter 121 of Title 46, U.S. Code or any regulation issued thereunder is liable to the United States Government for a civil penalty of not more than \$10,000. Each day of a continuing violation is a separate violation.

(b) A fishing vessel and its equipment are liable to seizure and forfeiture to the United States Government—

(1) When the owner of the fishing vessel, or the representative or agent of the owner, knowingly falsifies applicable information or knowingly conceals a material fact during the application process for or application process to renew a fishery endorsement of the vessel;

(2) When the owner of the fishing vessel, or the representative or agent of the owner, knowingly and fraudulently uses a vessel's certificate of documentation;

(3) When the fishing vessel engages in fishing [as such term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)] within the Exclusive Economic Zone after its fishery endorsement has been denied or revoked;

(4) When a vessel is employed in a trade without an appropriate trade endorsement;

(5) When a documented vessel with only a recreational endorsement operates as a fishing vessel; or

(6) When a vessel with a fishery endorsement is commanded by a person who is not a citizen of the United States.

(c) In addition to penalties under paragraphs (a) and (b) of this section, the owner of a vessel with a fishery endorsement is liable to the United States Government for a civil penalty of up to \$100,000 for each day in which the vessel has engaged in fishing within the Exclusive Economic Zone, if the owner of the fishing vessel, or the representative or agent of the owner, knowingly falsifies

applicable information or knowingly conceals a material fact during the application process for or application process to renew a fishery endorsement of the vessel.

[USCG–1999–6095, 65 FR 76576, Dec. 7, 2000]

§ 67.143 Restriction on withdrawal of application.

A vessel owner making application pursuant to §67.141 may not withdraw that application without mortgagee consent if a mortgage has been filed against the vessel. Consent of the mortgagee is evidenced by filing a properly completed original Application, Consent, and Approval for Withdrawal of Application for Documentation or Exchange of Certificate of Documentation (form CG–4593).

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993]

§ 67.145 Restrictions on exchange; requirement and procedure for mortgagee consent.

(a) A Certificate of Documentation issued to a vessel which is the subject of an outstanding mortgage recorded pursuant to subpart Q of this part or predecessor regulations, may not be exchanged for a cause arising under §§67.167(b) (1) through (5) or 67.167(c) (1) through (8) without the consent of the mortgagee, except as provided in paragraph (b) of this section.

(b) The provisions of paragraph (a) of this section do not apply to a vessel which is subject only to a mortgage filed or recorded before January 1, 1989, which had not attained preferred status as of that date.

(c) When the owner of a vessel applies for a Certificate of Documentation and the consent of the mortgagee is required under paragraph (a) of this section, the applicant must submit a properly completed original Application, Consent, and Approval for Withdrawal of Application for Documentation or Exchange of Certificate of Documentation (form CG–4593) signed by or on behalf of the mortgagee to the National Vessel Documentation Center.

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993, as amended by CGD 94–008, 59 FR 49847, Sept. 30, 1994; CGD 95–014, 60 FR 31604, June 15, 1995]

§ 67.149 Exchange of Certificate of Documentation; vessel at sea.

(a) When exchange of a Certificate of Documentation issued to a vessel is required pursuant to subpart L of this part and the vessel is at sea, the owner may affect the exchange while the vessel is still at sea by:

- (1) Complying with the requirements of §67.141; and
- (2) complying with the requirements of §67.145, if applicable.

Note: A Certificate of Documentation is issued upon compliance with the applicable requirements, however, the requirement to mark the vessel with its new name or hailing port in accordance with subpart I of this part, if applicable, is waived until the vessel reaches its first port of call, wherever that may be.

(b) The documentation officer prepares a new Certificate of Documentation and forwards it for delivery to the vessel's next port of call. If the port of call is in the United States, the Certificate is forwarded to the nearest U.S. Coast Guard Sector Office. If the port of call is in a foreign country, the Certificate is forwarded to the nearest American Consulate. The new Certificate is delivered only upon surrender of the old Certificate, which is then forwarded to the National Vessel Documentation Center.

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993, as amended by CGD 95–014, 60 FR 31604, June 15, 1995; USCG–2006–25556, 72 FR 36330, July 2, 2007]

§ 67.151 Replacement of Certificate of Documentation; special procedure for wrongfully withheld document.

When the owner of a documented vessel alleges that the Certificate of Documentation for that vessel is being wrongfully withheld by any person the owner must:

- (a) Submit to the Director, National Vessel Documentation Center, a statement setting forth the reasons for the allegation; and
- (b) Upon the Director, National Vessel Documentation Center that the Certificate is being wrongfully withheld, apply for replacement of the Certificate in accordance with the requirements of §67.141.

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95–014, 60 FR 31604, June 15, 1995; USCG–1998–4442, 63 FR 52191, Sept. 30, 1998]

Subpart L—Validity of Certificates of Documentation; Renewal of Endorsement; Requirement for Exchange, Replacement, Deletion, Cancellation

§ 67.161 Validity of Certificate of Documentation.

(a) Notwithstanding any other provision of this subpart, except as provided in paragraph (b) of this section, a Certificate of Documentation but no trade endorsement thereon, issued to a vessel which is the subject of an outstanding mortgage filed or recorded in accordance with subpart Q of this part or any predecessor regulations, remains valid for purposes of:

- (1) 46 U.S.C. chapter 125;
- (2) 46 U.S.C. chapter 313 for an instrument filed or recorded before the date of invalidation, and an assignment or a notice of claim of lien filed after that date;
- (3) Sections 9 and 37(b) of the Shipping Act, 1916 (46 U.S.C. app. 808, 835(b)); and
- (4) Section 902 of the Merchant Marine Act, 1936 (46 U.S.C. app. 1242).

(b) The provisions of paragraph (a) of this section do not apply to a vessel which is subject only to a mortgage filed or recorded before January 1, 1989, which had not attained preferred status as of that date.

§ 67.163 Renewal of endorsement.

(a) *Requirement for renewal of endorsement.* Endorsements on Certificates of Documentation are valid for one year. Prior to the expiration of that year, the owner of a vessel which is not exempt from the requirement for documentation under paragraph (c) of §67.9 must apply for renewal of the endorsement (s) by complying with paragraph (b) of this section. The owner of a vessel exempt from the requirement for documentation under paragraph (c) of §67.9 must either:

- (1) Apply for renewal of the endorsement by complying with paragraph (b) of this section; or
- (2) Place the Certificate of Documentation on deposit in accordance with §67.165.

(b) *Renewal application.* The owner of a vessel must apply for renewal of each endorsement by executing an original Notice of Expiration (CG-1280) or Final Notice After Expiration (CG-1280-B) certifying that the information contained in the Certificate of Documentation and any endorsement(s) thereon remains accurate, and that the Certificate has not been lost, mutilated, or wrongfully withheld. The completed CG-1280 or CG-1280-B must be forwarded to the Director, National Vessel Documentation Center.

(c) *Requirement to affix decal.* The owner must affix the renewal decal to the Certificate of Documentation. The presence of a current renewal decal is evidence that the endorsement has been renewed.

Note: Renewal of endorsements on a Certificate of Documentation may be denied if the vessel owner is the subject of an outstanding civil penalty assessed by the Coast Guard.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993, as amended by CGD 95-014, 60 FR 31604, June 15, 1995; USCG-1998-4442, 63 FR 52191, Sept. 30, 1998]

§ 67.165 Deposit of Certificate of Documentation.

(a) *Option for deposit in lieu of renewal of endorsement.* In lieu of renewing the endorsement(s) in accordance with §67.163, the owner of a vessel which is exempt from the requirement for documentation under paragraph (c) of §67.9 may deposit the vessel's outstanding Certificate of Documentation with the National Vessel Documentation Center.

(b) *Reporting requirement.* The owner of a vessel whose Certificate is on deposit in accordance with paragraph (a) of this section must make a written report to the National Vessel Documentation Center when:

- (1) Exchange of the Certificate is required upon the occurrence of one or more of the events described in §67.167 (b), (c), or (d); or
- (2) The vessel is subject to deletion from the roll of actively documented vessels upon the occurrence of one or more of the events described in §67.171(a)(1) through (8).

(c) *Validity of document on deposit.* A Certificate of Documentation placed on deposit in accordance with paragraph (a) of this section is valid for the purposes of:

- (1) 46 U.S.C. chapter 125;
- (2) 46 U.S.C. chapter 313;
- (3) Sections 9 and 37(b) of the Shipping Act, 1916 (46 U.S.C. app. 808, 835(b)); and
- (4) Section 902 of the Merchant Marine Act, 1936 (46 U.S.C. app. 1242).

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31604, June 15, 1995]

§ 67.167 Requirement for exchange of Certificate of Documentation.

(a) When application for exchange of the Certificate of Documentation is required upon the occurrence of one or more of the events described in paragraphs (b), (c), or (d) of this section, or the owner of the vessel chooses to apply for exchange of the Certificate pursuant to paragraph (e) of this section, the owner must send or deliver the Certificate to the National Vessel Documentation Center, and apply for an exchange of the Certificate in accordance with subpart K of this part.

(b) A Certificate of Documentation together with any endorsement(s) thereon becomes invalid immediately, except as provided in §67.161, when:

- (1) The ownership of the vessel changes in whole or in part;
- (2) The general partners of a partnership change by addition, deletion, or substitution;
- (3) The State of incorporation of any corporate owner of the vessel changes;
- (4) The name of the vessel changes;
- (5) The hailing port of the vessel changes; or
- (6) The vessel is placed under the command of a person who is not a citizen of the United States.

(c) A Certificate of Documentation together with any endorsement(s) thereon becomes invalid immediately, except as provided in §67.161 and in paragraph (f) of this section, if the vessel is not a sea, or upon the vessel's next arrival in port anywhere in the world if the vessel is at sea, when:

- (1) The gross or net tonnages or dimensions of the vessel change;
- (2) Any beneficiary with an enforceable interest in a trust arrangement owning a vessel changes by addition or substitution;
- (3) The trustee of a trust arrangement owning a vessel changes by addition, substitution, or deletion;
- (4) A tenant by the entirety owning any part of the vessel dies;
- (5) The restrictions imposed on the vessel change by addition or substitution;
- (6) The legal name of any owner of the vessel changes;
- (7) A self-propelled vessel becomes non-self-propelled or a non-self-propelled vessel becomes selfpropelled;
- (8) The endorsements for the vessel change by addition, deletion, or substitution;
- (9) A substantive or clerical error made by the issuing documentation officer is discovered; and
- (10) For a vessel with a coastwise endorsement under 46 U.S.C. 12106(e), one of the events in §68.80 or §68.111 of this chapter occurs.

(d) Although a Certificate of Documentation and any endorsements thereon remain valid, the owner of a documented vessel must apply for exchange of the Certificate upon an election to designate a new managing owner of the vessel in accordance with §67.113.

(e) Although a Certificate of Documentation and any endorsement(s) thereon remain valid, the owner may apply for exchange of the Certificate if:

- (1) The restrictions imposed on the vessel change by deletion; or
- (2) The vessel attains a special entitlement under subpart J of this part.

(f) A Certificate of Documentation which becomes invalid pursuant to paragraph (c) of this section remains valid for the purposes of filing a new mortgage or amendment, assignment, assumption, or subordination agreement for 30 days after the date it would otherwise have become invalid.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31604, June 15, 1995; USCG-2001-8825, 69 FR 5401, Feb. 4, 2004; USCG- 2005-20258, 71 FR 61418, Oct. 18, 2006]

§ 67.169 Requirement for replacement of Certificate of Documentation.

(a) The owner of a documented vessel must make application in accordance with subpart K of this part for replacement of a Certificate of Documentation which is:

- (1) Lost;
- (2) Mutilated; or
- (3) Wrongfully withheld from the vessel owner.

(b) When application for replacement of a Certificate of Documentation is required because the Certificate has been mutilated, the existing Certificate must be physically given up to the National Vessel Documentation Center.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31605, June 15, 1995]

§ 67.171 Deletion; requirement and procedure.

(a) A Certificate of Documentation together with any endorsement(s) thereon is invalid, except as provided in §67.161, and the vessel is subject to deletion from the roll of actively documented vessels when:

- (1) The vessel is placed under foreign flag;
- (2) The vessel is sold or transferred in whole or in part to a person who is not a citizen of the United States within the meaning of subpart C of this part;
- (3) Any owner of the vessel ceases to be a citizen of the United States within the meaning of subpart C of this part;
- (4) The owner no longer elects to document the vessel;
- (5) The vessel no longer measures at least five net tons;
- (6) The vessel ceases to be capable of transportation by water;
- (7) The owner fails to exchange the Certificate as required by §67.167;
- (8) The owner fails to maintain the markings required by subpart I of this part;
- (9) The endorsements on the Certificate are revoked because the vessel owner is the subject of an outstanding civil penalty assessed by the Coast Guard; or
- (10) The owner fails to:
 - (i) Renew the endorsement(s) as required by §67.163; or

(ii) Comply with the provisions of §67.165.

(b) Where a cause for deletion arises for any reason under paragraphs (a) (1) through (6) of this section, the owner must send or deliver the original Certificate of Documentation to the National Vessel Documentation Center together with a statement setting forth the reason(s) deletion is required.

(c) When a Certificate of Documentation is required to be deleted because the vessel has been placed under foreign flag or has been sold or transferred in whole or in part to a non-citizen of the United States, the owner of that vessel must comply with the requirements of paragraph (b) of this section, and file:

(1) Evidence of the sale or transfer, if any; and

(2) Evidence that the Maritime Administration has consented to the sale or transfer, except for vessels identified in §67.11(b) and vessels for which the Maritime Administration has granted approval for unrestricted sale or transfer pursuant to regulations set forth in 46 CFR part 221.

(d) A certificate evidencing deletion from U.S. documentation will be issued upon request of the vessel owner to the National Vessel Documentation Center upon compliance with the applicable requirements of this subpart.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993, as amended by CGD 94-008, 59 FR 49847, Sept. 30, 1994; CGD 95-014, 60 FR 31605, June 15, 1995]

§ 67.173 Cancellation; requirement and procedure.

A Certificate of Documentation issued to a vessel together with any endorsement(s) thereon is invalid, except as provided in §67.161, and subject to cancellation upon a determination by the Director, National Vessel Documentation Center that the issuance of the Certificate was improper for any reason. When a Certificate is subject to cancellation, the owner of the vessel upon being notified of such requirement must send or deliver the Certificate to a documentation officer at the National Vessel Documentation Center. The vessel owner may submit an application for exchange in accordance with subpart K of this part to correct the error giving rise to cancellation. If the vessel for which the Certificate was cancelled was previously documented, it remains documented under the previous Certificate of Documentation, unless deleted under the provisions of §67.171.

Note: Certificates of Documentation which have been canceled are retained at the National Vessel Documentation Center.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31605, June 15, 1995; USCG-1998-4442, 63 FR 52190, 52191, Sept. 30, 1998]

Subpart M—Miscellaneous Applications

§ 67.175 Application for new vessel determination.

(a) When a vessel has been constructed entirely of new materials, no application for a new vessel determination need be made under this section. Application for initial documentation must be made in accordance with subpart K of this part.

(b) When parts of an existing vessel have been used in the construction of a vessel and the owner wants a determination that the resulting vessel is new in accordance with this part, the owner must file with the Director, National Vessel Documentation Center;

(1) A builder's certification, as described in §67.99;

(2) A written statement describing the extent to which materials from the existing vessel were used in the construction and the extent to which those materials were torn down; and

(3) Accurate sketches or blueprints of the hull and superstructure which must identify, where practicable, components of the old vessel.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31605, June 15, 1995; USCG-1998-4442, 63 FR 52191, Sept. 30, 1998]

§ 67.177 Application for foreign rebuilding determination.

A vessel is deemed rebuilt foreign when any considerable part of its hull or superstructure is built upon or substantially altered outside of the United States. In determining whether a vessel is rebuilt foreign, the following parameters apply:

(a) Regardless of its material of construction, a vessel is deemed rebuilt when a major component of the hull or superstructure not built in the United States is added to the vessel.

(b) For a vessel of which the hull and superstructure is constructed of steel or aluminum—

(1) A vessel is deemed rebuilt when work performed on its hull or superstructure constitutes more than 10 percent of the vessel's steelweight, prior to the work, also known as discounted lightship weight.

(2) A vessel may be considered rebuilt when work performed on its hull or superstructure constitutes more than 7.5 percent but not more than 10 percent of the vessel's steelweight prior to the work.

(3) A vessel is not considered rebuilt when work performed on its hull or superstructure constitutes 7.5 percent or less of the vessel's steelweight prior to the work.

(c) For a vessel of which the hull and superstructure is constructed of material other than steel or aluminum—

(1) A vessel is deemed rebuilt when work performed on its hull or superstructure constitutes a quantum of work determined, to the maximum extent practicable, to be comparable to more than 10 percent of the vessel's steelweight prior to the work, calculated as if the vessel were wholly constructed of steel or aluminum.

(2) A vessel may be considered rebuilt when work performed on its hull or superstructure constitutes a quantum of work determined, to the maximum extent practicable, to be comparable to more than 7.5 percent but not more than 10 percent of the vessel's steelweight prior to the work, calculated as if the vessel were wholly constructed of steel or aluminum.

(3) A vessel is not considered rebuilt when work performed on its hull or superstructure constitutes a quantum of work determined, to the maximum extent practicable, to be comparable to 7.5 percent or less of the vessel's steelweight prior to the work, calculated as if the vessel were wholly constructed of steel or aluminum.

(d) For a vessel of mixed construction, such as a vessel the hull of which is constructed of steel or aluminum and the superstructure of which is constructed of fibrous reinforced plastic, the steelweight of the work performed on the portion of the vessel constructed of a material other than steel or aluminum will be determined, to the maximum extent practicable, and aggregated with the work performed on the portion of the vessel constructed of steel or aluminum. The numerical parameters described in paragraph (b) of this section will then be applied to the aggregate of the work performed on the vessel compared to the vessel's steelweight prior to the work, calculated as if the vessel were wholly constructed of steel or aluminum, to determine whether the vessel has been rebuilt.

(e) The owner of a vessel currently entitled to coastwise, Great Lakes, or fisheries endorsements which is altered outside the United States and the work performed is determined to constitute or be comparable to more than 7.5 percent of the vessel's steelweight prior to the work, or which has a major component of the hull or superstructure not built in the United States added, must file the following information with the National Vessel Documentation Center within 30 days following the earlier of completion of the work or redelivery of the vessel to the owner or owner's representative:

(1) A written statement applying for a rebuilt determination, outlining in detail the work performed and naming the place(s) where the work was performed;

(2) Calculations showing the actual or comparable steelweight of the work performed on the vessel, the actual or comparable steelweight of the vessel, and comparing the actual or comparable steelweight of the work performed to the actual or comparable steelweight of the vessel;

(3) Accurate sketches or blueprints describing the work performed; and

(4) Any further submissions requested by the National Vessel Documentation Center.

(f) Regardless of the extent of actual work performed, the owner of a vessel currently entitled to coastwise, Great Lakes, or fisheries endorsements may, as an alternative to filing the items listed in paragraph (e) of this section, submit a written statement to the National Vessel Documentation Center declaring the vessel rebuilt outside the United States. The vessel will then be deemed to have been rebuilt outside the United States with loss of trading privileges.

(g) A vessel owner may apply for a preliminary rebuilt determination by submitting:

(1) A written statement applying for a preliminary rebuilt determination, outlining in detail the work planned and naming the place(s) where the work is to be performed;

(2) Calculations showing the actual or comparable steelweight of work to be performed on the vessel, the actual or comparable steelweight of the vessel, and comparing the actual or comparable steelweight of the planned work to the actual or comparable steelweight of the vessel;

(3) Accurate sketches or blueprints describing the planned work; and

(4) Any further submissions requested by the National Vessel Documentation Center.

Note: A statement submitted in accordance with paragraph (f) of this section does not constitute an application for a rebuilt determination and does not require payment of a fee.

[CGD 94-040, 61 FR 17815, Apr. 22, 1996]

Subpart N [Reserved]

Subpart O—Filing and Recording of Instruments—General Provisions

§ 67.200 Instruments eligible for filing and recording.

Only the following listed instruments are eligible for filing and recording:

(a) Bills of sale and instruments in the nature of bills of sale;

(b) Deeds of gift;

(c) Mortgages and assignments, assumptions, supplements, amendments, subordinations, satisfactions, and releases thereof;

(d) Preferred mortgages and assignments, assumptions, supplements, amendments, subordinations, satisfactions, and releases thereof;

(e) Interlender agreements affecting mortgages, preferred mortgages, and related instruments; and

(f) Notices of claim of lien, assignments, amendments, and satisfactions and releases thereof.

§ 67.203 Restrictions on filing and recording.

(a) No instrument will be accepted for filing unless the vessel to which it pertains is the subject of:

(1) A valid Certificate of Documentation; or

(2) An application for initial documentation, exchange of Certificate of Documentation, return to documentation, or for deletion from

documentation, which is in substantial compliance with the applicable regulations, submitted to the National Vessel Documentation Center.

(b) An instrument identified as eligible for filing and recording under §67.200 may not be filed and recorded if it bears a material alteration.

(c) An instrument identified as eligible for filing and recording under §67.200 (a) or (b) may not be filed and recorded if any vendee or transferee under the instrument is not a citizen of the United States as defined in Section 2 of the Shipping Act, 1916, (46 U.S.C. app. 802) unless the Maritime Administration has consented to the grant to a non-citizen made under the instrument.

(d) The restriction imposed by paragraph (c) of this section does not apply to a bill of sale or deed of gift conveying an interest in a vessel which was neither documented nor last documented pursuant to these regulations or any predecessor regulations thereto at the time the instrument was executed, nor to an instrument conveying an interest in a vessel identified in §67.11(b).

(e) An instrument identified as eligible for filing and recording under §67.200(c) may not be filed or recorded if the mortgagee or assignee is not a person qualifying as a citizen of the United States as defined in the Shipping Act, 1916, as amended, (46 U.S.C. app. Chapter 23) or a trustee as defined in 46 U.S.C. 31328, unless the Maritime Administration has consented to the grant to a non-citizen made under the instrument. This restriction does not apply to an instrument conveying an interest in a vessel identified in §67.11(b).

(f) An instrument identified as eligible for filing and recording under §67.200(d) may not be filed or recorded if the mortgagee or assignee is not a person described in 46 U.S.C. 31322(a)(1)(D). This restriction does not apply to an instrument conveying an interest in a vessel identified in §67.11(b).

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95–014, 60 FR 31605, June 15, 1995]

§ 67.205 Requirement for vessel identification.

(a) Every instrument presented for filing and recording must contain sufficient information to clearly identify the vessel(s) to which the instrument relates.

(b) Instruments pertaining to vessels which have been documented must contain the vessel's name and official number, or other unique identifier.

(c) Vessels which have never been documented must be identified by one of the following:

(1) The vessel's Hull Identification Number assigned in accordance with 33 CFR 181.25; or

(2) Other descriptive information, which clearly describes the vessel. Such information may include length, breadth, depth, year of build, name of manufacturer, and any numbers which may have been assigned in accordance with 33 CFR part 173.

§ 67.207 Requirement for date and acknowledgment.

(a) Every instrument presented for filing and recording must:

(1) Bear the date of its execution; and

(2) Contain an acknowledgment.

(b) No officer or employee of the Coast Guard is authorized to take such acknowledgments unless the instrument is executed on behalf of the Federal Government of the United States.

§ 67.209 No original instrument requirement.

A copy of the original signed and acknowledged instrument must be presented. The original instrument itself may be presented but is not required. The copy may be delivered to the National Vessel Documentation Center or transmitted by facsimile or in portable document format (.pdf) in accordance with the procedures in §§67.218 and 67.219 of this part. Signatures may be affixed manually or digitally.

[USCG–2007–28098, 72 FR 42312, Aug. 2, 2007]

§ 67.211 Requirement for citizenship declaration.

(a) Instruments in the nature of a bill of sale or deed of gift, mortgages, and assignments of mortgages conveying an interest in a documented vessel are ineligible for filing and recording unless accompanied by a declaration of citizenship, except as provided in paragraph (c) and (d) of this section.

(b) Citizenship declarations must be executed on the form prescribed by the Maritime Administration in 46 CFR part 221. These forms are available from the National Vessel Documentation Center and from the Vessel Transfer and Disposal Officer (MAR–745.1), Maritime Administration, United States Department of Transportation, Washington, DC 20590.

(c) The requirement for presentation of a citizenship declaration does not apply to a transaction conveying an interest in a vessel:

(1) Described in 46 CFR 221.11(b)(1) (i) through (iv);

(2) To a person making application for documentation; or

(3) To an entity of the Federal Government of the United States or of a State or political subdivision thereof, or a corporate entity which is an agency of any such government or political subdivision.

(d) The requirement for presentation of a citizenship declaration is waived when the instrument(s) presented for filing effects a transfer for which:

- (1) The Maritime Administration has given general approval in 46 CFR part 221; or
 - (2) Written approval of the Maritime Administrator has been obtained in accordance with 46 CFR part 221.
- (e) If the transfer of interest is one which requires written approval of the Maritime Administrator in accordance with rules in 46 CFR part 221, evidence of that approval must be presented for filing with the instrument effecting the transfer of interest.

Note: If the grantee(s) of an ownership interest in a vessel described in paragraphs (c)(1) or (d) of this section do(es) not make application for documentation, a declaration of citizenship may be required in order to ensure that the vessel so conveyed retains any coastwise or Great Lakes privileges to which it may be entitled.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31605, June 15, 1995]

§ 67.213 Place of filing and recording.

- (a) All instruments submitted for filing and recording must be submitted to the National Vessel Documentation Center.
- (b) All instruments are recorded at the National Vessel Documentation Center. [CGD 95-014, 60 FR 31605, June 15, 1995]

§ 67.215 Date and time of filing.

- (a) An instrument is deemed filed at the actual date and time at which the instrument is received by the National Vessel Documentation Center, except as provided in paragraph (b) of this section. Any materials submitted to supplement an instrument after the instrument is filed are deemed part of the original filing and relate back to the date and time of that filing.
- (b) If filing of an instrument is subject to termination in accordance with §67.217(a) and a new instrument is filed as a substitute for the original instrument, the filing of the original instrument will be terminated in accordance with §67.217(c) and the substitute instrument will be considered a new filing. The substitute instrument will be deemed filed at the actual time and date it is received by the National Vessel Documentation Center.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31605, June 15, 1995]

§ 67.217 Termination of filing and disposition of instruments.

- (a) The filing of an instrument is subject to termination if:
 - (1) It is determined that the instrument cannot be recorded because the instrument itself is not in substantial compliance with the applicable regulations in this part;
 - (2) The filing was not made in compliance with the requirements of §67.213;
 - (3) The Application for Initial Issue, Exchange, or Replacement of Certificate of Documentation; or Redocumentation (form CG-1258) submitted with the instrument(s) was not made in substantial compliance with the applicable regulations of this part;
 - (4) The owner of the vessel submits an Application, Consent, and Approval for Withdrawal of Application for Documentation or Exchange of Certificate of Documentation (form CG-4593), with mortgagee consent, if applicable; or
 - (5) Another instrument is filed evidencing satisfaction or release of the subject instrument and the subject instrument is one described in subpart Q of this part.
- (b) Ninety days prior to terminating the filing pursuant to a reason listed in paragraphs (a) (1), (2), or (3) of this section, the National Vessel Documentation Center will send written notice detailing the reasons the filing is subject to termination to the following person(s) and any agent known to be acting on behalf of the same:
 - (1) The applicant for documentation, if a bill of sale, instrument in the nature of a bill of sale, or a deed of gift;
 - (2) The mortgagee or assignee, if a mortgage or assignment or amendment thereof;
 - (3) The claimant, if a notice of claim of lien; or
 - (4) The lender first named in an interlender agreement affecting a mortgage, preferred mortgage, or related instrument.
- (c) If the reason(s) which subject the filing to termination remain uncorrected for a period of 90 days after the notice described in paragraph (b) of this section is sent, or upon receipt of the request for withdrawal described in paragraph (a)(4) of this section, or satisfaction or release as described in paragraph (a)(5) of this section, the instrument will be returned to either:
 - (1) The applicant for documentation, if a bill of sale, instrument in the nature of a bill of sale, or a deed of gift;
 - (2) The mortgagee or assignee, if a mortgage or assignment or amendment thereof;
 - (3) The claimant, if a notice of claim of lien;
 - (4) The lender first named in an interlender agreement affecting a mortgage, preferred mortgage, or related instrument; or
 - (5) An agent for any appropriate party, provided that the agent has filed with the Coast Guard a writing bearing the original signature of the appropriate party(ies) clearly identifying the instrument(s) being returned and stating that the instrument(s) may be returned to the agent.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31605, June 15, 1995]

§ 67.218 Optional filing of instruments in portable document format as attachments to electronic mail.

(a) Any instrument identified as eligible for filing and recording under §67.200 may be submitted in portable document format (.pdf) as an attachment to electronic mail (e-mail) for filing at the National Vessel Documentation Center. The e-mail address to be used for instrument filing may be obtained from the National Vessel Documentation Center Web site. If the instrument submitted for filing in .pdf format pertains to a vessel that is not a currently documented vessel, a completed Application for Initial Issue, Exchange, or Replacement Certificate of Documentation, or Return to Documentation (form CG-1258) or a letter application for deletion from documentation must already be on file with the National Vessel Documentation Center or must be submitted in .pdf format with the instrument being submitted in .pdf format for filing.

(b) All instruments submitted for filing in .pdf format must be clearly legible, be submitted from 8 1/2 inch by 11 inch paper in not less than 10-point type size, and submitted as an attachment to e-mail.

(c) The e-mail required by paragraph (b) should indicate:

(1) The name, address, telephone number, and e-mail address of the person submitting the instrument for filing in .pdf format;

(2) The number of pages submitted for filing in .pdf format; and

(3) The name of the vessel, official number or hull identification number of the vessel(s), and the name (s) of the owner(s) of the vessel(s) to which the instrument relates.

(d) The filing of any instrument submitted for filing in .pdf format is terminated and the instrument will be returned to the submitter if the instrument is subject to termination for any cause under §67.217(a).

[USCG-2007-28098, 72 FR 42312, Aug. 2, 2007]

§ 67.219 Optional filing of instruments by facsimile.

(a) Any instrument identified as eligible for filing and recording under §67.200 may be submitted for filing to the National Vessel Documentation Center by facsimile at (304) 271-2405. If the instrument submitted by facsimile for filing pertains to a vessel that is not a currently documented vessel, a completed Application for Initial Issue, Exchange, or Replacement Certificate of Documentation, or Return to Documentation (form CG-1258) or a letter application for deletion from documentation must already be on file with the National Vessel Documentation Center or must be submitted by facsimile with the instrument being submitted by facsimile for filing.

(b) All instruments submitted by facsimile for filing must be clearly legible, be submitted from 8 1/2 inch by 11 inch paper in not less than 10-point type size, and accompanied by a cover sheet.

(c) The cover sheet required by paragraph (b) should indicate:

(1) The name, address, telephone number, and facsimile telephone number of the person submitting the instrument by facsimile;

(2) The number of pages submitted by facsimile; and

(3) The name of the vessel, official number or hull identification number of the vessel(s), and the name (s) of the owner(s) of the vessel(s) to which the instrument relates.

(d) The filing of any instrument submitted by facsimile is terminated and the instrument will be returned to the submitter if the instrument is subject to termination for any cause under §67.217(a).

[USCG-2007-28098, 72 FR 42312, Aug. 2, 2007]

Subpart P—Filing and Recording of Instruments—Bills of Sale and Related Instruments

§ 67.220 Requirements.

An instrument in the nature of a bill of sale or a deed of gift must:

(a) Meet all of the requirements of subpart O of this part;

(b) Be signed by or on behalf of all the seller(s) or donor(s); and

(c) Recite the following:

(1) The name(s) and address(es) of the seller(s) or donor(s) and the interest in the vessel held by the seller(s) or donor(s); and

(2) The name(s) and address(es) of the buyer(s) or donee(s) and the interest in the vessel held by each buyer or donee.

§ 67.223 Filing limitation.

An instrument presented for filing and recording under this subpart may be filed only in conjunction with an application for initial documentation or return to documentation of the vessel or with an application for a change to or deletion of the vessel's outstanding Certificate of Documentation.

Subpart Q—Filing and Recording of Instruments—Mortgages, Preferred Mortgages, and Related Instruments

§ 67.231 General requirements; optional application for filing and recording.

(a) A mortgage or related instrument presented for filing and recording must meet all of the requirements of subpart O of this part in addition to the pertinent section(s) of this subpart.

(b) All instruments supplemental to mortgages must recite information which clearly identifies the mortgage to which the

supplemental instrument is applicable. Such information will normally consist of the book and page where that mortgage is recorded and the date and time of filing. If the submission of the supplemental instrument is contemporaneous with submission of the mortgage, the information should include the names of all parties to the mortgage, the date of the mortgage, and the amount of the mortgage.

(c) An Optional Application for Filing (CG-5542) may be attached to a mortgage or related instrument. If form CG-5542 is properly completed with all information required for indexing the instrument and the signature(s) specified thereon, the instrument to which it is attached will be filed and recorded with no further review.

§ 67.233 Restrictions on recording mortgages, preferred mortgages, and related instruments.

(a) A mortgage or assumption of mortgage which otherwise meets the requirements of this subpart is nonetheless not eligible for filing and recording if:

(1) The mortgagor or assuming party(ies) did not actually hold legal title to the interest in the vessel being mortgaged or covered by the assumption at the time of filing of the mortgage or assumption; or

(2) If the vessel(s) which the mortgage cover(s) is (are) not documented or not the subject of an application for documentation.

(b) A mortgage of a vessel 100 feet or greater in length applying for a fishery endorsement is eligible for filing and recording as a preferred mortgage only if it meets the requirements of this part and the requirements of 46 CFR 356.19.

(c) The requirements of paragraph (b) of this section do not apply to the mortgagee of a vessel identified in §67.11(b) or to any other vessel to which the Maritime Administration has given approval for unrestricted transfer pursuant to regulations in 46 CFR part 221.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1003, as amended by USCG-1999-6095, 65 FR 76576, Dec. 7, 2000]

§ 67.235 Requirements for mortgages.

(a) A mortgage presented for filing and recording must:

(1) Be signed by or on behalf of each mortgagor; and

(2) Recite the following:

(i) The name and address of each mortgagor and the interest in the vessel held by the mortgagor(s);

(ii) The name and address of each mortgagee and the interest in the vessel granted by the mortgage; and

(iii) The amount of the direct or contingent obligations that is or may become secured by the mortgage, excluding interest, expenses, and fees. The amount may be recited in one or more units of account as agreed to by the parties.

(b) A mortgage submitted for filing and recording as a preferred mortgage must cover the whole of a vessel.

(c) A mortgage which secures more than one vessel may, at the option of the parties, provide for separate discharge of such vessels.

§ 67.237 Requirements for assignments of mortgages.

An assignment of mortgage presented for filing and recording must:

(a) Be signed by or on behalf of each assignor; and

(b) Recite the following:

(1) The name and address of each assignor and the interest in the mortgage held by the assignor(s); and

(2) The name and address of each assignee and the interest in the mortgage granted to the assignee(s).

§ 67.239 Requirements for assumptions of mortgages.

An assumption of mortgage presented for filing and recording must:

(a) Be signed by or on behalf of each original mortgagor, each mortgagee, and each assuming party; and

(b) Recite the following:

(1) The name and address of each original mortgagor and the interest in the vessel mortgaged; and

(2) The name and address of each assuming party and the interest in the mortgage assumed.

§ 67.241 Requirements for amendments of or supplements to mortgages.

An amendment of or supplement to a mortgage presented for filing and recording must:

(a) Be signed by or on behalf of each mortgagor and each mortgagee; and

(b) Recite the following:

(1) The name and address of each mortgagor and mortgagee; and

(2) The nature of the change effected by the instrument.

§ 67.243 Requirements for instruments subordinating mortgages.

An instrument subordinating a mortgage presented for filing and recording must:

- (a) Be signed by or on behalf of each mortgagee whose mortgage is being subordinated; and
- (b) Recite the following:
 - (1) The name and address of each mortgagee whose mortgage is being subordinated; and
 - (2) The name and address of each party holding an interest in the instrument subordinating the mortgage.

§ 67.245 Requirements for interlender agreements.

An interlender agreement between multiple mortgagees must:

- (a) Be signed by or on behalf of all mortgagees who are party to the interlender agreement; and
- (b) Recite the names and addresses of all parties to the interlender agreement.

Subpart R—Filing and Recording of Instruments—Notices of Claim of Lien and Supplemental Instruments

§ 67.250 General requirements.

(a) A notice of claim of lien or supplemental instrument thereto submitted for filing and recording must meet all of the requirements of subpart O of this part.

(b) An instrument assigning or amending a notice of claim of lien must recite information which clearly identifies the notice of claim of lien being assigned or amended. Such information will normally consist of the book and page where the notice of claim is recorded and the date and time of filing. If the submission of the assignment or amendment is contemporaneous with submission of the notice of claim of lien, the information should include the name of each original claimant, the date of the notice of claim, and the amount of the claim and other information to adequately identify the notice of claim of lien being assigned or amended.

§ 67.253 Requirements for notices of claim of lien.

A notice of claim of lien must:

- (a) Be signed by or on behalf of each claimant; and
- (b) Recite the following:
 - (1) The name and address of each claimant;
 - (2) The nature of the lien claimed;
 - (3) The date on which the lien was established; and
 - (4) The amount of the lien claimed.

§ 67.255 Restrictions on filing and recording.

A notice of claim of lien is not entitled to filing and recording unless the vessel against which the lien is claimed is covered by a preferred mortgage filed or recorded in accordance with subpart Q of this part or predecessor regulations thereto and which is outstanding at the time the lien is filed and recorded.

§ 67.257 Requirements for assignments of notices of claim of lien.

An assignment of a notice of claim of lien must:

- (a) Be signed by or on behalf of each original claimant or last assignee of record; and
- (b) Recite the following:
 - (1) The name and address of each claimant; and
 - (2) The name and address of each assignee and the interest in the claim being assigned.

§ 67.259 Requirements for amendments to notice of claim of lien.

An amendment to notice of claim of lien presented for filing and recording must:

- (a) Be signed by or on behalf of each original claimant or last assignee of record; and
- (b) Recite the nature of the change being effected by the instrument.

Subpart S—Removal of Encumbrances

§ 67.261 General requirements.

The filing of an instrument against a vessel in accordance with subparts Q or R of this part may be terminated and, if recorded, removed from the record of that vessel by the filing of:

- (a) A court order, affidavit, or Declaration of Forfeiture described in §67.263; or

(b) A satisfaction or release instrument described in §67.265 which meets the requirements of this part for filing and recording.

§ 67.263 Requirement for removal of encumbrances by court order, affidavit, or Declaration of Forfeiture.

The encumbrances described in subparts Q and R of this part are removed from the record upon filing of:

(a) A copy of the order from a court of competent jurisdiction certified by an official of the court declaring title to the vessel to be free and clear, or declaring the encumbrance to be of no effect, or ordering the removal of the encumbrance from the record;

(b) A copy of the order from a Federal District Court in an *in rem* action certified by an official of the court requiring the free and clear sale of the vessel at a Marshal's sale and, where issued under local judicial procedures, a copy of the order confirming such sale certified by an official of the court;

(c) A copy of an order from a Federal District Court certified by an official of the court declaring the vessel itself or the proceeds of its sale to be forfeited to the Federal Government of the United States for a breach of its laws; or

(d) Where the vessel was forfeited under an administrative forfeiture action to the Federal Government of the United States, either an affidavit from an officer of the agency which performed the forfeiture, who has personal knowledge of the particulars of the vessel's forfeiture, or a Declaration of Forfeiture issued by the agency which performed the forfeiture.

§ 67.265 Requirements for instruments evidencing satisfaction or release.

An instrument satisfying or releasing a mortgage, a notice of claim of lien, or a preferred mortgage presented for filing and recording must:

(a) Meet all the requirements of subpart O of this part;

(b) Be signed by or on behalf of:

(1) Each mortgagee if a mortgage; or

(2) Each claimant if a notice of claim of lien; and

(c) Recite the following:

(1) The name of each mortgagor, if any, and the name of each mortgagee or claimant;

(2) The amount of the mortgage or claim of lien; and

(3) Information which clearly identifies the mortgage or claim of lien being satisfied or released. Such information will normally consist of the book and page where that mortgage or claim of lien is recorded. If the recording information cannot be provided because the satisfaction or release is being submitted prior to recording of the mortgage or claim of lien, the instrument must recite other information sufficient to clearly identify the encumbrance being satisfied or released.

Subpart T—Abstracts of Title and Certificates of Ownership

Source: CGD 95-014, 60 FR 31605, June 15, 1995, unless otherwise noted.

§ 67.301 Issuance of Abstract of Title.

Any person may request the National Vessel Documentation Center to issue a General Index or Abstract of Title (form CG-1332) for a vessel.

§ 67.303 Issuance of Certificate of Ownership.

Any person may request the National Vessel Documentation Center to issue a Certificate of Ownership (form CG-1330) for a vessel.

Subpart U—Special Provisions

§ 67.311 Alteration of Certificate of Documentation.

Except for affixing a new address label in accordance with the direction of a documentation officer or a renewal decal issued in accordance with §67.163, no person other than a documentation officer shall intentionally alter a Certificate of Documentation.

§ 67.313 Requirement to have Certificate of Documentation on board.

(a) The person in command of a documented vessel must have on board that vessel the original Certificate of Documentation currently in effect for that vessel.

(b) The requirement of paragraph (a) of this section does not apply:

(1) To non-self-propelled vessels not engaged in foreign trade;

(2) When the Certificate of Documentation has been submitted to the National Vessel Documentation Center for exchange in accordance with §67.167 (d) or (e); or

(3) When the vessel is in storage or out of the water.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95-014, 60 FR 31605, June 15, 1995]

§ 67.315 Requirement to produce Certificate of Documentation.

- (a) The person in command of a documented vessel must produce the original Certificate of Documentation currently in effect for that vessel upon the demand of any person acting in an official public capacity.
- (b) The requirement of paragraph (a) of this section does not apply:
- (1) To non-self-propelled vessels not engaged in foreign trade;
 - (2) When the Certificate of Documentation has been submitted to the National Vessel Documentation Center for exchange in accordance with §67.167 (d) or (e); or
 - (3) When the vessel is in storage or out of the water.

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95–014, 60 FR 31605, June 15, 1995]

§ 67.317 Requirement to renew endorsements on the Certificate of Documentation.

- (a) Except as provided in paragraph (b) of this section, the owner of a documented vessel must annually renew each endorsement upon the current Certificate of Documentation for that vessel in accordance with §67.163.
- (b) The requirement of paragraph (a) of this section does not apply to Certificates of Documentation placed on deposit in accordance with §67.165.

§ 67.319 Requirement to report change in vessel status and surrender Certificate of Documentation.

The owner of a documented vessel must immediately report any change in vessel status which causes any Certificate of Documentation to become invalid under subpart L of this part and which must be exchanged, replaced, deleted, or canceled, to the National Vessel Documentation Center. The outstanding Certificate must be surrendered in accordance with the requirements of subparts K and L of this part.

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95–014, 60 FR 31605, June 15, 1995]

§ 67.321 Requirement to report change of address of managing owner.

Upon the change of address of the managing owner of a documented vessel, the managing owner shall report the change of address to the National Vessel Documentation Center within 10 days of its occurrence.

[CGD 94–008, 59 FR 49847, Sept. 30, 1994, as amended by CGD 95–014, 60 FR 31605, June 15, 1995]

§ 67.323 Operation without documentation.

No vessel which is required by §67.7 to be documented may engage in unlimited coastwise trade, the Great Lakes trade, or the fisheries without being documented in accordance with the requirements of this part.

§ 67.325 Violation of endorsement.

A vessel may not be employed in any trade other than a trade endorsed upon the Certificate of Documentation issued for that vessel. A vessel documented exclusively for recreation may not be used for purposes other than pleasure.

§ 67.327 Operation under Certificate of Documentation with invalid endorsement.

Except for vessels identified in §67.9, no vessel may be operated under a Certificate of Documentation with endorsements which have become invalid under subpart L of this part.

§ 67.329 Unauthorized name change.

The owner of a documented vessel may not change or allow the change of the name of that vessel without exchanging the vessel's Certificate of Documentation in accordance with subpart K of this part. The new name of the vessel must be marked on the vessel upon receipt of the new Certificate of Documentation.

§ 67.331 Improper markings.

The owner of a documented vessel shall not permit the operation of that vessel unless it is marked in accordance with subpart I of this part.

Subpart V—Exception From Fishery Endorsement Requirements Due to Conflict With International Agreements

Source: USCG–1999–6095, 65 FR 76576, Dec. 7, 2000, unless otherwise noted.

§ 67.350 Conflicts with international agreements.

(a) If you are an owner or mortgagee of a fishing vessel less than 100 feet in length and believe that there is a conflict between 46 CFR part 67 and any international treaty or agreement to which the United States is a party on October 1, 2001, and to which the United States is currently a party, you may petition the National Vessel Documentation Center (NVDC) for a ruling that all or sections of part 67 do not apply to you with respect to a particular vessel, provided that you had an ownership interest in the vessel or a mortgage on the vessel on October 1, 2001. You may file your petition with the NVDC before October 1, 2001, with respect to international treaties or agreements in effect at the time of your petition which are not scheduled to expire before October 1, 2001.

(b) If you are filing a petition for exemption with the NVDC for reasons stated in paragraph (a) of this section, your petition must include:

- (1) Evidence of the ownership structure of the vessel petitioning for an exemption as of October 1, 2001, and any subsequent changes to the ownership structure of the vessel;
- (i) If you are filing your petition before October 1, 2001, you may substitute evidence of the ownership structure as it exists on the date you file your petition;
- (2) A copy of the provisions of the international agreement or treaty that you believe is in conflict with this part;
- (3) A detailed description of how the provisions of the international agreement or treaty conflict with this part;
- (4) For all petitions filed before October 1, 2001, a certification that the owner intends to transfer no ownership interest in the vessel to a non-U.S. citizen for the following year.
- (5) For all petitions filed after October 1, 2001, a certification that no ownership interest was transferred to a non-U.S. citizen after September 30, 2001.
- (c) You must file a separate petition for each vessel requiring an exemption unless the NVDC authorizes consolidated filing. Petitions should include two copies of all required materials and should be sent to the following address: National Vessel Documentation Center, 792 TJ Jackson Drive, Falling Water, West Virginia, 25419.
- (d) Upon receipt of a complete petition, the NVDC will review the petition to determine whether the effective international treaty or agreement and the requirements of this part are in conflict. If the NVDC determines that this part conflicts with the effective international treaty or agreement, then the NVDC will inform you of the guidelines and requirements you must meet and maintain to qualify for a fisheries endorsement.
- (e) If the vessel is determined through the petition process to be exempt from all or sections of the requirements of this part, then you must annually, from the date of exemption, submit the following evidence of its ownership structure to the NVDC:
- (1) The vessel's current ownership structure;
 - (2) The identity of all non-citizen owners and the percentages of their ownership interest in the vessel;
 - (3) Any changes in the ownership structure that have occurred since you last submitted evidence of the vessel's ownership structure to the NVDC; and
 - (4) A statement ensuring that no interest in the vessel was transferred to a non-citizen during the previous year.

§ 67.352 Applicability.

The exemption in this subpart shall not be available to:

- (a) Owners and mortgagees of a fishing vessel less than 100 feet in length who acquired an interest in the vessel after October 1, 2001; or
- (b) Owners of a fishing vessel less than 100 feet in length, if any ownership interest in that vessel is transferred to or otherwise acquired by a non-U.S. citizen after October 1, 2001.

Subparts W–X [Reserved]

Subpart Y—Fees

§ 67.500 Applicability.

- (a) This subpart specifies documentation services provided for vessels for which fees are applicable. No documentation service for which a fee is applicable will be performed until the appropriate fee has been paid. Fees are contained in Table 67.550.
- (b) There is no fee for the annual renewal of endorsements upon the Certificate of Documentation, unless renewal is late.
- (c) There is no fee for replacement of a Certificate of Documentation due to a wrongful withholding.
- (d) The Director, National Vessel Documentation Center may waive collection of fees applicable under this subpart for a service provided to a Federal agency when the fee would be directly paid with federally-appropriated funds by a Federal agency acting in its own behalf.
- (e) Application fees under this subpart are not refundable.

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 95–014, 60 FR 31605, June 15, 1995; CGD 95–070, 60 FR 40241, Aug. 7, 1995; USCG–1998– 4442, 63 FR 52191, Sept. 30, 1998]

§ 67.501 Application for Certificate of Documentation.

An application fee is charged for an initial Certificate of Documentation in accordance with subpart K of this part. If application is made for any trade endorsement, the applicable fee under §67.511 will be charged in addition to the application fee for the Certificate. The application fee does not include the fee under §67.527 for filing and recording any required bills of sale or instruments in the nature of a bill of sale, or the application fee under §67.519 for waivers in accordance with §§67.89 or 67.101.

§ 67.503 Application for exchange or replacement of a Certificate of Documentation.

- (a) An application fee is charged for exchange or the simultaneous exchange and replacement of a Certificate of Documentation in accordance with subpart K of this part. Only a single application fee will be assessed when two or more reasons for exchange occur simultaneously. If application is made for any trade endorsement, the applicable fee under §67.511 will be charged in addition to the application fee for the exchange or replacement.

(b) The application fee for exchange or replacement does not apply to:

- (1) Endorsement of a change in the owner's address;
- (2) Exchange or replacement solely by reason of clerical error on the part of a documentation officer; or
- (3) Deletion of a vessel from documentation.

§ 67.505 Application for return of vessel to documentation.

An application fee is charged for a return of a vessel to documentation after deletion in accordance with subpart K of this part. If application is made for any trade endorsement, the applicable fee under §67.511 will be charged in addition to the application fee for return to documentation.

§ 67.507 Application for replacement of lost or mutilated Certificate of Documentation.

An application fee is charged for replacement of a lost or mutilated Certificate of Documentation in accordance with subpart K of this part.

§ 67.509 Application for approval of exchange of Certificate of Documentation requiring mortgagee consent.

An application fee is charged for approval of exchange of a Certificate of Documentation requiring mortgagee consent in accordance with subpart K of this part.

§ 67.511 Application for trade endorsement(s).

(a) *Coastwise or Great Lakes endorsement.* An application fee is charged for a coastwise or a Great Lakes endorsement, or both, in accordance with subpart B of this part.

(b) *Coastwise Bowaters endorsement.* An application fee is charged for a coastwise Bowaters endorsement in accordance with 46 CFR part 68.

(c) *Fishery endorsement.* An application fee is charged for a fishery endorsement in accordance with subpart B of this part.

(d) *Registry or recreational endorsement.* There is no application fee for a registry or recreational endorsement, or both.

(e) When multiple trade endorsements are requested on the same application, only the single highest applicable endorsement fee will be charged.

§ 67.513 Application for evidence of deletion from documentation.

An application fee is charged for evidence of deletion from documentation in accordance with subpart L of this part.

§ 67.515 [Reserved]

§ 67.517 Application for late renewal.

An application fee is charged for a late renewal in accordance with subpart L of this part.

§ 67.519 Application for waivers.

An application fee is charged for waiver of original build evidence in accordance with subpart F of this part, or for waiver of bill of sale eligible for filing and recording in accordance with subpart E of this part. In cases where more than one waiver is required, each waiver application is subject to this fee.

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993, as amended by USCG–1998–4442, 63 FR 52191, Sept. 30, 1998]

§ 67.521 Application for new vessel determination.

An application fee is charged for a new vessel determination in accordance with subpart M of this part.

§ 67.523 Application for wrecked vessel determination.

An application fee is charged for a determination of whether a vessel is entitled to coastwise, Great Lakes, and fisheries privileges as a result of having been wrecked in waters adjacent to the United States and repaired in accordance with subpart J of this part. This fee is in addition to the cost associated with the vessel appraisals.

§ 67.525 Application for determination of rebuild.

An application fee is charged for a determination of whether a vessel has been rebuilt in accordance with subpart M of this part. This fee will be assessed for each request for either a preliminary or final determination submitted in writing by the vessel owner or the vessel owner's representative.

§ 67.527 Application for filing and recording bills of sale and instruments in the nature of a bill of sale.

An application fee is charged for filing and recording bills of sale and instruments in the nature of a bill of sale in accordance with subpart P of this part.

§ 67.529 Application for filing and recording mortgages and related instruments.

An application fee is charged for filing and recording mortgages and related instruments in accordance with subpart Q of this part.

§ 67.531 Application for filing and recording notices of claim of lien.

An application fee is charged for filing and recording notices of claim of lien in accordance with subpart R of this part.

§ 67.533 Application for Certificate of Compliance.

An application fee is charged for a Certificate of Compliance to be issued in accordance with regulations set forth in 46 CFR part 68.

§ 67.535 Issuance of Abstract of Title.

An issuance fee is charged for a General Index or Abstract of Title in accordance with subpart T of this part.

§ 67.537 Issuance of Certificate of Ownership.

An issuance fee is charged for a Certificate of Ownership in accordance with subpart T of this part. A supplemental issuance fee is charged for a Certificate of Ownership attachment for each additional vessel with the same ownership and encumbrance information.

§ 67.539 Copies of instruments and documents.

The fee charged for furnishing a copy of any instrument or document is calculated in the same manner as described in 49 CFR 7.95.

[CGD 94-008, 59 FR 49847, Sept. 30, 1994]

§ 67.550 Fee table.

The fees charged under subpart Y are as set forth in Table 67.550.

Table 67.550—Fees

Activity	Reference	Fee
Applications:		
Initial certificate of documentation	Subpart K	\$133.00
Exchange of certificate of documentation	do	84.00
Return of vessel to documentation	do	84.00
Replacement of lost or mutilated certificate of documentation	do	50.00
Approval of exchange of certificate of documentation requiring mortgagee consent	do	24.00
Trade endorsement(s):		
Coastwise endorsement	Subpart B	29.00
Coastwise Bowaters endorsement	46 CFR part 68	29.00
Great Lakes endorsement	Subpart B	29.00
Fishery endorsement	do	12.00
Registry endorsement	do	none
Recreational endorsement	do	none
<p>Note: When multiple trade endorsements are requested on the same application, only the single highest applicable endorsement fee will be charged, resulting in a maximum endorsement fee of \$29.00.</p>		
Evidence of deletion from documentation	Subpart L	15.00
Late renewal fee	do	5.00
Waivers:		
Original build evidence	Subpart F	15.00
Bill of sale eligible for filing and recording	Subpart E	15.00
Miscellaneous applications:		
Wrecked vessel determination	Subpart J	555.00
New vessel determination	Subpart M	166.00
Rebuild determination—preliminary or final	do	450.00
Filing and recording:		
Bills of sale and instruments in nature of bills of sale	Subpart P	8.00(1)
Mortgages and related instruments	Subpart Q	4.00(1)
Notice of claim of lien and related instruments	Subpart R	8.00(1)
Certificate of compliance: Certificate of compliance	46 CFR part 68	55.00
Miscellaneous:		
Abstract of Title	Subpart T	25.00
Certificate of ownership	do	125.00
Attachment for each additional vessel with same ownership and encumbrance data	do	10.00
Copy of instrument or document	(2)	(2)

¹Per page.

²Fees will be calculated in accordance with 49 CFR 7.95.

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65243, Dec. 13, 1993, as amended by CGD 95–014, 60 FR 31605, June 15, 1995; CGD 95–070, 60 FR 40242, Aug. 7, 1995; USCG–2007–28098, 72 FR 42313, Aug. 2, 2007]

**50 CFR PART 660, SUBPART G
FEDERAL PACIFIC COAST GROUND FISH REGULATIONS
FOR COMMERCIAL AND RECREATIONAL FISHING
3-200 NAUTICAL MILES
OFF WASHINGTON, OREGON, AND CALIFORNIA**

UNDER THE AUTHORITY OF
THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT
and
THE PACIFIC COAST GROUND FISH FISHERY MANAGEMENT PLAN



Based on the 2007-2008 harvest specifications and management measures final rule at 71 FR 78638, December 29th, 2006, as subsequently modified:

correction to spex final rule - 72 FR 13043, March 30, 2007

2007 harvest specifications for Pacific whiting; april inseason changes to 2007-2008 specs – 72 FR 19390, April 18, 2007

Discrepancies or errors will be resolved in favor of the Federal Register.

Prepared by: Northwest Region, National Marine Fisheries Service
7600 Sand Point Way NE, Seattle, WA 98115

50 CFR CHAPTER VI
PART 660—FISHERIES OFF WEST COAST AND WESTERN PACIFIC STATES

Subpart A—General

- 660.1 Purpose and scope.
- 660.2 Relation to other laws.
- 660.3 Reporting and recordkeeping.

Subpart G—West Coast Groundfish

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- 660.302 Definitions.
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- 660.399 EFH Conservation Areas off the Coast of California.

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

Subpart A – General

§ 660.1 Purpose and scope.

- (a) The regulations in this part govern fishing for West Coast fishery management unit species by vessels of the United States that operate or are based inside the outer boundary of the EEZ off West Coast States.
- (b) General regulations governing fishing by all vessels of the United States and by fishing vessels other than vessels of the United States are contained in part 600 of this chapter.
- (c) Regulations governing the harvest, possession, landing, purchase, and sale of shark fins are found at part 600, subpart N, of this chapter.

§ 660.2 Relation to other laws.

NMFS recognizes that any state law pertaining to vessels registered under the laws of that state while operating in the fisheries regulated under this part, and that is consistent with this part and the FMPs implemented by this part, shall continue in effect with respect to fishing activities regulated under this part.

§ 660.3 Reporting and recordkeeping.

Any person who is required to do so by applicable state law or regulation must make and/or file all reports of management unit species landings containing all data and in the exact manner required by applicable state law or regulation.

* * * * [subparts B through F for other fisheries would go here]

Subpart G – West Coast Groundfish Fisheries

§ 660.301 Purpose and scope. {revised at 71 FR 27408, May 11, 2006}

- (a) This subpart implements the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) developed by the Pacific Fishery Management Council. This subpart governs fishing vessels of the U. S. in the EEZ off the coasts of Washington, Oregon, and California. All weights are in round weight or round-weight equivalents, unless specified otherwise.
- (b) Any person fishing subject to this subpart is bound by the international boundaries described in this section, notwithstanding any dispute or negotiation between the U.S. and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are established or recognized by the U. S.

§ 660.302 Definitions. {revised at 69 FR 57874, September 28, 2004; corrected at 69 FR 61157, October 15, 2004; revised at 69 FR 77012, December 23, 2004; revised at 71 FR 10614, March 2, 2006; revised at 71 FR 27408, May 11, 2006; revised at 71 FR 78638, December 29, 2006}

Active sampling unit means a portion of the groundfish fleet in which an observer coverage plan is being applied.

Address of record. Address of Record means the business address of a person, partnership, or corporation used by NMFS to provide notice of actions.

Allocation. (See §600.10).

Base permit. with respect to a limited entry permit stacking program, means a limited entry permit described at §660.333(a) registered for use with a vessel that meets the permit length endorsement requirements appropriate to that vessel, as described at §660.334(c).

Biennial fishing period means a 24-month period beginning at 0001 local time on January 1 and ending at 2400 local time on December 31 of the subsequent year. BMS Y means the biomass level that produces maximum sustainable yield (MSY), as stated in the PCGFMP at Section 4.2. {added at 71 FR 78638, December 29, 2006}

Catch, take, harvest. (See §600.10).

Change in partnership or corporation means the addition of a new shareholder or partner to the corporate or partnership membership. This definition of a “change” will apply to any person added to the corporate or partnership membership since November 1, 2000, including any family member of an existing shareholder or partner. A change in membership is not considered to have occurred if a member dies or becomes legally incapacitated and a trustee is appointed to act on his behalf, nor if the ownership of shares among existing members changes, nor if a member leaves the corporation or partnership and is not replaced. Changes in the ownership of publicly held stock will not be deemed changes in ownership of the corporation.

Closure. when referring to closure of a fishery, means that taking and retaining, possessing, or landing the particular species or species group is prohibited. Unless otherwise announced in the *Federal Register*, offloading must begin before the time the fishery closes.

Commercial fishing means:

(1) Fishing by a person who possesses a commercial fishing license or is required by law to possess such license issued by one of the states or the Federal Government as a prerequisite to taking, landing and/or sale; or

(2) Fishing that results in or can be reasonably expected to result in sale, barter, trade or other disposition of fish for other than personal consumption.

Commercial harvest guideline or commercial quota means the harvest guideline or quota after subtracting any allocation for the Pacific Coast treaty Indian tribes, projected research catch, recreational fisheries set-asides or harvest guidelines, deductions for fishing mortality in nongroundfish fisheries, as necessary, and set-asides for compensation fishing under §660.350. Limited entry and open access allocations are derived from the commercial harvest guideline or quota. {revised at 71 FR 78638, December 29, 2006}

Corporation is a legal, business entity, including incorporated (INC) and limited liability corporations (LLC). {added at 71 FR 10614, March 2, 2006}

Council means the Pacific Fishery Management Council, including its Groundfish Management Team, Scientific and Statistical Committee (SSC), Groundfish Advisory Subpanel (GAP), and any other committee established by the Council.

Direct financial interest means any source of income to or capital investment or other interest held by an individual, partnership, or corporation or an individual's spouse, immediate family member or parent that could be influenced by performance or non-performance of observer duties.

Essential Fish Habitat or EFH. (See §600.10). {added at 71 FR 27408, May 11, 2006}

Exempted gear means all types of fishing gear except longline, trap (or pot), and groundfish trawl gear. Exempted gear includes trawl gear used to take pink shrimp, ridgeback prawns, California halibut south of Pt. Arena, CA, and sea cucumber south of Pt. Arena, CA under the authority of a State of California limited entry permit for the sea cucumber fishery.

Fishery (See §600.10). {added at 69 FR 77012, December 23, 2004}

Fishery management area means the EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nm offshore, and bounded on the north by the Provisional International Boundary between the U.S. and Canada, and bounded on the south by the International Boundary between the U.S. and Mexico. The inner boundary of the fishery management area is a line coterminous with the seaward boundaries of the States of Washington, Oregon, and California (the “3-mile limit”). The outer boundary of the fishery management area is a line drawn in such a manner that each point on it is 200 nm from the baseline from which the territorial sea is measured, or is a provisional or permanent international boundary between the U. S. and Canada or Mexico. All groundfish possessed between 0–200 nm offshore or landed in Washington, Oregon, or California are presumed to have been taken and retained from the EEZ, unless otherwise demonstrated by the person in possession of those fish.

Fishing. (See §600.10).

Fishing gear includes the following types of gear and equipment: {revised at 69 FR 77012, December 23, 2004; revised at 71 FR 27408, May 11, 2006; revised at 71 FR 78638, December 29, 2006}

(1) Bottom contact gear. Fishing gear designed or modified to make contact with the bottom. This includes, but is not limited to, beam trawl, bottom trawl, dredge, fixed gear, set net, demersal seine, dinglebar gear, and other gear (including experimental gear) designed or modified to make contact with the bottom. Gear used to harvest bottom dwelling organisms (e.g. by hand, rakes, and knives) are also considered bottom contact gear for purposes of this subpart.

(2) Demersal seine. A net designed to encircle fish on the seabed. The Demersal seine is characterized by having its net bounded by lead-weighted ropes that are not encircled with bobbins or rollers. Demersal seine gear is fished without the use of steel cables or otter boards (trawl doors). Scottish and Danish Seines are demersal seines. Purse seines, as defined at §600.10, are not demersal seines. Demersal seine gear is included in the definition of bottom trawl gear in (1)(i) of this subsection.

(3) Dredge gear. Dredge gear, with respect to the U.S. West Coast EEZ, refers to a gear consisting of a metal frame attached to a holding bag constructed of metal rings or mesh. As the metal frame is dragged upon or above the seabed, fish are pushed up and over the frame, then into the mouth of the holding bag.

(4) Entangling nets include the following types of net gear:

(i) Gillnet. (See §600.10).

(ii) Set net. A stationary, buoyed, and anchored gillnet or trammel net.

(iii) Trammel net. A gillnet made with two or more walls joined to a common float line.

(5) Fixed gear (anchored nontrawl gear) includes the following gear types: longline, trap or pot, set net, and stationary hook-and-line (including commercial vertical hook-and-line) gears.

(6) Hook-and-line. One or more hooks attached to one or more lines. It may be stationary (commercial vertical hook-and-line) or mobile (troll). (i) Bottom longline. A stationary, buoyed, and anchored groundline with hooks attached, so as to fish along the seabed. It does not include pelagic hook-and-line or troll gear.

(ii) Commercial vertical hook-and-line. Commercial fishing with hook-and-line gear that involves a single line anchored at the bottom and buoyed at the surface so as to fish vertically.

(iii) Dinglebar gear. One or more lines retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way.

(iv) Troll gear. A lure or jig towed behind a vessel via a fishing line. Troll gear is used in commercial and recreational fisheries.

(7) Mesh size. The opening between opposing knots. Minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot, regardless of twine size.

(8) Nontrawl gear. All legal commercial groundfish gear other than trawl gear.

(9) Spear. A sharp, pointed, or barbed instrument on a shaft.

(10) Trap or pot. These terms are used as interchangeable synonyms. See §600.10 definition of "trap".

(11) Trawl gear. (See §600.10)

(i) Bottom trawl. A trawl in which the otter boards or the footrope of the net are in contact with the seabed. It includes demersal seine gear, and pair trawls fished on the bottom. Any trawl not meeting the requirements for a midwater trawl in §660.381 is a bottom trawl.

(A) Beam trawl gear. A type of trawl gear in which a beam is used to hold the trawl open during fishing. Otter boards or doors are not used.

(B) Large footrope trawl gear. Large footrope gear is bottom trawl gear with a footrope diameter larger than 8 inches (20 cm.) and no larger than 19 inches (48 cm) including any rollers, bobbins, or other material encircling or tied along the length of the footrope.

(C) Small footrope trawl gear. Small footrope trawl gear is bottom trawl gear with a footrope diameter of 8 inches (20 cm) or smaller, including any rollers, bobbins, or other material encircling or tied along the length of the footrope. Selective flatfish trawl gear that meets the gear component requirements in §660.381 is a type of small footrope trawl gear.

(ii) Midwater (pelagic or off-bottom) trawl. A trawl in which the otter boards and footrope of the net remain above the seabed. It includes pair trawls if fished in midwater. A midwater trawl has no rollers or bobbins on any part of the net or its component wires, ropes, and chains. For additional midwater trawl gear requirements and restrictions, see §660.381(b). {revised at 71 FR 78638, December 29, 2006}

(iii) Trawl gear components.

(A) Breastline. A rope or cable that connects the end of the headrope and the end of the trawl fishing line along the edge of the trawl web closest to the towing point.

(B) Chafing gear. Webbing or other material attached to the codend of a trawl net to protect the codend from wear.

(C) Codend. (See §600.10).

(D) Double-bar mesh. Webbing comprised of two lengths of twine tied into a single knot.

(E) Double-walled codend. A codend constructed of two walls of webbing.

(F) Footrope. A chain, rope, or wire attached to the bottom front end of the trawl webbing forming the leading edge of the bottom panel of the trawl net, and attached to the fishing line.

(G) Headrope. A chain, rope, or wire attached to the trawl webbing forming the leading edge of the top panel of the trawl net.

(H) Rollers or bobbins are devices made of wood, steel, rubber, plastic, or other hard material that encircle the trawl footrope. These devices are commonly used to either bounce or pivot over seabed obstructions, in order to prevent the trawl footrope and net from snagging on the seabed.

(I) Single-walled codend. A codend constructed of a single wall of webbing knitted with single or double-bar mesh.

(J) Trawl fishing line. A length of chain, rope, or wire rope in the bottom front end of a trawl net to which the webbing or lead ropes are attached.

(K) Trawl riblines. Heavy rope or line that runs down the sides, top, or underside of a trawl net from the mouth of the net to the terminal end of the codend to strengthen the net during fishing.

Fishing trip is a period of time between landings when fishing is conducted. Fishing vessel. (See §600.10).

Fishing year is the year beginning at 0001 local time on January 1 and ending at 2400 local time on December 31 of the same year. There are two fishing years in each biennial fishing period.

Grandfathered or first generation, when referring to a limited entry sablefish-endorsement permit owner, means those permit owners who owned a sablefish-endorsement limited entry permit prior to November 1, 2000, and are, therefore, exempt from certain requirements of the sablefish permit stacking program within the parameters of the regulations at §§660.334 through 660.341 and §660.372. {added at 71 FR 10614, March 2, 2006}

Groundfish means species managed by the PCGFMP, specifically: {revised at 69 FR 57874.

September 28, 2004; corrected at 69 FR 61157, October 15, 2004; revised at 69 FR 77012, December 23, 2004; revised at 71 FR 78638, December 29, 2006}

(1) Sharks: leopard shark, *Triakis semifasciata*; soupfin shark, *Galeorhinus zyopterus*; spiny dogfish, *Squalus acanthias*.

(2) Skates: big skate, *Raja binoculata*; California skate, *R. inornata*; longnose skate, *R. rhina*.

(3) Ratfish: ratfish, *Hydrolagus colliei*.

(4) Morids: finescale codling, *Antimora microlepis*.

(5) Grenadiers: Pacific rattail, *Coryphaenoides acrolepis*.

(6) Roundfish: cabezon, *Scorpaenichthys marmoratus*; kelp greenling, *Hexagrammos decagrammus*; lingcod, *Ophiodon elongatus*; Pacific cod, *Gadus macrocephalus*; Pacific whiting, *Merluccius productus*; sablefish, *Anoplopoma fimbria*.

(7) Rockfish: In addition to the species below, longspine thornyhead, *S. alivivis*, and shortspine thornyhead, *S. alascanus*, "rockfish" managed under the PCGFMP include all genera and species of the family Scorpaenidae that occur off Washington, Oregon, and California, even if not listed below. The Scorpaenidae genera are *Sebastes*, *Scorpaena*, *Scorpaenodes*, and *Sebastolobus*. Where species below are listed both in a major category (nearshore, shelf, slope) and as an area-specific listing (north or south of 40°10' N. lat.) those species are considered "minor" in the geographic area listed.

(i) Nearshore rockfish includes black rockfish, *Sebastes melanops* and the following minor nearshore rockfish species:

(A) North of 40° 10' N. lat.: black and yellow rockfish, *S. chrysomelas*; blue rockfish, *S. mystinus*; brown rockfish, *S. auriculatus*; calico rockfish, *S. dalli*; China rockfish, *S. nebulosus*; copper rockfish, *S. caurinus*; gopher rockfish, *S. carnatus*; grass rockfish, *S. rastrelliger*; kelp rockfish, *S. atrovirens*; olive rockfish, *S. serranoides*; quillback rockfish, *S. maliger*; treefish, *S. serripes*.

(B) South of 40° 10' N. lat., nearshore rockfish are divided into three management categories:

(1) Shallow nearshore rockfish consists of black and yellow rockfish, *S. chrysomelas*; China rockfish, *S. nebulosus*; gopher rockfish, *S. carnatus*; grass rockfish, *S. rastrelliger*; kelp rockfish, *S. atrovirens*.

(2) Deeper nearshore rockfish consists of black rockfish, *S. melanops*, blue rockfish, *S. mystinus*; brown rockfish, *S. auriculatus*; calico rockfish, *S. dalli*; copper rockfish, *S. caurinus*; olive rockfish, *S. serranoides*; quillback rockfish, *S. maliger*; treefish, *S. serripes*.

(3) California scorpionfish, *Scorpaena guttata*.

(ii) Shelf rockfish includes bocaccio, *Sebastes paucispinis*; canary rockfish, *S. pinniger*; chilipepper, *S. goodei*; cowcod, *S. levis*; shortbelly rockfish, *S. jordani*; widow rockfish, *S. entomelas*; yelloweye rockfish, *S. ruberrimus*; yellowtail rockfish, *S. flavidus* and the following minor shelf rockfish species:

(A) North of 40° 10' N. lat.: bronzespotted rockfish, *S. gilli*; bocaccio, *Sebastes paucispinis*; chameleon rockfish, *S. phillipsi*; chilipepper, *S. goodei*; cowcod, *S. levis*; dusky rockfish, *S. ciliatus*; dwarf-red, *S. rufianus*; flag rockfish, *S. rubrivinctus*; freckled, *S. lentiginosus*; greenblotched rockfish, *S. rosenblatti*; green spotted rockfish, *S. chlorostictus*; greenstriped rockfish, *S. elongatus*; halfbanded rockfish, *S. semicinctus*; harlequin rockfish, *S. variegatus*; honeycomb rockfish, *S. umbrosus*; Mexican rockfish, *S. macdonaldi*; pink rockfish, *S. eos*; pinkrose rockfish, *S. simulator*; pygmy rockfish, *S. wilsoni*; redstripe rockfish, *S. proriger*; rosethorn rockfish, *S. helvomaaculatus*; rosy rockfish, *S. rosaceus*; silvergray rockfish, *S. brevispinis*; speckled rockfish, *S. ovalis*; squarespot rockfish, *S. hopkinsi*; stary rockfish, *S. constellatus*; striptail rockfish, *S. saxicola*; swordspine rockfish, *S. ensifer*; tiger rockfish, *S. nigrocinctus*; vermilion rockfish, *S. miniatus*.

(B) South of 40° 10' N. lat.: bronzespotted rockfish, *S. gilli*; chameleon rockfish, *S. phillipsi*; dusky rockfish, *S. ciliatus*;

dwarf-red rockfish, *S. rufianus*; flag rockfish, *S. rubrivinctus*; freckled, *S. lentiginosus*; greenblotched rockfish, *S. rosenblatti*; greenspotted rockfish, *S. chlorostictus*; greenstriped rockfish, *S. elongatus*; halfbanded rockfish, *S. semicinctus*; harlequin rockfish, *S. variegatus*; honeycomb rockfish, *S. umbrosus*; Mexican rockfish, *S. macdonaldi*; pink rockfish, *S. eos*; pinkrose rockfish, *S. simulator*; pygmy rockfish, *S. wilsoni*; redstripe rockfish, *S. proriger*; rosethorn rockfish, *S. helvomaaculatus*; rosy rockfish, *S. rosaceus*; silvergray rockfish, *S. brevispinis*; speckled rockfish, *S. ovalis*; squarespot rockfish, *S. hopkinsi*; starry rockfish, *S. constellatus*; striptail rockfish, *S. saxicola*; swordspine rockfish, *S. ensifer*; tiger rockfish, *S. nigrocinctus*; vermilion rockfish, *S. miniatus*; yellowtail rockfish, *S. flavidus*.

(iii) Slope rockfish includes darkblotched rockfish, *S. crameri*; Pacific ocean perch, *S. alutus*; splitnose rockfish, *S. diploproa* and the following minor slope rockfish species:

(A) North of 40° 10' N. lat.: aurora rockfish, *Sebastes aurora*; bank rockfish, *S. rufus*; blackgill rockfish, *S. melanostomus*; redbanded rockfish, *S. babcocki*; rougheye rockfish, *S. aleutianus*; sharpchin rockfish, *S. zacentrus*; shortraker rockfish, *S. borealis*; splitnose rockfish, *S. diploproa*; yellowmouth rockfish, *S. reedi*.

(B) South of 40° 10' N. lat.: aurora rockfish, *Sebastes aurora*; bank rockfish, *S. rufus*; blackgill rockfish, *S. melanostomus*; Pacific ocean perch, *S. alutus*; redbanded rockfish, *S. babcocki*; rougheye rockfish, *S. aleutianus*; sharpchin rockfish, *S. zacentrus*; shortraker rockfish, *S. borealis*; yellowmouth rockfish, *S. reedi*.

(8) **Flatfish**: Flatfish: arrowtooth flounder (arrowtooth turbot), *Atheresthes stomias*; butter sole, *Isopsetta isolepis*; curlfin sole, *Pleuronichthys decurrens*; Dover sole, *Microstomus pacificus*; English sole, *Parophrys vetulus*; flathead sole, *Hippoglossoides elassodon*; Pacific sanddab, *Citharichthys sordidus*; petrale sole, *Eopsetta jordani*; rex sole, *Glyptocephalus zachirus*; rock sole, *Lepidopsetta bilineata*; sand sole, *Psetichthys melanostictus*; starry flounder, *Platichthys stellatus*. Where regulations of this subpart refer to landings limits for "other flatfish," those limits apply to all flatfish cumulatively taken except for those flatfish species specifically listed in Tables 1–2 of this subpart. (i.e., "other flatfish" includes butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.) {revised at 71 FR 78638, December 29, 2006}

(9) "Other fish": Where regulations of this subpart refer to landings limits for "other fish," those limits apply to all groundfish listed here in paragraphs (1)–(8) of this definition except for the following: those groundfish species specifically listed in Tables 1–2 of this subpart with an ABC for that area (generally north and/or south of 40° 10' N. lat.); and Pacific cod and spiny dogfish coastwide. (i.e., "other fish" may include all sharks (except spiny dogfish), skates, ratfish, morids, grenadiers, and kelp greenling listed in this section, as well as cabezon in the north.) {revised at 71 FR 78638, December 29, 2006}

Groundfish Conservation Area or GCA means a geographic area defined by coordinates expressed in degrees latitude and longitude, wherein fishing by a particular gear type or types may be prohibited. GCAs are created and enforced for the purpose of contributing to the rebuilding of overfished West Coast groundfish species. Regulations at §660.390 define coordinates for these polygonal GCAs: Yelloweye Rockfish Conservation Areas, Cowcod Conservation Areas, waters encircling the Farallon Islands, and waters encircling the Cordell Banks. GCAs also include Rockfish Conservation Areas or RCAs, which are areas closed to fishing by particular gear types, bounded by lines approximating particular depth contours. RCA boundaries may and do change seasonally according to the different conservation needs of the different overfished species. Regulations at §§660.390 through 660.394 define RCA boundary lines with latitude/longitude coordinates; regulations at Tables 3–5 of Part 660 set RCA seasonal boundaries. Fishing prohibitions associated with GCAs are in addition to those associated with Essential Fish Habitat Conservation Areas, regulations which are provided at §660.306 and §§660.396 through 660.399. {revised at 71 FR 78638, December 29, 2006}

Groundfish trawl means trawl gear that is used under the authority of a valid limited entry permit issued under this subpart endorsed for trawl gear. It does not include any type of trawl gear listed as "exempted gear."

Harvest guideline means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require closure of a fishery. IAD means Initial Agency Decision.

Incidental catch or incidental species means groundfish species caught while fishing for the primary purpose of catching a different species.

Land or landing means to begin transfer of fish, offloading fish, or to offload fish from any vessel. Once transfer of fish begins, all fish aboard the vessel are counted as part of the landing.

{revised at 69 FR 77012, December 23, 2004}

Legal fish means fish legally taken and retained, possessed, or landed in accordance with the provisions of 50 CFR part 660, the Magnuson-Stevens Act, any document issued under part 660, and any other regulation promulgated or permit issued under the Magnuson-Stevens Act.

Length overall (LOA) (with respect to a vessel) means the length overall set forth in the Certificate of Documentation (CG-1270) issued by the USCG for a documented vessel, or in a registration certificate issued by a state or the USCG for an undocumented vessel; for vessels that do not have the LOA stated in an official document, the LOA is the LOA as determined by the USCG or by a marine surveyor in accordance with the USCG method for measuring LOA.

Limited entry fishery means the fishery composed of vessels registered for use with limited entry permits. {revised at 71 FR 78638, December 29, 2006}

Limited entry gear means longline, trap (or pot), 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 the Federal permit required to participate in the limited entry fishery, and includes any gear, size, or species endorsements affixed to the permit. {revised at 71 FR 78638, December 29, 2006}

Maximum Sustainable Yield or MSY. (See §600.310).

Mobile transceiver unit means a vessel monitoring system or VMS device, as set forth at §660.312, installed on board a vessel that is used for vessel monitoring and transmitting the vessel's position as required by this subpart.

North-South management area means the management areas defined in paragraph (1) of this definition, or defined and bounded by one or more of the commonly used geographic coordinates set out in paragraph (2) of this definition for the purposes of implementing different management measures in separate geographic areas of the U. S. West Coast. {revised at 69 FR 77012, December 23,

2004; corrected at 70 FR 13118, March 18, 2005; revised at 70 FR 16145, March 30, 2005; revised at 71 FR 78638, December 29, 2006}

(1) **Management areas**-(i) **Vancouver.**

(A) The northeastern boundary is that part of a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35.73' N. lat., 124°43.00' W. long.) south of the International Boundary between the U.S. and Canada (at 48°29.62' N. lat., 124°43.55' W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(B) The northern and northwestern boundary is a line connecting the following coordinates in the order listed, which is the provisional international boundary of the EEZ as shown on NOAA/NOS Charts 18480 and 18007:

Point	N. Lat.	W. Long.
1	48°29.62'	124°43.55'
2	48°30.18'	124°47.22'
3	48°30.37'	124°50.35'
4	48°30.23'	124°54.87'
5	48°29.95'	124°59.23'
6	48°29.73'	125°00.10'
7	48°28.15'	125°05.78'

8	.....48°27.17'	125°08.42'
9	.....48°26.78'	125°09.20'
10	.....48°20.27'	125°22.80'
11	.....48°18.37'	125°29.97'
12	.....48°11.08'	125°53.80'
13	.....47°49.25'	126°40.95'
14	.....47°36.78'	127°11.97'
15	.....47°22.00'	127°41.38'
16	.....46°42.08'	128°51.93'
17	.....46°31.78'	129°07.65'

-
- (C) The southern limit is 47°30' N. lat. (ii) Columbia.
- (A) The northern limit is 47°30' N. lat.
(B) The southern limit is 43°00' N. lat.
- (iii) Eureka.
- (A) The northern limit is 43°00' N. lat.
(B) The southern limit is 40°30' N. lat.
- (iv) Monterey.
- (A) The northern limit is 40°30' N. lat.
(B) The southern limit is 36°00' N. lat.
- (v) Conception.
- (A) The northern limit is 36°00' N. lat.
(B) The southern limit is the U.S.-Mexico International Boundary, which is a line connecting the following coordinates in the order listed:

Point		N. Lat.	W. Long.
1	32°35.37'	117°27.82'	
2	32°37.62'	117°49.52'	
3	31°07.97'	118°36.30'	
4	30°32.52'	121°51.97'	

(2) Commonly used geographic coordinates.

- (i) Cape Alava, WA--48°10.00' N. lat.
- (ii) Queets River, WA--47°31.70' N. lat.
- (iii) Pt. Chehalis, WA--46°53.30' N. lat.
- (iv) Leadbetter Point, WA--46°38.17' N. lat.
- (v) Washington/Oregon border--46° 16.00' N. lat.
- (vi) Cape Falcon, OR--45°46.00' N. lat.
- (vii) Cape Lookout, OR--45°20.25' N. lat.
- (viii) Cascade Head, OR--45°03.83' N. lat.
- (ix) Heceta Head, OR--44°08.30' N. lat.
- (x) Cape Argo, OR--43°20.83' N. lat.
- (xi) Cape Blanco, OR--42°50.00' N. lat.
- (xii) Humbug Mountain--42°40.50' N. lat.
- (xiii) Marck Arch, OR--42°13.67' N. lat.
- (xiv) Oregon/California border--42°00.00' N. lat.
- (xv) Cape Mendocino, CA--40°30.00' N. lat.
- (xvi) North/South management line--40° 10.00' N. lat.
- (xvii) Point Arena, CA--38°57.50' N. lat.
- (xviii) Point San Pedro, CA--37°35.67' N. lat.
- (xix) Pigeon Point, CA--37°11.00' N. lat.
- (xx) Ano Nuevo, CA--37°07.00' N. lat.
- (xxi) Point Lopez, CA--36°00.00' N. lat.
- (xxii) Point Conception, CA--34°27.00' N. lat. [Note: Regulations that apply to waters north of 34°27.00' N. lat. are applicable only west of 120°28.00' W. long.; regulations that apply to waters south of 34°27.00' N. lat. also apply to all waters both east of 120°28.00' W. long. and north of 34°27.00' N. lat.]

Observer Program or Observer Program Office means the West Coast Groundfish Observer Program (WCGOP) Office of the Northwest Fishery Science Center, National Marine Fisheries

Service, Seattle, Washington. {revised at 71 FR 78638, December 29, 2006}

Office of Law Enforcement (OLE) refers to the National Marine Fisheries Service, Office of Law Enforcement, Northwest Division. {revised at 71 FR 78638, December 29, 2006}

Open access fishery means the fishery composed of vessels using open access gear fished pursuant to the harvest guidelines, quotas, and other management measures governing the open access fishery. Any commercial fishing vessel that does not have a limited entry permit and which lands groundfish in the course of commercial fishing is a participant in the open access fishery.

Open access gear means all types of fishing gear except:

- (1) Longline or trap (or pot) gear fished by a vessel that has a limited entry permit affixed with a gear endorsement for that gear.
- (2) Trawl gear.

Optimum yield (OY) means the amount of fish that will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and, taking into account the protection of marine ecosystems, is prescribed as such on the basis of the MSY from the fishery, as reduced by any relevant economic, social, or ecological factor; and, in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the MSY in such fishery. OY may be expressed numerically (as a harvest guideline, quota, or other specification) or non-numerically.

Operator. (See §600.10).

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

Owner of a vessel or vessel owner, as used in this subpart, means a person identified as the current owner in the Certificate of Documentation (CG-1270) issued by the USCG for a documented vessel, or in a registration certificate issued by a state or the USCG for an undocumented vessel.

Ownership interest, with respect to a sablefish endorsed permit, means participation in ownership of a corporation, partnership, or other entity that owns a sablefish endorsed permit. Participation in ownership does not mean owning stock in a publicly owned corporation.

Pacific Coast Groundfish Fishery Management Plan (PCGFMP) means the Fishery Management Plan for the Washington, Oregon, and California Groundfish Fishery developed by the Pacific Fishery Management Council and approved by the Secretary on January 4, 1982, and as it may be subsequently amended.

Partnership is two or more individuals, partnerships, or corporations, or combinations thereof, who have ownership interest in a permit, including married couples and legally recognized trusts and partnerships, such as limited partnerships (LP), general partnerships (GP), and limited liability partnerships (LLP). {added at 71 FR 10614, March 2, 2006}

Permit holder means a vessel owner as identified on the United States Coast Guard form 1270 or state motor vehicle licensing document. {revised at 71 FR 10614, March 2, 2006}

Permit lessee means a person who has the right to possess and use a limited entry permit for a designated period of time, with reversion of those rights to the permit owner. A permit lessee does not have the right to transfer a permit or change the ownership of the permit.

Permit owner means a person who owns a limited entry permit.

Person, as it applies to limited entry and open access fisheries conducted under this subpart, means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a).

Processing or to process means the preparation or packaging of groundfish to render it suitable for human consumption, retail sale, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless additional preparation is done. {revised at 71 FR 78638, December 29, 2006}

- (1) At-sea processing means processing that takes place on a vessel or other platform that floats and is capable of being moved from one location to another, whether shore-based or on the water. {added at 71 FR 78638, December 29, 2006}
- (2) Shore-based processing or processing in the shore-based sector means processing that takes place at a facility that is permanently fixed to land. {added at 71 FR 78638, December 29, 2006}

Processor means person, vessel, or facility that engages in processing; or receives live groundfish directly from a fishing vessel for retail sale without further processing.

Prohibited species means those species and species groups whose retention is prohibited unless authorized by other applicable law (for example, to allow for examination by an authorized observer or to return tagged fish as specified by the tagging agency).

Quota means a specified numerical harvest objective, the attainment (or expected attainment) of which causes closure of the fishery for that species or species group.

Recreational fishing means fishing with authorized recreational fishing gear for personal use only, and not for sale or barter.

Regional Administrator means the Administrator, Northwest Region, NMFS. {revised at 71 FR 78638, December 29, 2006}

Reserve means a portion of the harvest guideline or quota set aside at the beginning of the fishing year or biennial fishing period to allow for uncertainties in preseason estimates.

Round weight (See §600.10). Round weight does not include ice, water, or slime. Scientific research activity. (See §600.10).

Secretary. (See §600.10).

Sell or sale. (See §600.10).

Specification is a numerical or descriptive designation of a management objective, including but not limited to: ABC; optimum yield; harvest guideline; quota; limited entry or open access allocation; a setaside or allocation for a recreational or treaty Indian fishery; an apportionment of the above to an area, gear, season, fishery, or other subdivision.

Spouse means a person who is legally married to another person as recognized by state law (i.e., one's wife or husband). {added at 71 FR 10614, March 2, 2006}

Stacking is the practice of registering more than one limited entry permit for use with a single vessel (See §660.335(c)). {added at 71 FR 10614, March 2, 2006}

Sustainable Fisheries Division (SFD) means the Chief, Sustainable Fisheries Division, Northwest Regional Office, NMFS, or a designee.

Target fishing means fishing for the primary purpose of catching a particular species or species group (the target species).

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).

Totally lost means the vessel being replaced no longer exists in specie, or is absolutely and irretrievably sunk or otherwise beyond the possible control of the owner, or the costs of repair (including recovery) would exceed the repaired value of the vessel.

Trip. (See §600.10).

Trip limits. Trip limits are used in the commercial fishery to specify the maximum amount of a fish species or species group that may legally be taken and retained, possessed, or landed, per vessel, per fishing trip, or cumulatively per unit of time, or the number of landings that may be made from a vessel in a given period of time, as follows:

- (1) A per trip limit is the total allowable amount of a groundfish species or species group, by weight, or by percentage of weight of legal fish on board, that may be taken and retained, possessed, or landed per vessel from a single fishing trip.
- (2) A daily trip limit is the maximum amount of a groundfish species or species group that may be taken and retained, possessed, or landed per vessel in 24 consecutive hours, starting at 0001 hours local time (l.t.) Only one landing of groundfish may be made in that 24-hour period. Daily trip limits may not be accumulated during multiple day trips.
- (3) A weekly trip limit is the maximum amount of a groundfish species or species group that may be taken and retained, possessed, or landed per vessel in 7 consecutive days, starting at 0001 hours l.t. on Sunday and ending at 2400 hours l.t. on Saturday. Weekly trip limits may not be accumulated during multiple week trips. If a calendar week falls within two different months or two different cumulative limit periods, a vessel is not entitled to two separate weekly limits during that week. {revised at 69 FR 77012, December 23, 2004}
- (4) A cumulative trip limit is the maximum amount of a groundfish species or species group that may be taken and retained, possessed, or landed per vessel in a specified period of time without a limit on the number of landings or trips, unless otherwise specified. The cumulative trip limit periods for limited entry and open access fisheries, which start at 0001 hours l.t. and end at 2400 hours l.t., are as follows, unless otherwise specified:
 - (i) The 2-month or "major" cumulative limit periods are: January 1–February 28/29, March 1–April 30, May 1–June 30, July 1–August 31, September 1–October 31, and, November 1–December 31.
 - (ii) One month means the first day through the last day of the calendar month.
 - (iii) One week means 7 consecutive days, Sunday through Saturday.

Vessel manager means a person or group of persons whom the vessel owner has given authority to oversee all or a portion of groundfish fishing activities aboard the vessel.

Vessel monitoring system or VMS means a vessel monitoring system or mobile transceiver unit as set forth in §660.312 and approved by NMFS for use on vessels that take (directly or incidentally) species managed under the Pacific Coast Groundfish FMP, as required by this subpart.

Vessel of the United States or U.S. vessel. (See §600.10).

§ 660.303 Reporting and recordkeeping. {revised at 71 FR 10614, March 2, 2006}

(a) This subpart recognizes that catch and effort data necessary for implementing the PCGFMP are collected by the States of Washington, Oregon, and California under existing state data collection requirements. Telephone surveys of the domestic industry may be conducted by NMFS to determine amounts of whiting that may be available for reallocation under 50 CFR 660.323(c). No Federal reports are required of fishers or processors, so long as the data collection and reporting systems operated by state agencies continue to provide NMFS with statistical information adequate for management.

- (b) Any person who is required to do so by the applicable state law must make and/or file, retain, or make available any and all reports (i.e., logbooks, fish tickets, etc.) of groundfish harvests and landings containing all data, and in the exact manner, required by the applicable state law.
- (c) Any person landing groundfish must retain on board the vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable state law throughout the cumulative limit period during which a landing occurred and for 15 days thereafter. For participants in the primary sablefish season (detailed at §660.372(b)), the cumulative limit period to which this requirement applies is April 1 through October 31. {revised at 71 FR 10614, March 2, 2006}
- (d) Reporting requirements for vessels fishing in conservation areas-
- (1) Declaration reports for trawl vessels intending to fish in a conservation area. The operator of any vessel registered to a limited entry permit with a trawl endorsement; any vessel using trawl gear, including exempted gear used to take pink shrimp, ridgeback prawns, California halibut and sea cucumber; or any tribal vessel using trawl gear must provide NMFS with a declaration report, as specified at §660.303(d)(5) of this section to identify the intent to fish within the CCA, as defined at §660.304, or any trawl RCA, as defined in the groundfish annual or biennial management measures that are published in the *Federal Register*.
- (2) Declaration reports for non-trawl vessels intending to fish in a conservation area. The operator of any vessel registered to a limited entry permit with a longline or pot endorsement must provide NMFS OLE with a declaration report, as specified at paragraph (d)(5) of this section, to identify the intent to fish within the CCA, as defined at §660.390, or any non-trawl RCA, as defined in the groundfish annual management measures that are published in the *Federal Register*.
- (3) When a declaration report for fishing in a conservation area is required, as specified in paragraphs (d)(1) and (d)(2) of this section, it must be submitted before the vessel leaves port:
- (i) On a trip in which the vessel will be used to fish in a conservation area for the first time during the calendar year;
- (ii) On a trip in which the vessel will be used to fish in a conservation area with a gear type that is different from the gear declaration provided on a valid declaration report as defined at paragraph 660.303(d)(6) of this section; or
- (iii) On a trip in which the vessel will be used to fish in a conservation area for the first time after a declaration report to cancel fishing in a conservation area was received by NMFS.
- (4) Declaration report to cancel fishing in a conservation area. The operator of any vessel that provided NMFS with a declaration report for fishing in a conservation area, as required at paragraphs (d)(1) or (d)(2) of this section, must submit a declaration report to NMFS OLE to cancel the current declaration report before the vessel leaves port on a trip in which the vessel is used to fish with a gear that is not in the same gear category set out in paragraph §660.303(d)(5)(i) declared by the vessel in the current declaration.
- (5) Declaration reports will include: the vessel name and/or identification number, and gear declaration (as defined in §660.303(d)(5)(i)). Upon receipt of a declaration report, NMFS will provide a confirmation code or receipt. Retention of the confirmation code or receipt to verify that the declaration requirement was met is the responsibility of the vessel owner or operator.
- (i) One of the following gear types must be declared:
- (A) Limited entry fixed gear,
- (B) Limited entry midwater trawl,
- (C) Limited entry bottom trawl,
- (D) Trawl gear including exempted gear used to take pink shrimp, ridgeback prawns, California halibut south of Pt. Arena, CA, and sea cucumber.
- (E) Tribal trawl,
- (F) Other gear including: gear used to take spot and ridgeback prawns, crab or lobster, Pacific halibut, salmon, California halibut, California sheephead, highly migratory species, species managed under the Coastal Pelagic Species Fishery Management Plan, and any species in the gillnet complex as managed by the State of California,
- (G) Non-trawl gear used to take groundfish.
- (ii) Declaration reports must be submitted through the VMS or another method that is approved by NMFS OLE and announced in the *Federal Register*. Other methods may include email, facsimile, or telephone. NMFS OLE will provide, through appropriate media, instructions to the public on submitting declaration reports. Instructions and other information needed to make declarations may be mailed to the limited entry permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the permit owner's actual address has changed without notification to NMFS, as required at §660.335(a)(2). Owners of vessels that are not registered to limited entry permits and owners of vessels registered to limited entry permits that did not receive instructions by mail are responsible for contacting NMFS OLE during business hours at least 3 days before the declaration is required to obtain information needed to make declaration reports. NMFS OLE must be contacted during business hours (Monday through Friday between 0800 and 1700 Pacific Time).
- (6) A declaration report will be valid until a declaration report to revise the existing gear declaration or a declaration report to cancel fishing in a conservation area is received by NMFS OLE. During the period that a vessel has a valid declaration report on file with NMFS, it cannot fish with a gear other than a gear type that is within the gear category (50 CFR 660.303(d)(5)) declared by the vessel. After a declaration report to cancel fishing in the RCA is received, that vessel must not fish in a conservation area until another declaration report for fishing by that vessel in a conservation area is received by NMFS.

§ 660.305 Vessel identification.

- (a) Display. The operator of a vessel that is over 25 ft (7.6 m) in length and is engaged in commercial fishing for groundfish must display the vessel's official number on the port and starboard sides of the deckhouse or hull, and on a weather deck so as to be visible from above. The number must contrast with the background and be in block Arabic numerals at least 18 inches (45.7 cm) high for vessels over 65 ft (19.8 m) long and at least 10 inches (25.4 cm) high for vessels between 25 and 65 ft (7.6 and 19.8 m) in length. The length of a vessel for purposes of this section is the length set forth in USCG records or in state records, if no USCG record exists.
- (b) Maintenance of numbers. The operator of a vessel engaged in commercial fishing for groundfish must keep the identifying markings required by paragraph (a) of this section clearly legible and in good repair, and must ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.
- (c) Commercial passenger vessels. This section does not apply to vessels carrying fishing parties on a per-capita basis or by charter.

§ 660.306 Prohibitions. {revised at 69 FR 77012, December 23, 2004; revised at 70 FR 16145, March 30, 2005; revised at 71 FR 10614, March 2, 2006; revised at 71 FR 27408, May 11, 2006; revised at 71 FR 66122, November 13, 2006; revised at 71 FR 78638, December 29, 2006}

In addition to the general prohibitions specified in §600.725 of this chapter, it is unlawful for any person to:

- (a) General.
- (1) Sell, offer to sell, or purchase any groundfish taken in the course of recreational groundfish fishing.
- (2) Retain any prohibited species (defined in §660.302 and restricted in §660.370(e)) caught by means of fishing gear authorized under this subpart, unless authorized by part 600 or part 300 of this chapter. Prohibited species must be returned to the sea as soon as practicable with a minimum of injury when caught and brought on board. {revised at 71 FR 78638, December 29, 2006}
- (3) Falsify or fail to affix and maintain vessel and gear markings as required by §660.305 or §§660.382 and 660.383. {revised at 70 FR 16145, March 30, 2005}
- (4) Fish for groundfish in violation of any terms or conditions attached to an EFP under §600.745 of this chapter or §660.350.
- (5) Fish for groundfish using gear not authorized in this subpart or in violation of any terms or conditions attached to an EFP under §660.350 or part 600 of this chapter. {revised at 70 FR 16145, March 30, 2005}
- (6) Take and retain, possess, or land more groundfish than specified under §§660.370 through 660.373 or §§660.381 through 660.385, or under an EFP issued under §660.350 or part 600 of this chapter. {revised at 69 FR 77012, December 23, 2004}
- (7) Fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, quota, harvest guideline, or OY, if the vessel fished or landed in an area during a time when such trip limit, size limit, quota, harvest guideline, or OY applied. {revised at 69 FR 77012, December 23, 2004; revised at 71 FR 66122, November 13, 2006}
- (8) Possess, deploy, haul, or carry onboard a fishing vessel subject to this subpart a set net, trap or pot, longline, or commercial vertical hook-and-line that is not in compliance with the gear restrictions in §§660.382 and 660.383, unless such gear is the gear of another vessel that has been retrieved

at sea and made inoperable or stowed in a manner not capable of being fished. The disposal at sea of such gear is prohibited by Annex V of the International Convention for the Prevention of Pollution From Ships, 1973 (Annex V of MARPOL 73/78). {revised at 70 FR 16145, March 30, 2005}

(9) When requested or required by an authorized officer, refuse to present fishing gear for inspection, refuse to present fish subject to such persons control for inspections; or interfere with a fishing gear or marine animal or plant life inspection. {revised at 71 FR 78638, December 29, 2006}

(10) Take, 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, fixed gear sablefish season from a vessel authorized under §660.372(a) to participate in that season, as described at §660.372(b).

(11) Take and retain, possess, or land groundfish in excess of the landing limit for the open access fishery without having a valid limited entry permit for the vessel affixed with a gear endorsement for the gear used to catch the fish.

(12) Transfer fish to another vessel at sea unless a vessel is participating in the primary whiting fishery as part of the mothership or catcher-processor sectors, as described at §660.373(a). {added at 69 FR 77012, December 23, 2004}

(13) Fish with dredge gear (defined in §660.302) anywhere within EFH within the EEZ. For the purposes of regulation, EFH within the EEZ is described at 660.395. {added at 71 FR 27408, May 11, 2006}

(14) Fish with beam trawl gear (defined in §660.302) anywhere within EFH within the EEZ. For the purposes of regulation, EFH within the EEZ is described at 660.395. {added at 71 FR 27408, May 11, 2006}

(b) Reporting and recordkeeping.

(1) Falsify or fail to make and/or file, retain or make available any and all reports of groundfish landings, containing all data, and in the exact manner, required by the applicable State law, as specified in §660.303, provided that person is required to do so by the applicable state law.

(2) Fail to retain on board a vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings, or receipts containing all data, and made in the exact manner required by the applicable state law throughout the cumulative limit period during which such landings occurred and for 15 days thereafter.

(3) Fail to retain on board a vessel from which sablefish caught in the primary sablefish season is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings against the sablefish endorsed permit's tier limit, or receipts containing all data, and made in the exact manner required by the applicable state law throughout the primary sablefish season during which such landings occurred and for 15 days thereafter. {added at 71 FR 10614, March 2, 2006}

(c) Limited entry fisheries.

(1) Fish with groundfish trawl gear, or carry groundfish trawl gear on board a vessel that also has groundfish on board, unless the vessel is registered for use with a valid limited entry permit with a trawl gear endorsement, with the following exception. {revised at 71 FR 78638, December 29, 2006}

(i) The vessel is in continuous transit from outside the fishery management area to a port in Washington, Oregon, or California; or

(ii) The vessel is a mothership, in which case trawl nets and doors must be stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.

(2) Carry on board a vessel, or deploy, limited entry gear when the limited entry fishery for that gear is closed, except that a vessel may carry on board limited entry groundfish trawl gear as provided in paragraph (c)(1) of this section. {revised at 71 FR 78638, December 29, 2006}

(d) Black rockfish fisheries. Have onboard a commercial hook-and-line fishing vessel (other than a vessel operated by persons under §660.370(c)(1)(ii), more than the amount of the trip limit set for black rockfish by §660.371 while that vessel is fishing between the U.S.-Canada border and Cape Alava (48°09'30" N. lat.), or between Destruction Island (47°40'00" N. lat.) and Leadbetter Point (46°38'10" N. lat.).

(e) Fixed gear sablefish fisheries. {revised at 71 FR 10614, March 2, 2006}

(1) Take, retain, possess or land sablefish under the cumulative limits provided for the primary limited entry, fixed gear sablefish season, described in §660.372(b), from a vessel that is not registered to a limited entry permit with a sablefish endorsement.

(2) Beginning January 1, 2007, take, retain, possess or land sablefish in the primary sablefish season described at §660.372(b) unless the owner of the limited entry permit registered for use with that vessel and authorizing the vessel to participate in the primary sablefish season is on board that vessel. Exceptions to this prohibition are provided at §660.372(b)(4)(i) and (ii).

(3) Beginning January 1, 2007, process sablefish taken at-sea in the limited entry primary sablefish fishery defined at §660.372(b), from a vessel that does not have a sablefish atsea processing exemption, defined at §660.334(e).

(f) Pacific whiting fisheries.

(1) Process whiting in the fishery management area during times or in areas where at-sea processing is prohibited for the sector in which the vessel participates, unless:

(i) The fish are received from a member of a Pacific Coast treaty Indian tribe fishing under §§660.324 or 660.385; {revised at 71 FR 78638, December 29, 2006}

(ii) The fish are processed by a waste-processing vessel according to §660.373(i); or

(iii) The vessel is completing processing of whiting taken on board during that vessel's primary season.

(2) During times or in areas where at-sea processing is prohibited, take and retain or receive whiting, except as cargo or fish waste, on a vessel in the fishery management area that already has processed whiting on board. An exception to this prohibition is provided if the fish are received within the tribal U&A from a member of a Pacific Coast treaty Indian tribe fishing under §§660.324 or 660.385. {revised at 71 FR 78638, December 29, 2006}

(3) Participate in the mothership or shore-based sector as a catcher vessel that does not process fish, if that vessel operates in the same calendar year as a catcher/processor in the whiting fishery, according to §660.373(h)(2). {revised at 71 FR 78638, December 29, 2006}

(4) Operate as a waste-processing vessel within 48 hours of a primary season for whiting in which that vessel operates as a catcher/processor or mothership, according to §660.373(i).

(5) Fail to keep the trawl doors on board the vessel and attached to the trawls on a vessel used to fish for whiting, when taking and retention is prohibited under §660.373(f).

(g) Limited entry permits.

(1) If a limited entry permit is registered for use with a vessel, fail to carry that permit onboard the vessel registered for use with the permit. A photocopy of the permit may not substitute for the original permit itself. {revised at 71 FR 78638, December 29, 2006}

(2) Make a false statement on an application for issuance, renewal, transfer, vessel registration, replacement of a limited entry permit, or a declaration of ownership interest in a limited entry permit. {revised at 71 FR 10614, March 2, 2006}

(h) Fishing in conservation areas.

(1) Fish in a conservation area with: any trawl gear, including non-trawl gear used to take pink shrimp, ridgeback prawns, and south of Pt. Arena, CA, California halibut and sea cucumber; with trawl gear from a tribal vessel; or with any gear from a vessel registered to a groundfish limited entry permit. An exception to this prohibition is provided if the vessel owner or operator has a valid declaration confirmation code or receipt for fishing in a conservation area, as specified at §660.303(d)(5). {revised at 71 FR 78638, December 29, 2006}

(2) Operate any vessel registered to a limited entry permit with a trawl endorsement and trawl gear on board in any Trawl Rockfish Conservation Area, Cowcod Conservation Area, or Essential Fish Habitat Conservation Area. Exceptions to this prohibition are provided if: the vessel is in continuous transit, with all groundfish trawl gear stowed in accordance with §660.381(d)(4), or if the vessel operation is otherwise authorized in the groundfish management measures published at §660.381(d)(4). {revised at 70 FR 16145, March 30, 2005; revised at 71 FR 78638, December 29, 2006}

(3) Operate any vessel registered to a limited entry permit with a longline or trap (pot) endorsement and longline and/or trap gear onboard in a Nontrawl Rockfish Conservation Area or a Cowcod Conservation Area (as defined at §660.302), except for purposes of continuous transiting, or except as authorized in the annual or biennial groundfish management measures published in the *Federal Register*.

(4) Fish with bottom trawl gear (defined in §660.302) anywhere within EFH within the EEZ seaward of a line approximating the 700 fm (1280 m) depth contour, as defined in §660.396. For the purposes of regulation, EFH seaward of 700 fm (1280 m) within the EEZ is described at 660.395. {added at 71 FR 27408, May 11, 2006}

(5) Fish with bottom trawl gear (defined in §660.302) with a footrope diameter greater than 19 inches (48 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within EFH within the EEZ. For the purposes of regulation, EFH within the EEZ is described at 660.395. {added at 71 FR 27108, May 11, 2006}

(6) Fish with bottom trawl gear (defined in §660.302) with a footrope diameter greater than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within the EEZ shoreward of a line approximating the 100 fm (183 m) depth contour (defined in §660.393). {added at 71 FR 27408, May 11, 2006}

- (7) Fish with bottom trawl gear (as defined in §660.302), within the EEZ in the following areas (defined in §660.397 and §660.398): Olympic 2, Biogenic 1, Biogenic 2, Grays Canyon, Biogenic 3, Astoria Canyon, Nehalem Bank/Shale Pile, Siletz Deepwater, Daisy Bank/Nelson Island, Newport Rockpile/Stonewall Bank, Heceta Bank, Deepwater off Coos Bay, Bandon High Spot, Rogue Canyon. {added at 71 FR 27408, May 11, 2006}
- (8) Fish with bottom trawl gear (as defined in §660.302), other than demersal seine, unless otherwise specified in this section or section 660.381, within the EEZ in the following areas (defined in §660.399): Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Point Arena North, Point Arena South Biogenic Area, Cordell Bank/Biogenic Area, Farallon Islands/Fanny Shoal, Half Moon Bay, Monterey Bay/Canyon, Point Sur Deep, Big Sur Coast/Port San Luis, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island, Potato Bank (within Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West), and Cowcod EFH Conservation Area East. {added at 71 FR 27408, May 11, 2006}
- (9) Fish with bottom contact gear (as defined in §660.302) within the EEZ in the following areas (defined in §660.398 and §660.399): Thompson Seamount, President Jackson Seamount, Cordell Bank (50 fm (91 m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara. {added at 71 FR 27408, May 11, 2006}
- (10) Fish with bottom contact gear (as defined in §660.302), or any other gear that is deployed deeper than 500 fm (914 m), within the Davidson Seamount area (defined in §660.395). {added at 71 FR 27408, May 11, 2006}

(i) Groundfish observer program.

- (1) Forcibly assault, resist, oppose, impede, intimidate, harass, sexually harass, bribe, or interfere with an observer.
- (2) Interfere with or bias the sampling procedure employed by an observer, including either mechanically or physically sorting or discarding catch before sampling.
- (3) Tamper with, destroy, or discard an observer's collected samples, equipment, records, photographic film, papers, or personal effects without the express consent of the observer.
- (4) Harass an observer by conduct that:
 - (i) Has sexual connotations,
 - (ii) Has the purpose or effect of interfering with the observer's work performance, and/or
 - (iii) Otherwise creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.
- (5) Fish for, land, or process fish without observer coverage when a vessel is required to carry an observer under §660.314(c).
- (6) Require, pressure, coerce, or threaten an observer to perform duties normally performed by crew members, including, but not limited to, cooking, washing dishes, standing watch, vessel maintenance, assisting with the setting or retrieval of gear, or any duties associated with the processing of fish, from sorting the catch to the storage of the finished product.
- (7) Fail to provide departure or cease fishing reports specified at §660.312(c)(2).
- (8) Fail to meet the vessel responsibilities specified at §660.312(d). (j) Vessel monitoring systems.
 - (1) Use any vessel registered to a limited entry permit to operate in State or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California, unless that vessel carries a NMFS OLE type-approved mobile transceiver unit and complies with the requirements described at §660.312.
 - (2) Fail to install, activate, repair or replace a mobile transceiver unit prior to leaving port as specified at §660.312.
 - (3) Fail to operate and maintain a mobile transceiver unit on board the vessel at all times as specified at §660.312.
 - (4) Tamper with, damage, destroy, alter, or in any way distort, render useless, inoperative, ineffective, or inaccurate the VMS, mobile transceiver unit, or VMS signal required to be installed on or transmitted by a vessel as specified at §660.312.
 - (5) Fail to contact NMFS OLE or follow NMFS OLE instructions when automatic position reporting has been interrupted as specified at §660.312.
 - (6) Register a VMS transceiver unit registered to more than one vessel at the same time.

§ 660.312 Vessel Monitoring System (VMS) requirements.

- (a) What is a VMS? A VMS consists of a NMFS OLE type-approved mobile transceiver unit that automatically determines the vessel's position and transmits it to a NMFS OLE type approved communications service provider. The communications service provider receives the transmission and relays it to NMFS OLE.
- (b) Who is required to have VMS? A vessel registered for use with a Pacific Coast groundfish limited entry permit that fishes in state or Federal water seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California is required to install a NMFS OLE type-approved mobile transceiver unit and to arrange for an NMFS OLE type-approved communications service provider to receive and relay transmissions to NMFS OLE, prior to fishing.
- (c) How are mobile transceiver units and communications service providers approved by NMFS OLE?
 - (1) NMFS OLE will publish type-approval specifications for VMS components in the *Federal Register* or notify the public through other appropriate media.
 - (2) Mobile transceiver unit manufacturers or communication service providers will submit products or services to NMFS OLE for evaluation based on the published specifications.
 - (3) NMFS OLE may publish a list of NMFS OLE type-approved mobile transceiver units and communication service providers for the Pacific Coast groundfish fishery in the *Federal Register* or notify the public through other appropriate media. As necessary, NMFS OLE may publish amendments to the list of type-approved mobile transceiver units and communication service providers in the *Federal Register* or through other appropriate media. A list of VMS transceivers that have been type-approved by NMFS OLE may be mailed to the permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS, as required at 660.335(a)(2).
- (d) What are the vessel owner's responsibilities? If you are a vessel owner that must participate in the VMS program, you or the vessel operator must:
 - (1) Obtain a NMFS OLE type-approved mobile transceiver unit and have it installed on board your vessel in accordance with the instructions provided by NMFS OLE. You may get a copy of the VMS installation and operation instructions from the NMFS OLE Northwest, VMS Program Manager upon request at 7600 Sand Point Way NE., Seattle, WA 98115-6349, phone: (206) 526-6133.
 - (2) Activate the mobile transceiver unit, submit an activation report, and receive confirmation from NMFS OLE that the VMS transmissions are being received before participating in a fishery requiring the VMS. Instructions for submitting an activation report may be obtained from the NMFS OLE, Northwest VMS Program Manager upon request at 7600 Sand Point Way NE., Seattle, WA 98115-6349, phone: (206)526-6133. An activation report must again be submitted to NMFS OLE following reinstallation of a mobile transceiver unit or change in service provider before the vessel may participate in a fishery requiring the VMS.
 - (i) Activation reports. If you are a vessel owner who must use VMS and you are activating a VMS transceiver unit for the first time or reactivating a VMS transceiver unit following a reinstallation of a mobile transceiver unit or change in service provider, you must fax NMFS OLE an activation report that includes: Vessel name; vessel owner's name, address and telephone number, vessel operator's name, address and telephone number, USCG vessel documentation number/state registration number; if applicable, the groundfish permit number the vessel is registered to; VMS transceiver unit manufacturer; VMS communications service provider; VMS transceiver identification; identifying if the unit is the primary or backup; and a statement signed and dated by the vessel owner confirming compliance with the installation procedures provided by NMFS OLE.
 - (ii) Ownership of the VMS transceiver unit may be transferred from one vessel to another vessel by submitting a new activation report, which identifies that the transceiver unit was previously registered to another vessel, and by providing proof of ownership of the VMS transceiver unit or proof of service termination from the communication service provider.
- (3) Operate the mobile transceiver unit continuously 24 hours a day throughout the calendar year, unless such vessel is exempted under paragraph (d)(4) of this section.
- (4) VMS exemptions. A vessel that is required to operate the mobile transceiver unit continuously 24 hours a day throughout the calendar year may be exempted from this requirement if a valid exemption report, as described at paragraph (d)(4)(iii) of this section, is received by NMFS OLE and the vessel is in compliance with all conditions and requirements of the VMS exemption identified in this section.
 - (i) Haul out exemption. When it is anticipated that a vessel will be continuously out of the water for more than 7 consecutive days and a valid exemption report has been received by NMFS OLE, electrical power to the VMS mobile transceiver unit may be removed and transmissions may be discontinued. Under this exemption, VMS transmissions can be discontinued from the time the vessel is removed from the water until the time that the vessel is placed back in the water.

- (ii) Outside areas exemption. When the vessel will be operating seaward of the EEZ off Washington, Oregon, or California continuously for more than 7 consecutive days and a valid exemption report has been received by NMFS OLE, the VMS mobile transceiver unit transmissions may be reduced or discontinued from the time the vessel leaves the EEZ off the coasts of Washington, Oregon or California until the time that the vessel re-enters the EEZ off the coasts of Washington, Oregon or California. Under this exemption, the vessel owner or operator can request that NMFS OLE reduce or discontinue the VMS transmissions after receipt of an exemption report, if the vessel is equipped with a VMS transceiver unit that NMFS OLE has approved for this exemption.
- (iii) Exemption reports must be submitted through the VMS or another method that is approved by NMFS OLE and announced in the *Federal Register*. Other methods may include email, facsimile, or telephone. NMFS OLE will provide, through appropriate media, instructions to the public on submitting exemption reports. Instructions and other information needed to make exemption reports may be mailed to the limited entry permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the permit owner's actual address has changed without notification to NMFS, as required at 660.335(a)(2). Owners of vessels registered to limited entry permits that did not receive instructions by mail are responsible for contacting NMFS OLE during business hours at least 3 days before the exemption is required to obtain information needed to make exemption reports. NMFS OLE must be contacted during business hours (Monday through Friday between 0800 and 1700 Pacific Standard Time).
- (iv) Exemption reports must be received by NMFS at least 2 hours and not more than 24 hours before the exempted activities defined at paragraph (d)(4)(i) and (ii) of this section occur. An exemption report is valid until NMFS receives a report cancelling the exemption. An exemption cancellation must be received at least 2 hours before the vessel re-enters the EEZ following an outside areas exemption or at least 2 hours before the vessel is placed back in the water following a haul out exemption.
- (5) When aware that transmission of automatic position reports has been interrupted, or when notified by NMFS OLE that automatic position reports are not being received, contact NMFS OLE at 7600 Sand Point Way NE, Seattle, WA 98115-6349, phone: (206)526-6133 and follow the instructions provided to you. Such instructions may include, but are not limited to, manually communicating to a location designated by NMFS OLE the vessel's position or returning to port until the VMS is operable.
- (6) After a fishing trip during which interruption of automatic position reports has occurred, the vessel's owner or operator must replace or repair the mobile transceiver unit prior to the vessel's next fishing trip. Repair or reinstallation of a mobile transceiver unit or installation of a replacement, including change of communications service provider shall be in accordance with the instructions provided by NMFS OLE and require the same certification.
- (7) Make the mobile transceiver units available for inspection by NMFS OLE personnel, USCG personnel, state enforcement personnel or any authorized officer.
- (8) Ensure that the mobile transceiver unit is not tampered with, disabled, destroyed or operated improperly.
- (9) Pay all charges levied by the communication service provider as necessary to ensure continuous operation of the VMS transceiver units.

§ 660.314 Groundfish observer program. {revised at 69 FR 57874, September 28, 2004; revised at 71 FR 66122, November 13, 2006; revised at 71 FR 78638, December 29, 2006}

- (a) General. Vessel owners, operators, and managers are jointly and severally responsible for their vessel's compliance with this section.
- (b) Purpose. The purpose of the Groundfish Observer Program is to allow observers to collect fisheries data deemed by the Northwest Regional Administrator, NMFS, to be necessary and appropriate for management, compliance monitoring, and research in the groundfish fisheries and for the conservation of living marine resources and their habitat.
- (c) Observer coverage requirements- {revised at 71 FR 66122, November 13, 2006}
 - (1) At-sea processors. A catcher-processor or mothership 125 ft (38.1 m) LOA or longer must carry two NMFS-certified observers, and a catcher-processor or mothership shorter than 125 ft (38.1 m) LOA must carry one NMFS-certified observer, each day that the vessel is used to take, retain, receive, land, process, or transport groundfish.
 - (2) Catcher vessels. For the purposes of this section, catcher vessels include all vessels, using open access or limited entry gear (including exempted gear types) that take and retain, possess or land groundfish at a processor(s) as defined at §660.302. When NMFS notifies the vessel owner, operator, permit holder, or the vessel manager of any requirement to carry an observer, the vessel may not take and retain, possess, or land any groundfish without carrying an observer.
 - (i) Notice of departure--Basic rule. At least 24 hours (but not more than 36 hours) before departing on a fishing trip, a vessel that has been notified by NMFS that it is required to carry an observer, or that is operating in an active sampling unit, must notify NMFS (or its designated agent) of the vessel's intended time of departure. Notice will be given in a form to be specified by NMFS.
 - (A) Optional notice--Weather delays. A vessel that anticipates a delayed departure due to weather or sea conditions may advise NMFS of the anticipated delay when providing the basic notice described in paragraph (c)(2)(i) of this section. If departure is delayed beyond 36 hours from the time the original notice is given, the vessel must provide an additional notice of departure not less than 4 hours prior to departure, in order to enable NMFS to place an observer.
 - (B) Optional notice--Back-to-back fishing trips. A vessel that intends to make back-to-back fishing trips (i.e., trips with less than 24 hours between offloading from one trip and beginning another), may provide the basic notice described in paragraph (c)(2)(i) of this section for both trips, prior to making the first trip. A vessel that has given such notice is not required to give additional notice of the second trip.
 - (ii) Cease fishing report. Not more than 24 hours after ceasing the taking and retaining of groundfish with limited entry or open access gear in order to leave the fishery management area or to fish for species not managed under the PCGFMP, the owner, operator, or vessel manager of each vessel that is required to carry an observer or that is operating in a segment of the fleet that NMFS has identified as an active sampling unit must provide NMFS or its designated agent with notification as specified by NMFS.
 - (3) Vessels engaged in recreational fishing. [Reserved]
 - (4) Waiver. The Northwest Regional Administrator may provide written notification to the vessel owner stating that a determination has been made to temporarily waive coverage requirements because of circumstances that are deemed to be beyond the vessel's control.
- (d) Vessel responsibilities. An operator of a vessel required to carry one or more observer(s) must provide:
 - (1) Accommodations and food. Provide accommodations and food that are:
 - (i) At-sea processors. Equivalent to those provided for officers, engineers, foremen, deck-bosses or other management level personnel of the vessel.
 - (ii) Catcher vessels. Equivalent to those provided to the crew.
 - (2) Safe conditions. Maintain safe conditions on the vessel for the protection of observer(s) including adherence to all USCG and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel, and provisions at §§600.725 and 600.746 of this chapter.
 - (3) Observer communications. Facilitate observer communications by:
 - (i) Observer use of equipment. Allowing observer(s) to use the vessel's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observer(s) or the U. S. or designated agent.
 - (ii) Functional equipment. Ensuring that the vessel's communications equipment, used by observers to enter and transmit data, is fully functional and operational.
 - (iii) Hardware and software. At-sea processing vessels must provide hardware and software pursuant to regulations at 50 CFR 679.50(f)(1)(iii)(B)(1) and 50 CFR 679.50(f)(2), as follows:
 - (A) Providing for use by the observer a personal computer in working condition that contains a full Pentium 120 MHz or greater capacity processing chip, at least 32 megabytes of RAM, at least 75 megabytes of free hard disk storage, a Windows 9x or NT compatible operating system, an operating mouse, and a 3.5-inch (8.9 cm) floppy disk drive. The associated computer monitor must have a viewable screen size of at least 14.1 inches (35.8 cm) and minimum display settings of 600×800 pixels. The computer equipment specified in this paragraph (A) must be connected to a communication device that provides a modem connection to the NMFS host computer and supports one or more of the following protocols: ITU V.22, ITU V.22bis, ITU V.32, ITU V.32bis, or ITU V.34. Processors that use a modem must have at least a 28.8kbs Hayes compatible modem. The above-specified hardware and software requirements do not apply to processors that do not process groundfish.
 - (B) NMFS-supplied software. Ensuring that each at-sea processing ship that is required to have two observers aboard obtains the data entry software provided by the Regional Administrator for use by the observer.
 - (4) Vessel position. Allow observer(s) access to, and the use of, the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

- (5) Access. Allow observer(s) free and unobstructed access to the vessel's bridge, trawl or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.
- (6) Prior notification. Notify observer(s) at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to allow sampling the catch or observing the transfer, unless the observer specifically requests not to be notified.
- (7) Records. Allow observer(s) to inspect and copy any state or Federal logbook maintained voluntarily or as required by regulation.
- (8) Assistance. Provide all other reasonable assistance to enable observer(s) to carry out their duties, including, but not limited to:
- (i) Measuring decks, codends, and holding bins.
 - (ii) Providing the observer(s) with a safe work area.
 - (iii) Collecting bycatch when requested by the observer(s).
 - (iv) Collecting and carrying baskets of fish when requested by the observer(s).
 - (v) Allowing the observer(s) to collect biological data and samples.
 - (vi) Providing adequate space for storage of biological samples.
- (9) At-sea transfers to or from processing vessels. Processing vessels must:
- (i) Ensure that transfers of observers at sea via small boat or raft are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.
 - (ii) Notify observers at least 3 hours before observers are transferred, such that the observers can collect personal belongings, equipment, and scientific samples.
 - (iii) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.
 - (iv) Provide an experienced crew member to assist observers in the small boat or raft in which any transfer is made.
- (e) Procurement of observer services by at-sea processing vessels. Owners of vessels required to carry observers under paragraph (c)(1) of this section must arrange for observer services from an observer provider permitted by the North Pacific Groundfish Observer Program under 50 CFR 679.50(i), except that:
- (1) Vessels are required to procure observer services directly from NMFS when NMFS has determined and given notification that the vessel must carry NMFS staff or an individual authorized by NMFS in lieu of an observer provided by a permitted observer provider.
 - (2) Vessels are required to procure observer services directly from NMFS and a permitted observer provider when NMFS has determined and given notification that the vessel must carry NMFS staff or individuals authorized by NMFS, in addition to an observer provided by a permitted observer provider.
- (f) Observer certification and responsibilities-- { revised at 71 FR 66122, November 13, 2006 }
- (1) Observer Certification--
- (i) Applicability. Observer certification authorizes an individual to fulfill duties as specified in writing by the NMFS Observer Program Office while under the employ of a NMFS-permitted observer provider and according to certification endorsements as designated under paragraph (f)(1)(v) of this section.
 - (ii) Observer certification official. The Regional Administrator will designate a NMFS observer certification official who will make decisions for the Observer Program Office on whether to issue or deny observer certification.
 - (iii) Certification requirements. NMFS will certify individuals who:
 - (A) Are employed by an observer provider company permitted pursuant to 50 CFR 679.50 at the time of the issuance of the certification;
 - (B) Have provided, through their observer provider:
 - (1) Information identified by NMFS at 50 CFR 679.50(i)(2)(x)(A)(1)(iii) and (iv); and
 - (2) Information identified by NMFS at 50 CFR 679.50(i)(2)(x)(C) regarding the observer candidate's health and physical fitness for the job;
 - (C) Meet all education and health standards as specified in 50 CFR 679.50(i)(2)(i)(A) and (1)(2)(x)(C), respectively; and
 - (D) Have successfully completed NMFS-approved training as prescribed by the Observer Program.
 - (1) Successful completion of training by an observer applicant consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing all other training requirements established by the Observer Program.
 - (2) If a candidate fails training, he or she will be notified in writing on or before the last day of training. The notification will indicate: the reasons the candidate failed the training; whether the candidate can retake the training, and under what conditions, or whether, the candidate will not be allowed to retake the training. If a determination is made that the candidate may not pursue further training, notification will be in the form of an IAD denying certification, as specified under paragraph (f)(1)(iv)(A) of this section.
 - (E) Have not been decertified under paragraph (f)(3) of this section, or pursuant to 50 CFR 679.50.
- (iv) Agency determinations on observer certification
- (A) Denial of a certification. The NMFS observer certification official will issue a written IAD denying observer certification when the observer certification official determines that a candidate has unresolvable deficiencies in meeting the requirements for certification as specified in paragraph (f)(1)(iii) of this section. The IAD will identify the reasons certification was denied and what requirements were deficient.
 - (B) Appeals. A candidate who receives an IAD that denies his or her certification may appeal pursuant to paragraph (f)(4) of this section. A candidate who appeals the IAD will not be issued an interim observer certification, and will not receive a certification unless the final resolution of that appeal is in the candidate's favor.
 - (C) Issuance of an observer certification. An observer certification will be issued upon determination by the observer certification official that the candidate has successfully met all requirements for certification as specified in paragraph (f)(1)(iii) of this section.
- (v) Endorsements. The following endorsements must be obtained, in addition to observer certification, in order for an observer to deploy.
- (A) Certification training endorsement. A certification training endorsement signifies the successful completion of the training course required to obtain observer certification. This endorsement expires when the observer has not been deployed and performed sampling duties as required by the Observer Program Office for a period of time, specified by the Observer Program, after his or her most recent debriefing. The observer can renew the endorsement by successfully completing certification training once more.
 - (B) Annual general endorsements. Each observer must obtain an annual general endorsement to their certification prior to his or her first deployment within any calendar year subsequent to a year in which a certification training endorsement is obtained. To obtain an annual general endorsement, an observer must successfully complete the annual briefing, as specified by the Observer Program. All briefing attendance, performance, and conduct standards required by the Observer Program must be met.
 - (C) Deployment endorsements. Each observer who has completed an initial deployment after certification or annual briefing must receive a deployment endorsement to their certification prior to any subsequent deployments for the remainder of that year. An observer may obtain a deployment endorsement by successfully completing all pre-cruise briefing requirements. The type of briefing the observer must attend and successfully complete will be specified in writing by the Observer Program during the observer's most recent debriefing.
 - (D) Pacific whiting fishery endorsements. A Pacific whiting fishery endorsement is required for purposes of performing observer duties aboard vessels that process groundfish at sea in the Pacific whiting fishery. A Pacific whiting fishery endorsement to an observer's certification may be obtained by meeting the following requirements:
 - (1) Be a prior NMFS-certified observer in the groundfish fisheries off Alaska or the Pacific Coast, unless an individual with this qualification is not available;
 - (2) Receive an evaluation by NMFS for his or her most recent deployment (if any) that indicated that the observer's performance met Observer Program expectations for that deployment;
 - (3) Successfully complete a NMFS-approved observer training and/or whiting briefing as prescribed by the Observer Program; and
 - (4) Comply with all of the other requirements of this section. (2) Standards of observer conduct--
- (i) Limitations on conflict of interest.
- (A) Observers:
- (1) Must not have a direct financial interest, other than the provision of observer services, in a North Pacific fishery managed pursuant to an FMP for the waters off the coast of Alaska, or in a Pacific Coast fishery managed by either the state or Federal

governments in waters off Washington, Oregon, or California, including but not limited to:

- (i) Any ownership, mortgage holder, or other secured interest in a vessel, shore-based or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish. {revised at 71 FR 78638, December 29, 2006}
 - (ii) Any business involved with selling supplies or services to any vessel, shore-based or floating stationary processing facility; or {revised at 71 FR 78638, December 29, 2006}
 - (iii) Any business involved with purchasing raw or processed products from any vessel, shore-based or floating stationary processing facilities. {revised at 71 FR 78638, December 29, 2006}
- (2) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who either conducts activities that are regulated by NMFS or has interests that may be substantially affected by the performance or nonperformance of the observers' official duties.
 - (3) May not serve as observers on any vessel or at any shore-based or floating stationary processing facility owned or operated by a person who previously employed the observers. {revised at 71 FR 78638, December 29, 2006}
 - (4) May not solicit or accept employment as a crew member or an employee of a vessel, shore-based processor, or stationary floating processor while employed by an observer provider. {revised at 71 FR 78638, December 29, 2006}
- (B) Provisions for remuneration of observers under this section do not constitute a conflict of interest.
- (ii) Standards of behavior. Observers must avoid any behavior that could adversely affect the confidence of the public in the integrity of the Observer Program or of the government, including but not limited to the following:
- (A) Observers must perform their assigned duties as described in the Observer Manual or other written instructions from the Observer Program Office.
 - (B) Observers must accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.
 - (C) Observers must not disclose collected data and observations made on board the vessel or in the processing facility to any person except the owner or operator of the observed vessel or processing facility, an authorized officer, or NMFS.
 - (D) Observers must refrain from engaging in any illegal actions or any other activities that would reflect negatively on their image as professional scientists, on other observers, or on the Observer Program as a whole. This includes, but is not limited to:
 - (1) Violating the drug and alcohol policy established by and available from the Observer Program;
 - (2) Engaging in the use, possession, or distribution of illegal drugs; or
 - (3) Engaging in physical sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.
- (3) Suspension and decertification
- (i) Suspension and decertification review official. The Regional Administrator (or a designee) will designate an observer suspension and decertification review official(s), who will have the authority to review observer certifications and issue initial administrative determinations of observer certification suspension and/or decertification.
 - (ii) Causes for suspension or decertification. The suspension/decertification official may initiate suspension or decertification proceedings against an observer:
 - (A) When it is alleged that the observer has committed any acts or omissions of any of the following:
 - (1) Failed to satisfactorily perform the duties of observers as specified in writing by the NMFS Observer Program;
 - or
 - (2) Failed to abide by the standards of conduct for observers as prescribed under paragraph (f)(2) of this section;
 - (B) Upon conviction of a crime or upon entry of a civil judgment for:
 - (1) Commission of fraud or other violation in connection with obtaining or attempting to obtain certification, or in performing the duties as specified in writing by the NMFS Observer Program; {redesignated at 69 FR 57874, September 28, 2004}
 - (2) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; {redesignated at 69 FR 57874, September 28, 2004}
 - (3) Commission of any other offense indicating a lack of integrity or honesty that seriously and directly affects the fitness of observers. {redesignated at 69 FR 57874, September 28, 2004}
 - (iii) Issuance of initial administrative determination. Upon determination that suspension or decertification is warranted under paragraph (f)(3)(ii) of this section, the suspension/decertification official will issue a written IAD to the observer via certified mail at the observer's most current address provided to NMFS. The IAD will identify whether a certification is suspended or revoked and will identify the specific reasons for the action taken. If the IAD issues a suspension for an observer certification, the terms of the suspension will be specified. Suspension or decertification is effective immediately as of the date of issuance, unless the suspension/decertification official notes a compelling reason for maintaining certification for a specified period and under specified conditions.
 - (iv) Appeals. A certified observer who receives an IAD that suspends or revokes his or her observer certification may appeal pursuant to paragraph (f)(4) of this section.
- (4) Appeals.
- (i) Decisions on appeals of initial administrative decisions denying certification to, or suspending, or decertifying, an observer, will be made by the Regional Administrator (or designated official).
 - (ii) Appeals decisions shall be in writing and shall state the reasons therefore.
 - (iii) An appeal must be filed with the Regional Administrator within 30 days of the initial administrative decision denying, suspending, or revoking the observer's certification.
 - (iv) The appeal must be in writing, and must allege facts or circumstances to show why the certification should be granted, or should not be suspended or revoked, under the criteria in this section.
 - (v) Absent good cause for further delay, the Regional Administrator (or designated official) will issue a written decision on the appeal within 45 days of receipt of the appeal. The Regional Administrator's decision is the final administrative decision of the Department as of the date of the decision.
- (g) Sample station and operational requirements
- (1) Observer sampling station. This paragraph contains the requirements for observer sampling stations. The vessel owner must provide an observer sampling station that complies with this section so that the observer can carry out required duties.
 - (i) Accessibility. The observer sampling station must be available to the observer at all times.
 - (ii) Location. The observer sampling station must be located within 4 m of the location from which the observer samples unsorted catch. Unobstructed passage must be provided between the observer sampling station and the location where the observer collects sample catch.
 - (iii) Minimum work space aboard at-sea processing vessels. The observer must have a working area of 4.5 square meters, including the observer's sampling table, for sampling and storage of fish to be sampled. The observer must be able to stand upright and have a work area at least 0.9 m deep in the area in front of the table and scale.
 - (iv) Table aboard at-sea processing vessels. The observer sampling station must include a table at least 0.6 m deep, 1.2 m wide and 0.9 m high and no more than 1.1 m high. The entire surface area of the table must be available for use by the observer. Any area for the observer sampling scale is in addition to the minimum space requirements for the table. The observer's sampling table must be secured to the floor or wall.
 - (v) Diverter board aboard at-sea processing vessels. The conveyor belt conveying unsorted catch must have a removable board (diverter board) to allow all fish to be diverted from the belt directly into the observer's sampling baskets. The diverter board must be located downstream of the scale used to weigh total catch. At least 1 m of accessible belt space, located downstream of the scale used to weigh total catch, must be available for the observer's use when sampling.
 - (vi) Other requirement for at-sea processing vessels. The sampling station must be in a well-drained area that includes floor grating (or other material that prevents slipping), lighting adequate for day or night sampling, and a hose that supplies fresh or sea water to the observer.
 - (vii) Observer sampling scale. The observer sample station must include a NMFS-approved platform scale (pursuant to requirements at 50 CFR 679.28(d)(5)) with a capacity of at least 50 kg located within 1 m of the observer's sampling table. The scale must be mounted so that the weighing

- surface is no more than 0.7 m above the floor.
- (2) Requirements for bins used to make volumetric estimates on at-sea processing vessels. [Reserved]
 - (3) Operational requirements for at-sea processing vessels. [Reserved]

§ 660.320 Allocations. {revised at 71 FR 78638, December 29, 2006}

(a) General. The commercial portion of the Pacific Coast groundfish fishery, excluding the treaty Indian fishery, is divided into limited entry and open access fisheries. Separate allocations for the limited entry and open access fisheries will be established biennially or annually for certain species and/or areas using the procedures described in this subpart or the PCGFMP.

(1) Limited entry allocation. The allocation for the limited entry fishery is the allowable catch (harvest guideline or quota excluding set asides for recreational or tribal Indian fisheries) minus the allocation to the open access fishery.

(2) Open access allocation. The allocation for the open access fishery is derived by applying the open access allocation percentage to the annual harvest guideline or quota after subtracting any recreational fishery estimates or tribal allocations. For management areas where quotas or harvest guidelines for a stock are not fully utilized, no separate allocation will be established for the open access fishery until it is projected that the allowable catch for a species will be reached. {revised at 71 FR 78638, December 29, 2006}

(b) Open access allocation percentage. For each species with a harvest guideline or quota, the initial open access allocation percentage is calculated by:

(1) Computing the total catch for that species during the window period by any vessel that does not initially receive a limited entry permit.

(2) Dividing that amount by the total catch during the window period by all gear.

(3) The guidelines in this paragraph (b)(3) apply to recalculation of the open access allocation percentage. Any recalculated allocation percentage will be used in calculating the following biennial fishing period's open access allocation.

(c) Catch accounting between the limited entry and open access fisheries. Any groundfish caught by a vessel with a limited entry permit will be counted against the limited entry allocation while the limited entry fishery for that vessel's limited entry gear is open. When the fishery for a vessel's limited entry gear has closed, groundfish caught by that vessel with open access gear will be counted against the open access allocation. All groundfish caught by vessels without limited entry permits will be counted against the open access allocation.

(d) Additional guidelines. Additional guidelines governing determination of the limited entry and open access allocations are in the PCGFMP.

(e) Treaty Indian fisheries. Certain amounts of groundfish may be set aside biennially or annually for tribal fisheries prior to dividing the balance of the allowable catch between the limited entry and open access fisheries. Tribal fisheries conducted under a set-aside are not subject to the regulations governing limited entry and open access fisheries.

(f) Recreational fisheries. Recreational fishing for groundfish is outside the scope of, and not affected by, the regulations governing limited entry and open access fisheries. Certain amounts of groundfish may be specifically allocated to the recreational fishery, and will be estimated prior to dividing the commercial allocation between the commercial limited entry and open access fisheries. {revised at 71 FR 78638, December 29, 2006}

§ 660.321 Black rockfish harvest guideline. {removed and reserved at 69 FR 57871, September 28, 2004; added at 69 FR 77012, December 23, 2004}

From the commercial harvest of black rockfish off Washington State, a treaty Indian tribes' harvest guideline is set of 20,000 lb (9,072 kg) for the area north of Cape Alava, WA (48°09.50' N. lat) and 10,000 lb (4,536 kg) for the area between Destruction Island, WA (47°40' N. lat.) and Leadbetter Point, WA (46°38.17' N. lat.). This harvest guideline applies and is available to the treaty Indian tribes identified in §660.324(b).

§ 660.322 Sablefish allocations. {added at 69 FR 77012, December 23, 2004; revised at 71 FR 78638, December 29, 2006}

(a) Tribal-nontribal allocation. The sablefish allocation to Pacific coast treaty Indian tribes identified at §660.324(b) is 10 percent of the sablefish total catch OY for the area north of 36° N. lat. This allocation represents the total amount available to the treaty Indian fisheries before deductions for discard mortality. The annual tribal sablefish allocations are provided in §660.385(a).

(b) Between the limited entry and open access sectors. Sablefish is allocated between the limited entry and open access fisheries according to the procedure described in §660.320(a).

(c) Between the limited entry trawl and limited entry nontrawl sectors. The limited entry sablefish allocation is further allocated 58 percent to the trawl sector and 42 percent to the nontrawl (longline and pot/trap) sector.

(d) Between the limited entry fixed gear primary season and daily trip limit fisheries. Within the limited entry nontrawl sector allocation, 85 percent is reserved for the primary season described in §660.372(b), leaving 15 percent for the limited entry daily trip limit fishery described in §660.372(c).

(e) Ratios between tiers for sablefish endorsed limited entry permit holders. The Regional Administrator will biennially or annually calculate the size of the cumulative trip limit for each of the three tiers associated with the sablefish endorsement such that the ratio of limits between the tiers is approximately 1:1.75:3.85 for Tier 3: Tier 2: Tier 1, respectively. The size of the cumulative trip limits will vary depending on the amount of sablefish available for the primary fishery and on estimated discard mortality rates within the fishery. The size of the cumulative trip limits for the three tiers in the primary fishery will be announced in §660.372. {revised at 71 FR 78638, December 29, 2006}

§ 660.323 Pacific whiting allocations, allocation attainment, and inseason allocation reapportionment. {revised at 69 FR 46448, August 3, 2004; revised at 69 FR 77012, December 23, 2004; revised at 70 FR 22808, May 3, 2005; corrected at 70 FR 28852, May 19, 2005; revised at 71 FR 29257, May 22, 2006; revised at 71 FR 78638, December 29, 2006}

(a) Allocations. {revised at 69 FR 77012, December 23, 2004}

(1) Annual treaty tribal whiting allocations are provided in §660.385(e).

(2) The non-tribal commercial harvest guideline for whiting is allocated among three sectors, as follows: 34 percent for the catcher/processor sector; 24 percent for the mothership sector; and 42 percent for the shore-based sector. No more than 5 percent of the shore-based allocation may be taken and retained south of 42° N. lat. before the start of the primary whiting season north of 42° N. lat. Specific sector allocations for a given calendar year are found in tables 1 a and 2a of this subpart. {revised at 70 FR 22808, May 3, 2005; revised at 71 FR 29257, May 22, 2006; revised at 71 FR 78638, December 29, 2006}

(b) Reaching an allocation. If the whiting harvest guideline, commercial harvest guideline, or a sector's allocation is reached, or is projected to be reached, the following action(s) for the applicable sector(s) may be taken as provided under paragraph (e) of this section and will remain in effect until additional amounts are made available the next calendar year or under paragraph (c) of this section. {revised at 71 FR 78638, December 29, 2006}

(1) Catcher/processor sector. Further taking and retaining, receiving, or at-sea processing of whiting by a catcher/processor is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a catcher/processor may continue to process whiting that was on board before at-sea processing was prohibited.

(2) Mothership sector. Further receiving or at-sea processing of whiting by a mothership is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a mothership may continue to process whiting that was on board before at-sea processing was prohibited. Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the mothership sector.

(3) Shore-based sector coastwide. Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the shore-based sector except as authorized under a trip limit specified under §660.370(c). {revised at 71 FR 78638, December 29, 2006}

(4) Shore-based south of 42° N. lat. If 5 percent of the shore-based allocation for whiting is taken and retained south of 42° N. lat. before the primary season for the shore-based sector begins north of 42° N. lat., then a trip limit specified under §660.370(c) may be implemented south of 42° N. lat. until the northern primary season begins, at which time the southern primary season would resume. {revised at 71 FR 78638, December 29, 2006}

(c) Reapportionments. That portion of a sector's allocation that the Regional Administrator determines will not be used by the end of the fishing year shall be made available for harvest by the other sectors, if needed, in proportion to their initial allocations, on September 15 or as soon as practicable thereafter. NMFS may release whiting again at a later date to ensure full utilization of the resource. Whiting not needed in the fishery authorized under §660.324 may also be made available.

(d) Estimates. Estimates of the amount of whiting harvested will be based on actual amounts harvested, projections of amounts that will be harvested, or a combination of the two. Estimates of the amount of Pacific whiting that will be used by shore-based processors by the end of the calendar year will be based on the best information available to the Regional Administrator from state catch and landings data, the testimony received at Council meetings, and/or other relevant information. {revised at 71 FR 78638, December 29, 2006}

(e) Announcements. The Regional Administrator will announce in the Federal Register when a harvest guideline, commercial harvest guideline, or an allocation of whiting is reached, or is projected to be reached, specifying the appropriate action being taken under paragraph (b) of this section. The Regional Administrator will announce in the Federal Register any reapportionment of surplus whiting to others sectors on September 15, or as soon as practicable thereafter. In order to prevent exceeding the limits or to avoid underutilizing the resource, prohibitions against further taking and retaining, receiving, or at-sea processing of whiting, or

reapportionment of surplus whiting may be made effective immediately by actual notice to fishers and processors, by e-mail, internet (www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/Whiting-Management/index.cfm), phone, fax, letter, press release, and/or USCG Notice to Mariners (monitor channel 16 VHF), followed by publication in the Federal Register, in which instance public comment will be sought for a reasonable period of time thereafter. {revised at 71 FR 78638, December 29, 2006}

§ 660.324 Pacific Coast treaty Indian fisheries. {revised at 71 FR 78638, December 29, 2006}

- (a) Pacific Coast treaty Indian tribes have treaty rights to harvest groundfish in their usual and accustomed fishing areas in U.S. waters.
- (b) For the purposes of this part, Pacific Coast treaty Indian tribes means the Hoh, Makah, and Quileute Indian Tribes and the Quinault Indian Nation.
- (c) The Pacific Coast treaty Indian tribes' usual and accustomed fishing areas within the fishery management area (FMA) are set out below in paragraphs (c)(1) through (c)(4) of this section. Boundaries of a tribe's fishing area may be revised as ordered by a Federal court.
 - (1) Makah - That portion of the FMA north of 48°02.25' N. lat. (Norwegian Memorial) and east of 125°44' W. long. {revised at 71 FR 78638, December 29, 2006}
 - (2) Quileute - That portion of the FMA between 48°07.60' N. lat. (Sand Point) and 47°31.70' N. lat. (Queets River) and east of 125°44' W. long. {revised at 71 FR 78638, December 29, 2006}
 - (3) Hoh - That portion of the FMA between 47°54.30' N. lat. (Quillayute River) and 47°21' N. lat. (Quinault River) and east of 125°44' W. long. {revised at 71 FR 78638, December 29, 2006}
 - (4) Quinault - That portion of the FMA between 47°40.10' N. lat. (Destruction Island) and 46°53.30' N. lat. (Point Chehalis) and east of 125°44' W. long. {revised at 71 FR 78638, December 29, 2006}
- (d) Procedures. The rights referred to in paragraph (a) of this section will be implemented by the Secretary, after consideration of the tribal request, the recommendation of the Council, and the comments of the public. The rights will be implemented either through an allocation of fish that will be managed by the tribes, or through regulations in this section that will apply specifically to the tribal fisheries. An allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the Regional Administrator, prior to the first Council meeting in which biennial harvest specifications and management measures are discussed for an upcoming biennial management period. The Secretary generally will announce the annual tribal allocations at the same time as the announcement of the harvest specifications. The Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.
- (e) Identification. A valid treaty Indian identification card issued pursuant to 25 CFR part 249, subpart A, is prima facie evidence that the holder is a member of the Pacific Coast treaty Indian tribe named on the card.
- (f) A limited entry permit under §660.331 through §660.341 is not required for participation in a tribal fishery described in paragraph (d) of this section.
- (g) Fishing under this section and §660.385 by a member of a Pacific Coast treaty Indian tribe within their usual and accustomed fishing area is not subject to the provisions of other sections of this subpart. {revised at 71 FR 78638, December 29, 2006}
- (h) Any member of a Pacific Coast treaty Indian tribe must comply with this section and §660.385, and with any applicable tribal law and regulation, when participating in a tribal groundfish fishery described in paragraph (d) of this section. {revised at 71 FR 78638, December 29, 2006}
- (i) Fishing by a member of a Pacific Coast treaty Indian tribe outside the applicable Indian tribe's usual and accustomed fishing area, or for a species of groundfish not covered by an allocation or regulation under this section, is subject to the regulations in the other sections of this part.
- (j) Black rockfish. Harvest guidelines for commercial harvests of black rockfish by members of the Pacific Coast Indian tribes using hook and line gear will be established biennially for two subsequent one-year periods for the areas between the U.S.-Canadian border and Cape Alava (48°09.50' N. lat.) and between Destruction Island (47°40' N. lat.) and Leadbetter Point (46°38.17' N. lat.), in accordance with the procedures for implementing harvest specifications and management measures. Pacific Coast treaty Indians fishing for black rockfish in these areas under these harvest guidelines are subject to the provisions in this section §660.321 and 660.385, and not to the restrictions in other sections of this part. {revised at 71 FR 78638, December 29, 2006}
- (k) Groundfish without a tribal allocation. Makah tribal members may use midwater trawl gear to take and retain groundfish for which there is no tribal allocation and will be subject to the trip landing and frequency and size limits applicable to the limited entry fishery.

§ 660.331 Limited entry and open access fisheries--general.

All commercial fishing for groundfish must be conducted in accordance with the regulations governing limited entry and open access fisheries, except such fishing by treaty Indian tribes as may be separately provided for.

§ 660.333 Limited entry fishery-eligibility and registration.

- (a) General. In order for a vessel to participate in the limited entry fishery, the vessel owner must hold (by ownership or lease) a limited entry permit and, through SFD, must register that permit for use with his/her vessel. 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. There are three types of gear endorsements: trawl, longline, and pot (or trap). A sablefish endorsement is also required for a vessel to participate in the primary season for the limited entry fixed gear sablefish fishery, north of 36° N. lat. A limited entry permit confers a privilege of participating in the Pacific Coast limited entry groundfish fishery in accordance with Federal regulations in 50 CFR part 660.
- (b) Eligibility. Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102 (a) may be issued or may hold a limited entry permit.
- (c) Registration. Limited entry permits will normally be registered for use with a particular vessel at the time the permit is issued, renewed, transferred, or replaced. If the permit will be used with a vessel other than the one registered on the permit, the permit owner must register that permit for use with the new vessel through the SFD. The reissued permit must be placed on board the new vessel in order for the vessel to participate in the limited entry fishery.
 - (1) Registration of a permit to be used with a new vessel will take effect no earlier than the first day of the next major limited entry cumulative limit period following the date SFD receives the transfer form and the original permit.
 - (2) The major limited entry cumulative limit periods will be announced in the *Federal Register* with the harvest specifications and management measures, and with routine management measures when the cumulative limit periods are changed.
- (d) Limited entry permits indivisible. Limited entry permits may not be divided for use by more than one vessel.
- (e) Initial decisions. SFD will make initial decisions regarding permit endorsements, renewal, replacement, and change in vessel registration. SFD will notify the permit holder in writing with an explanation of any decision to deny a permit endorsement, renewal, replacement, or change in vessel registration. The SFD will decline to act on an application for permit endorsement, renewal, transfer, replacement, or registration of a limited entry permit if the permit is subject to sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858 (a) and implementing regulations at 15 CFR part 904, subpart D, apply.

§ 660.334 Limited entry permits-endorsements. {revised at 69 FR 57874, September 28, 2004; revised at 71 FR 10614, March 2, 2006}

- (a) "A" endorsement. A limited entry permit with an "A" endorsement entitles the holder to participate in the limited entry fishery for all groundfish species with the type(s) of limited entry gear specified in the endorsement, except for sablefish harvested north of 36° N. lat. during times and with gears for which a sablefish endorsement is required. See §660.334 (d) for provisions on sablefish endorsement requirements. An "A" endorsement is transferable with the limited entry permit to another person, or to a different vessel under the same ownership under §660.335. An "A" endorsement expires on failure to renew the limited entry permit to which it is affixed.
- (b) Gear endorsements. There are three types of gear endorsements: trawl, longline and pot (trap). When limited entry permits were first issued, some vessel owners qualified for more than one type of gear endorsement based on the landings history of their vessels. Each limited entry permit has one or more gear endorsement(s). Gear endorsement(s) assigned to the permit at the time of issuance will be permanent and shall not be modified. While participating in the limited entry fishery, the vessel registered to the limited entry permit is authorized to fish the gear(s) endorsed on the permit. While participating in the limited entry, primary fixed gear fishery for sablefish described at §660.372, a vessel registered to more than one limited entry permit is authorized to fish with any gear, except trawl gear, endorsed on at least one of the permits registered for use with that vessel. During the limited entry fishery, permit holders may also fish with open access gear; except that vessels fishing against primary sablefish season cumulative limits described at §660.372(b)(3) may not fish with open access gear against those limits.
- (c) Vessel size endorsements--
 - (1) General. Each limited entry permit will be endorsed with the LOA for the size of the vessel that initially qualified for the permit, except:
 - (i) If the permit is registered for use with a trawl vessel that is more than 5 ft (1.52 m) shorter than the size for which the permit is endorsed, it will be endorsed for the size of the smaller vessel. This requirement does not apply to a permit with a sablefish endorsement that is endorsed for both trawl and either longline or pot gear and which is registered for use with a longline or pot gear vessel for purposes of participating in the limited entry primary fixed gear sablefish fishery described at §660.372.

(ii) When permits are combined into one permit to be registered for use with a vessel requiring a larger size endorsement, the new permit will be endorsed for the size that results from the combination of the permits as described in paragraph (c)(2)(iii) of this section.

(2) Limitations of size endorsements--

(i) A limited entry permit endorsed only for gear other than trawl gear may be registered for use with a vessel up to 5 ft (1.52 m) longer than, the same length as, or any length shorter than, the size endorsed on the existing permit without requiring a combination of permits under §660.335 (b) or a change in the size endorsement.

(ii) A limited entry permit endorsed for trawl gear may be registered for use with a vessel between 5 ft (1.52 m) shorter and 5 ft (1.52 m) longer than the size endorsed on the existing permit without requiring a combination of permits under §660.335 (b) or a change in the size endorsement under paragraph (c)(1)(i) of this section.

(iii) The vessel harvest capacity rating for each of the permits being combined is that indicated in Table 2 of this part for the LOA (in feet) endorsed on the respective limited entry permit. Harvest capacity ratings for fractions of a foot in vessel length will be determined by multiplying the fraction of a foot in vessel length by the difference in the two ratings assigned to the nearest integers of vessel length. The length rating for the combined permit is that indicated for the sum of the vessel harvest capacity ratings for each permit being combined. If that sum falls between the sums for two adjacent lengths on Table 2 of this part, the length rating shall be the higher length.

(3) Size endorsement requirements for sablefish-endorsed permits. Notwithstanding paragraphs (c)(1) and (2) of this section, when multiple permits are "stacked" on a vessel, as described in §660.335(c), at least one of the permits must meet the size requirements of those sections. The permit that meets the size requirements of those sections is considered the vessel's "base" permit, as defined in §660.302. Beginning in the Fall of 2006 with the limited entry permit renewal process (§660.335(a)), if more than one permit registered for use with the vessel has an appropriate length endorsement for that vessel, NMFS SFD will designate a base permit by selecting the permit that has been registered to the vessel for the longest time. If the permit owner objects to NMFS's selection of the base permit, the permit owner may send a letter to NMFS SFD requesting the change and the reasons for the request. If the permit requested to be changed to the base permit is appropriate for the length of the vessel as provided for in paragraph (c)(2)(i) of this section, NMFS SFD will reissue the permit with the new base permit. Any additional permits that are stacked for use with a vessel participating in the limited entry primary fixed gear sablefish fishery may be registered for use with a vessel even if the vessel is more than 5 ft (1.5 m) longer or shorter than the size endorsed on the permit.

(d) Sablefish endorsement and tier assignment--

(1) General. Participation in the limited entry fixed gear sablefish fishery during the primary season described in §660.372 north of 36° N. lat., requires that an owner of a vessel hold (by ownership or lease) a limited entry permit, registered for use with that vessel, with a longline or trap (or pot) 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.

(i) A sablefish endorsement with a tier assignment will be affixed to the permit and will remain valid when the permit is transferred. {added at 69 FR 57874, September 28, 2004}

(ii) A sablefish endorsement and its associated tier assignment are not separable from the limited entry permit, and therefore may not be transferred separately from the limited entry permit. {added at 69 FR 57874, September 28, 2004}

(2) Endorsement and tier assignment qualifying criteria.

(i) Permit catch history. Permit catch history will be used to determine whether a permit meets the qualifying criteria for a fixed gear sablefish endorsement and to determine the appropriate tier assignment for endorsed permits. Permit catch history includes the catch history of the vessel(s) that initially qualified for the permit, and subsequent catch histories accrued when the limited entry permit or permit rights were associated with other vessels. The catch history of a permit also includes the catch of any interim permit held by the current owner of the permit during the appeal of an initial NMFS decision to deny the initial issuance of a limited entry permit, but only if the appeal for which an interim permit was issued was lost by the appellant, and the owner's current permit was used by the owner in the 1995 limited entry sablefish fishery. The catch history of an interim permit where the full "A" permit was ultimately granted will also be considered part of the catch history of the "A" permit. If the current permit is the result of the combination of multiple permits, then for the combined permit to qualify for an endorsement, at least one of the permits that were combined must have had sufficient sablefish history to qualify for an endorsement; or the permit must qualify based on catch occurring after it was combined, but taken within the qualifying period. If the current permit is the result of the combination of multiple permits, the combined catch histories of all of the permits that were combined to create a new permit before March 12, 1998, will be used in calculating the tier assignment for the resultant permit, together with any catch history (during the qualifying period) of the resultant permit. Only sablefish catch regulated by this part that was taken with longline or trap (pot) gear will be considered for the sablefish endorsement, except that vessels qualifying for the sablefish endorsement based on longline or trap (pot) landings may include setnet sablefish landings defined at (d)(2)(ii)(B) of this section in meeting tier assignment qualifications. Sablefish harvested illegally or landed illegally will not be considered for this endorsement.

(ii) Sablefish endorsement tier assignments. Only limited entry, fixed gear permits with sablefish endorsements will receive cumulative trip limit tier assignments.

(A) The qualifying weight criteria for Tier 1 are at least 898,000 lb (407,326 kg) cumulative round weight of sablefish caught over the years 1984–1994. The qualifying weight criteria for Tier 2 are at least 380,000 lb (172,365 kg), but no more than 897,999 lb (407,326 kg) cumulative round weight of sablefish caught over the years 1984–1994. Fixed gear permits with less than 380,000 lb (172,365 kg) cumulative round weight of sablefish caught over the years 1984–1994 qualify for Tier 3. All qualifying sablefish landings must be caught with longline or trap (pot), although setnet landings defined at sub-paragraph (B) of this section may also be included in tier assignment qualifying landings. Sablefish taken in tribal set aside fisheries does not qualify.

(B) Setnet sablefish landings are included in sablefish endorsement tier assignment qualifying criteria if those landings were made north of 38° N. lat. under the authority of an EFP issued by NMFS in any of the years 1984–1985, by a vessel that landed at least 16,000 lb (7,257 kg) of sablefish with longline or trap (pot) gear in any one year between 1984–1994.

(iii) Evidence and burden of proof. A vessel owner (or person holding limited entry rights under the express terms of a written contract) applying for issuance, renewal, replacement, transfer, or registration of a limited entry permit has the burden to submit evidence to prove that qualification requirements are met. The owner of a permit endorsed for longline or trap (pot) gear applying for a sablefish endorsement or a tier assignment under this section has the burden to submit evidence to prove that qualification requirements are met. The following evidentiary standards apply:

- (A) A certified copy of the current vessel document (USCG or State) is the best evidence of vessel ownership and LOA.
- (B) A certified copy of a State fish receiving ticket is the best evidence of a landing, and of the type of gear used.
- (C) A copy of a written contract reserving or conveying limited entry rights is the best evidence of reserved or acquired rights.
- (D) Such other relevant, credible evidence as the applicant may submit, or the SFD or the Regional Administrator request or acquire, may also be considered.

(3) Issuance process for sablefish endorsements and tier assignments.

(i) No new applications for sablefish endorsements will be accepted after November 30, 1998.

(ii) All tier assignments and subsequent appeals processes were completed by September 1998. If, however, a permit owner with a sablefish endorsement believes that his permit may qualify for a change in tier status based on qualifications in paragraph (d)(2)(ii)(B) of this section, the SFD will accept applications for a tier change through December 31, 2002. The application shall consist of a written letter stating the applicant's circumstances, requesting action, be signed by the applicant, and submitted along with the relevant documentation (fish tickets) in support of the application for a change in tier status.

(iii) After review of the evidence submitted under paragraph (ii), and any additional information the SFD finds to be relevant, the Regional Administrator will issue a letter of determination notifying a permit owner of whether the evidence submitted is sufficient to alter the initial tier assignment. If the Regional Administrator determines the permit qualifies for a different tier, the permit owner will be issued a permit with the revised tier assignment once the initial permit is returned to the SFD for processing.

(iv) If a permit owner chooses to file an appeal of the determination under paragraph (iii) of this section, the appeal must be filed with the Regional Administrator within 30 days of the issuance of the letter of determination. The appeal must be in writing and must allege facts or circumstances, and include credible evidence demonstrating why the permit qualifies for a different tier assignment. The appeal of a denial of an application for a different tier assignment will not be referred to the Council for a recommendation under §660.340 (e).

(v) Absent good cause for further delay, the Regional Administrator will issue a written decision on the appeal within 30 days of receipt of the appeal. The Regional Administrator's decision is the final administrative decision of the Department of Commerce as of the date of the decision.

(4) Ownership requirements and limitations.

(i) No partnership or corporation may own a limited entry permit with a sablefish endorsement unless that partnership or corporation owned a limited entry permit with a sablefish endorsement on November 1, 2000. Otherwise, only individual human persons may own limited entry permits with sablefish endorsements.

(ii) No individual person, partnership, or corporation in combination may have ownership interest in or hold more than 3 permits with sablefish endorsements either simultaneously or cumulatively over the primary season, except for an individual person, or partnerships or corporations that had ownership interest in more than 3 permits with sablefish endorsements as of November 1, 2000. The exemption from the maximum ownership level of 3 permits only applies to ownership of the particular permits that were owned on November 1, 2000. An individual person, or partnerships or corporations that had ownership interest in 3 or more permits with sablefish endorsements as of November 1, 2000, may not acquire additional permits beyond those particular permits owned on November 1, 2000. If, at some future time, an individual person, partnership, or corporation that owned more than 3 permits as of November 1, 2000, sells or otherwise permanently transfers (not holding through a lease arrangement) some of its originally owned permits, such that they then own fewer than 3 permits, they may then acquire additional permits, but may not have ownership interest in or hold more than 3 permits. {revised at 71 FR 10614, March 2, 2006}

(iii) A partnership or corporation will lose the exemptions provided in paragraphs (d)(4)(i) and (ii) of this section on the effective date of any change in the corporation or partnership from that which existed on November 1, 2000. A "change" in the partnership or corporation is defined at §660.302. A change in the partnership or corporation must be reported to SFD within 15 calendar days of the addition of a new shareholder or partner. {revised at 71 FR 10614, March 2, 2006}

(iv) During 2006 when a permit's ownership interest is requested for the first time, NMFS anticipates sending a form to legally recognized corporations and partnerships (i.e., permit owners or holders that do not include only individual's names) that currently own or hold sablefish-endorsed permits that requests a listing of the names of all shareholders or partners as of November 1, 2000, and a listing of that same information as of the current date in 2006. Applicants will be provided at least 60 calendar days to submit completed applications. If a corporation or partnership fails to return the completed form by the deadline date of July 1, 2006, NMFS will send a second written notice to delinquent entities requesting the completed form by a revised deadline date of August 1, 2006. If the permit owning or holding entity fails to return the completed form by that second date, August 1, 2006, NMFS will void their existing permit(s) and reissue the permit(s) with a vessel registration given as "unidentified" until such time that the completed form is provided to NMFS. For the 2007 fishing year and beyond, any partnership or corporation with any ownership interest in or that holds a limited entry permit with a sablefish endorsement shall document the extent of that ownership interest or the individuals that hold the permit with the SFD via the Identification of Ownership Interest Form sent to the permit owner through the annual permit renewal process defined at §660.335(a) and whenever a change in permit owner, permit holder, and/or vessel registration occurs as defined at §660.335(d) and (e). SFD will not renew a sablefish-endorsed limited entry permit through the annual renewal process described at §660.335(a) or approve a change in permit owner, permit holder, and/or vessel registration unless the Identification of Ownership Interest Form has been completed. Further, if SFD discovers through review of the Identification of Ownership Interest Form that an individual person, partnership, or corporation owns or holds more than 3 permits and is not authorized to do so under paragraph (d)(4)(ii) of this section, the individual person, partnership or corporation will be notified and the permits owned or held by that individual person, partnership, or corporation will be void and reissued with the vessel status as "unidentified" until the permit owner owns and/or holds a quantity of permits appropriate to the restrictions and requirements described in paragraph (d)(4)(ii) of this section. If SFD discovers through review of the Identification of Ownership Interest Form that a partnership or corporation has had a change in membership since November 1, 2000, as described in paragraph (d)(4)(iii) of this section, the partnership or corporation will be notified, SFD will void any existing permits, and reissue any permits owned and/or held by that partnership or corporation in "unidentified" status with respect to vessel registration until the partnership or corporation is able to transfer those permits to persons authorized under this section to own sablefish-endorsed limited entry permits. {added at 71 FR 10614, March 2, 2006}

(v) For permit owners with one individual listed and who were married as of November 1, 2000, and who wish to add their spouse as co-owner on their permit(s), NMFS will accept corrections to NMFS' permit ownership records. Permit owners may add a not-listed spouse as a co-owner without losing their exemption from the owner-on-board requirements (i.e., grandfathered status). Their new grandfathered status will be as a partnership, as defined at §660.302 which includes married couples. Individual permit owners will lose their individual grandfathered status when they add their not-listed spouse unless they also owned at least one permit as an individual and did not retroactively add a spouse as co-owner on that permit. In cases where married couples are listed as co-owners of the same permit, both individuals will be counted as owning one permit each and will have grandfathered status as a partnership. An individual within the married couple will not, however, be able to retain their exemption from owner-on-board requirements if they choose to buy another permit as an individual and did not own a permit as an individual as of the control date in NMFS "corrected" records (i.e., NMFS records after allowing a not-listed spouse to be added as co-owner). Members of partnerships and corporations will not be allowed to add their spouses to the corporate ownership listing as of November 1, 2000, for purposes of exempting them from the owner-on-board requirements. NMFS will send a form to permit owners with one individual listed on the permit as of November 1, 2000, to allow married individuals who wish to declare their spouses as having permit ownership interest as of November 1, 2000. Applicants will be required to submit a copy of their marriage certificate as evidence of marriage. Applicants will be provided at least 60 calendar days to submit an application to add a spouse as co-owner. Failure to return the completed form to NMFS SFD by July 1, 2006, will result in the individual listed on the permit in SFD records as of November 1, 2000, remaining on the permit. SFD will not accept any declarations to add a spouse as co-owner for couples married as of November 1, 2000, postmarked after the July 1, 2006, deadline. {added at 71 FR 10614, March 2, 2006}

(vi) For an individual person, partnership, or corporation that qualified for the owner-on-board exemption, but later divested their interest in a permit or permits, they may retain rights to an owner-on-board exemption as long as that individual person, partnership, or corporation obtains another permit by March 2, 2007. An individual person, partnership or corporation could only obtain a permit if it has not added or changed individuals since November 1, 2000, excluding individuals that have left the partnership or corporation or that have died. NMFS will send out a letter to all individuals, partnerships or corporations who owned a permit as of November 1, 2000, and who no longer own a permit to notify them that they would qualify as a grandfathered permit owner if they choose to buy a permit by March 2, 2007. {added at 71 FR 10614, March 2, 2006}

(vii) A person, partnership, or corporation that is exempt from the owner-onboard requirement may sell all of their permits, buy another sablefish-endorsed permit within up to a year from the date the last permit was approved for transfer, and retain their exemption from the owner-on-board requirements. An individual person, partnership or corporation could only obtain a permit if it has not added or changed individuals since November 1, 2000, excluding individuals that have left the partnership or corporation or that have died. {added at 71 FR 10614, March 2, 2006}

(e) Sablefish at-sea processing prohibition and exemption-- {added at 71 FR 10614, March 2, 2006}

(1) General. Beginning January 1, 2007, vessels are prohibited from processing sablefish at sea that were caught in the primary sablefish fishery without sablefish at-sea processing exemptions at §660.306(e)(3). A permit and/or vessel owner may get an exemption to this prohibition if his/her vessel meets the exemption qualifying criteria provided in paragraph (e)(2) of this section. The sablefish at-sea processing exemption is issued to a particular vessel and the permit and/or vessel owner who requested the exemption. The exemption is not part of the limited entry permit. The exemption is not transferable to any other vessel, vessel owner, or permit owner for any reason. The sablefish at-sea processing exemption will expire upon transfer of the vessel to a new owner or if the vessel is totally lost, as defined at §660.302.

(2) Qualifying criteria. A sablefish at-sea processing exemption will be issued to any vessel registered for use with a sablefish-endorsed limited entry permit that meets the sablefish at-sea processing exemption qualifying criteria and for which the owner submits a timely application. The qualifying criteria for a sablefish at-sea processing exemption are: at least 2,000 lb (907.2 mt), round weight, of frozen sablefish landed by the applicant vessel during any one calendar year in either 1998 or 1999, or between January 1 and November 1, 2000. The best evidence of a vessel having met these qualifying criteria will be receipts from frozen product buyers or exporters, accompanied by the state fish tickets or landings receipts appropriate to the frozen product. Documentation showing investment in freezer equipment without also showing evidence of how poundage qualifications have been met is not sufficient evidence to qualify a vessel for a sablefish at-sea processing exemption. All landings of sablefish must have occurred during the regular and/or mop-up seasons and must have been harvested in waters managed under this part. Sablefish taken in tribal set aside fisheries or taken outside of the fishery management area, as defined at §660.302, does not meet the qualifying criteria.

(3) Issuance process for sablefish at-sea processing exemptions.

(i) The SFD will mail sablefish at-sea processing exemption applications to all limited entry permit owners with sablefish endorsements and/or fixed gear vessel owners and will make those applications available online at www.nwr.noaa.gov/Groundfish-Halibut/Fisheries-Permits/index.cfm. Permit and/or vessel owners will have at least 60 calendar days to submit applications. A permit and/or vessel owner who believes that their vessel may qualify for the sablefish at-sea processing exemption will have until July 1, 2006, to submit evidence showing how their vessel has met the qualifying criteria described in this section at paragraph (e)(2) of this section. Paragraph (e)(4) of this section sets out the relevant evidentiary standards and burden of proof. SFD will not accept applications for the sablefish at-sea processing exemption postmarked after July 1, 2006.

(ii) Within 30 calendar days of the deadline or after receipt of a complete application, the SFD will notify applicants by letter of determination whether their vessel qualifies for the sablefish at-sea processing exemption. A person who has been notified by the SFD that their vessel qualifies for a sablefish at-sea processing exemption will be issued an exemption letter by SFD that must be onboard the vessel at all times. After the deadline for the receipt of applications has expired and all applications processed, SFD will publish a list of vessels that qualified for the sablefish at-sea processing exemption in the *Federal Register*.

(iii) If a permit and/or vessel owner chooses to file an appeal of the determination under paragraph (e)(3)(ii) of this section, the appeal must be filed with the Regional Administrator within 30 calendar days of the issuance of the letter of determination. The appeal must be in writing and must allege facts or circumstances, and include credible evidence demonstrating why the vessel qualifies for a sablefish at-sea processing exemption. The appeal of a denial of an application for a sablefish at-sea processing exemption will not be referred to the Council for a recommendation, nor will any appeals be accepted by SFD after September 1, 2006.

(iv) Absent good cause for further delay, the Regional Administrator will issue a written decision on the appeal within 30 calendar days of receipt of the appeal. The Regional Administrator's decision is the final administrative decision of the Department of Commerce as of the date of the decision.

(4) **Evidence and burden of proof.** A permit and/or vessel owner applying for issuance of a sablefish at-sea processing exemption has the burden to submit evidence to prove that qualification requirements are met. The following evidentiary standards apply:

(i) A certified copy of the current vessel document (USCG or state) is the best evidence of vessel ownership and LOA.

(ii) A certified copy of a state fish receiving ticket is the best evidence of a landing, and of the type of gear used.

(iii) A copy of a written receipt indicating the name of their buyer, the date, and a description of the product form and the amount of sablefish landed is the best evidence of the commercial transfer of frozen sablefish product.

(iv) Such other relevant, credible evidence as the applicant may submit, or the SFD or the Regional Administrator request or acquire, may also be considered.

(f) **Endorsement and exemption restrictions.** "A" endorsements, gear endorsements, sablefish endorsements and sablefish tier assignments may not be transferred separately from the limited entry permit. Sablefish at-sea processing exemptions are associated with the vessel and not with the limited entry permit and may not be transferred at all. {redesignated and revised at 71 FR 10614, March 2, 2006}

§ 660.335 Limited entry permits--renewal, combination, stacking, change of permit ownership or permit holder, and transfer. {revised at 71 FR 10614, March 2, 2006}

(a) **Renewal of limited entry permits and gear endorsements--**

(1) Limited entry permits expire at the end of each calendar year, and must be renewed between October 1 and November 30 of each year in order to remain in force the following year.

(2) Notification to renew limited entry permits will be issued by SFD prior to September 1 each year to the most recent address of the permit owner. The permit owner shall provide SFD with notice of any address change within 15 days of the change.

(3) Limited entry permit renewal requests received in SFD between November 30 and December 31 will be effective on the date that the renewal is approved. A limited entry permit that is allowed to expire will not be renewed unless the permit owner requests reissuance by March 31 of the following year and the SFD determines that failure to renew was proximately caused by illness, injury, or death of the permit owner.

(4) Limited entry permits with sablefish endorsements, as described at §660.334(d), will not be renewed until SFD has received complete documentation of permit ownership as required under §660.334(d)(4)(iv). {added at 71 FR 10614, March 2, 2006}

(b) **Combining limited entry permits.** Two or more limited entry permits with "A" 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 §660.334 (c)(2)(iii). With respect to permits endorsed for nontrawl limited entry 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.

(c) **Stacking limited entry permits.** "Stacking" limited entry permits, as defined at §660.302, refers to the practice of registering more than one permit for use with a single vessel. Only limited entry permits with sablefish endorsements may be stacked. Up to 3 limited entry permits with sablefish endorsements may be registered for use with a single vessel during the primary sablefish season described at §660.372. Privileges, responsibilities, and restrictions associated with stacking permits to participate in the primary sablefish fishery are described at §660.372 and at §660.334(d). {revised at 71 FR 10614, March 2, 2006}

(d) **Changes in permit ownership and permit holder--**

(1) **General.** The permit owner may convey the limited entry permit to a different person. The new permit owner will not be authorized to use the permit until the change in permit ownership has been registered with and approved by the SFD. The SFD will not approve a change in permit ownership for limited entry permits with sablefish endorsements that does not meet the ownership requirements for those permits described at §660.334 (d)(4). Change in permit owner and/or permit holder applications must be submitted to SFD with the appropriate documentation described at §660.335(g). {revised at 71 FR 10614, March 2, 2006}

(2) **Effective date.** The change in ownership of the permit or change in the permit holder will be effective on the day the change is approved by SFD, unless there is a concurrent change in the vessel registered to the permit. Requirements for changing the vessel registered to the permit are described at paragraph (e) of this section.

(3) **Sablefish-endorsed permits.** Beginning January 1, 2007, if a permit owner submits an application to transfer a sablefish-endorsed limited entry permit to a new permit owner or holder (transferee) during the primary sablefish season described at §660.372(b) (generally April 1 through October 31), the initial permit owner (transferor) must certify on the application form the cumulative quantity, in round weight, of primary season sablefish landed against that permit as of the application signature date for the then current primary season. The transferee must sign the application form acknowledging the amount of landings to date given by the transferor. This certified amount should match the total amount of primary season sablefish landings reported on state fish tickets. As required at §660.303(c), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter. {added at 71 FR 10614, March 2, 2006}

(e) **Changes in vessel registration-transfer of limited entry permits and gear endorsements--**

(1) **General.** A permit may not be used with any vessel other than the vessel registered to that permit. For purposes of this section, a permit transfer occurs when, through SFD, a permit owner registers a limited entry permit for use with a new vessel. Permit transfer applications must be submitted to SFD with the appropriate documentation described at §660.335(g). Upon receipt of a complete application, and following review and approval of the application, the SFD will reissue the permit registered to the new vessel. Applications to transfer limited entry permits with sablefish endorsements, as described at §660.334(d), will not be approved until SFD has received complete documentation of permit ownership as required under §660.334(d)(4)(iv). {revised at 71 FR 10614, March 2, 2006}

(2) **Application.** A complete application must be submitted to SFD in order for SFD to review and approve a change in vessel registration. At a minimum, a permit owner seeking to transfer a limited entry permit shall submit to SFD a signed application form and his/her current limited entry permit before the first day of the cumulative limit period in which they wish to participate. If a permit owner provides a signed application and current limited entry permit after the first day of a cumulative limit period, the permit will not be effective until the succeeding cumulative limit period. SFD will not approve a change in vessel registration (transfer) until it receives a complete application, the existing permit, a current copy of the USCG 1270, and other required documentation.

(3) **Effective date.** Changes in vessel registration on permits will take effect no sooner than the first day of the next major limited entry cumulative limit period following the date that SFD receives the signed permit transfer form and the original limited entry permit. No transfer is effective until the limited entry permit has been reissued as registered with the new vessel. {revised at 71 FR 10614, March 2, 2006}

(4) **Sablefish-endorsed permits.** Beginning January 1, 2007, if a permit owner submits an application to register a sablefish-endorsed limited entry permit to a new vessel during the primary sablefish season described at §660.372(b) (generally April 1 through October 31), the initial permit owner (transferor) must certify on the application form the cumulative quantity, in round weight, of primary season sablefish landed against that permit as of the application signature date for the then current primary season. The new permit owner or holder (transferee) associated with the new vessel must sign the application form acknowledging the amount of landings to date given by the transferor. This certified amount should match the total amount of primary season sablefish landings reported on state fish tickets. As required at §660.303(c), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter. {added at 71

FR 10614, March 2, 2006}

(f) Restriction on frequency of transfers. Limited entry permits may not be registered for use with a different vessel (transfer) more than once per calendar year, except in cases of death of a permit holder or if the permitted vessel is totally lost as defined in 660.302. The exception for death of a permit holder applies for a permit held by a partnership or a corporation if the person or persons holding at least 50 percent of the ownership interest in the entity dies.

(1) A permit owner may designate the vessel registration for a permit as "unidentified", meaning that no vessel has been identified as registered for use with that permit. No vessel is authorized to use a permit with the vessel registration designated as "unidentified."

(2) When a permit owner requests that the permit's vessel registration be designated as "unidentified," the transaction is not considered a "transfer" for purposes of this section. Any subsequent request by a permit owner to change from the "unidentified" status of the permit in order to register the permit with a specific vessel will be considered a change in vessel registration (transfer) and subject to the restriction on frequency and timing of changes in vessel registration (transfer).

(g) Application and supplemental documentation. Permit holders may request a transfer (change in vessel registration) and/or change in permit ownership or permit holder by submitting a complete application form. In addition, a permit owner applying for renewal, replacement, transfer, or change of ownership or change of permit holder of a limited entry permit has the burden to submit evidence to prove that qualification requirements are met. The owner of a permit endorsed for longline or trap (or pot) gear applying for a tier assignment under §660.334 (d) has the burden to submit evidence to prove that certain qualification requirements are met. The following evidentiary standards apply:

(1) For a request to change a vessel registration and/or change in permit ownership or permit holder, the permit owner must provide SFD with a current copy of the USCG Form 1270 for vessels of 5 net tons or greater, or a current copy of a state registration form for vessels under 5 net tons.

(2) For a request to change a vessel registration and/or change in permit ownership or permit holder for sablefish-endorsed permits with a tier assignment for which a corporation or partnership is listed as permit owner and/or holder, an Identification of Ownership Interest Form must be completed and included with the application form. {added at 71 FR 10614, March 2, 2006}

(3) For a request to change the vessel registration to a permit, the permit holder must submit to SFD a current marine survey conducted by a certified marine surveyor in accordance with USCG regulations to authenticate the length overall of the vessel being newly registered with the permit. Marine surveys older than 3 years at the time of the request for change in vessel registration will not be considered "current" marine surveys for purposes of this requirement. {redesignated at 71 FR 10614, March 2, 2006}

(4) For a request to change a permit's ownership where the current permit owner is a corporation, partnership or other business entity, the applicant must provide to SFD a corporate resolution that authorizes the conveyance of the permit to a new owner and which authorizes the individual applicant to request the conveyance on behalf of the corporation, partnership, other business entity. {redesignated at 71 FR 10614, March 2, 2006}

(5) For a request to change a permit's ownership that is necessitated by the death of the permit owner(s), the individual(s) requesting conveyance of the permit to a new owner must provide SFD with a death certificate of the permit owner(s) and appropriate legal documentation that either: specifically transfers the permit to a designated individual(s); or, provides legal authority to the transferor to convey the permit ownership. {redesignated at 71 FR 10614, March 2, 2006}

(6) For a request to change a permit's ownership that is necessitated by divorce, the individual requesting the change in permit ownership must submit an executed divorce decree that awards the permit to a designated individual(s). {redesignated at 71 FR 10614, March 2, 2006}

(7) Such other relevant, credible documentation as the applicant may submit, or the SFD or Regional Administrator may request or acquire, may also be considered. {redesignated at 71 FR 10614, March 2, 2006}

(h) Application forms available. Application forms for the change in vessel registration (transfer) and change of permit ownership or permit holder of limited entry permits are available from the SFD (see part 600 for address of the Regional Administrator). Contents of the application, and required supporting documentation, are specified in the application form.

(i) Records maintenance. The SFD will maintain records of all limited entry permits that have been issued, renewed, transferred, registered, or replaced.

§ 660.336 Reserved.

§ 660.337 Reserved.

§ 660.338 Limited entry permits-small fleet.

(a) Small limited entry fisheries fleets that are controlled by a local government, are in existence as of July 11, 1991, and have negligible impacts on the groundfish resource, may be certified as consistent with the goals and objectives of the limited entry program and incorporated into the limited entry fishery. Permits issued under this subsection will be issued in accordance with the standards and procedures set out in the PCGFMP and will carry the rights explained therein.

(b) A permit issued under this section may be registered only to another vessel that will continue to operate in the same certified small fleet, provided that the total number of vessels in the fleet does not increase. A vessel may not use a small fleet limited entry permit for participation in the limited entry fishery outside of authorized activities of the small fleet for which that permit and vessel have been designated.

§ 660.339 Limited entry permit fees.

The Regional Administrator will charge fees to cover administrative expenses related to issuance of limited entry permits, including initial issuance, renewal, transfer, vessel registration, replacement, and appeals. The appropriate fee must accompany each application.

§ 660.340 Limited entry permit appeals.

(a) Decisions on appeals of initial decisions regarding issuance, renewal, change in vessel registration, change in permit owner or permit holder, and endorsement upgrade, will be made by the Regional Administrator.

(b) Appeals decisions shall be in writing and shall state the reasons therefore.

(c) Within 30 days of an initial decision by the SFD denying issuance, renewal, change in vessel registration, change in permit owner or permit holder, or endorsement upgrade, on the terms requested by the applicant, an appeal may be filed with the Regional Administrator.

(d) The appeal must be in writing, and must allege facts or circumstances to show why the criteria in this subpart have been met, or why an exception should be granted.

(e) At the appellant's discretion, the appeal may be accompanied by a request that the Regional Administrator seek a recommendation from the Council as to whether the appeal should be granted. Such a request must contain the appellant's acknowledgment that the confidentiality provisions of the Magnuson-Stevens Act at 16 U.S.C. 1853 (d) and part 600 of this chapter are waived with respect to any information supplied by Regional Administrator to the Council and its advisory bodies for purposes of receiving the Council's recommendation on the appeal. In responding to a request for a recommendation on appeal, the Council will apply the provisions of the PCGFMP in making its recommendation as to whether the appeal should be granted.

(f) Absent good cause for further delay, the Regional Administrator will issue a written decision on the appeal within 45 days of receipt of the appeal, or, if a recommendation from the Council is requested, within 45 days of receiving the Council's recommendation. The Regional Administrator's decision is the final administrative decision of the Department as of the date of the decision.

§ 660.341 Limited entry permit sanctions.

Limited entry permits issued or applied for under this subpart are subject to sanctions pursuant to the Magnuson Act at 16 U.S.C. 1858(g) and 15 CFR part 904, subpart D.

§ 660.350 Compensation with fish for collecting resource information--exempted fishing permits off Washington, Oregon, and California.

In addition to the reasons stated in §600.745(b)(1) of this chapter, an EFP may be issued under this subpart G for the purpose of compensating the owner or operator of a vessel for collecting resource information according to a protocol approved by NMFS. NMFS may issue an EFP allowing a vessel to retain fish as compensation in excess of trip limits or to be exempt from other specified management measures for the Pacific coast groundfish fishery.

(a) Compensation EFP for vessels under contract with NMFS to conduct a resource survey. NMFS may issue an EFP to the owner or operator of a vessel that conducted a resource survey according to a contract with NMFS. A vessel's total compensation from all sources (in terms of dollars or amount of fish, including fish from survey samples or compensation fish) will be determined through normal Federal procurement procedures. The compensation EFP will specify the maximum amount or value of fish the vessel may take and retain after the resource survey is completed.

(1) Competitive offers. NMFS may initiate a competitive solicitation (request for proposals or RFP) to select vessels to conduct resource surveys that use fish as full or partial compensation, following normal Federal procurement procedures.

(2) Consultation and approval. At a Council meeting, NMFS will consult with the Council and receive public comment on upcoming resource surveys

to be conducted if groundfish could be used as whole or partial compensation. Generally, compensation fish would be similar to surveyed species, but there may be reasons to provide payment with healthier, more abundant, less restricted stocks, or more easily targeted species. For example, NMFS may decline to pay a vessel with species that are, or are expected to be, overfished, or that are subject to overfishing, or that are unavoidably caught with species that are overfished or subject to overfishing. NMFS may also consider levels of discards, bycatch, and other factors. If the Council does not approve providing whole or partial compensation for the conduct of a survey, NMFS will not use fish, other than fish taken during the scientific research, as compensation for that survey. For each proposal, NMFS will present:

- (i) The maximum number of vessels expected or needed to conduct the survey,
 - (ii) An estimate of the species and amount of fish likely to be needed as compensation,
 - (iii) When the survey and compensation fish would be taken, and
 - (iv) The year in which the compensation fish would be deducted from the ABC before determining the optimum yield (harvest guideline or quota).
- (3) Issuance of the compensation EFP. Upon successful completion of the survey, NMFS will issue a "compensation EFP" to the vessel if it has not been fully compensated. The procedures in §600.745(b)(1) through (b)(4) of this chapter do not apply to a compensation EFP issued under this subpart for the Pacific coast groundfish fishery (50 CFR part 660, subpart G).
- (4) Terms and conditions of the compensation EFP. Conditions for disposition of bycatch or any excess catch, for reporting the value of the amount landed, and other appropriate terms and conditions may be specified in the EFP. Compensation fishing must occur during the period specified in the EFP, but no later than the end of September of the fishing year following the survey, and must be conducted according to the terms and conditions of the EFP.
- (5) Reporting the compensation catch. The compensation EFP may require the vessel owner or operator to keep separate records of compensation fishing and to submit them to NMFS within a specified period of time after the compensation fishing is completed.
- (6) Accounting for the compensation catch. As part of the harvest specifications process (§660.370), NMFS will advise the Council of the amount of fish authorized to be retained under a compensation EFP, which then will be deducted from the next harvest specifications (ABCs) set by the Council. Fish authorized in an EFP too late in the year to be deducted from the following year's ABCs will be accounted for in the next management cycle where it is practicable to do so.

(b) Compensation for commercial vessels collecting resource information under a standard EFP. NMFS may issue an EFP to allow a commercial fishing vessel to take and retain fish in excess of current management limits for the purpose of collecting resource information (§600.745(b) of this chapter). The EFP may include a compensation clause that allows the participating vessel to be compensated with fish for its efforts to collect resource information according to NMFS' approved protocol. If compensation with fish is requested in an EFP application, or proposed by NMFS, the following provisions apply in addition to those at §600.745(b) of this chapter.

- (1) Application. In addition to the requirements in §600.745(b) of this chapter, application for an EFP with a compensation clause must clearly state whether a vessel's participation is contingent upon compensation with groundfish and, if so, the minimum amount (in metric tons, round weight) and the species. As with other EFPs issued under §600.745 of this chapter, the application may be submitted by any individual, including a state fishery management agency or other research institution.
- (2) Denial. In addition to the reasons stated in §600.745(b)(3)(iii) of this chapter, the application will be denied if the requested compensation fishery, species, or amount is unacceptable for reasons such as, but not limited to, the following: NMFS concludes the value of the resource information is not commensurate with the value of the compensation fish; the proposed compensation involves species that are (or are expected to be) overfished or subject to overfishing, fishing in times or areas where fishing is otherwise prohibited or severely restricted, or fishing for species that would involve unavoidable bycatch of species that are overfished or subject to overfishing; or NMFS concludes the information can reasonably be obtained at a less cost to the resource.
- (3) Window period for other applications. If the Regional Administrator or designee agrees that compensation should be considered, and that more than a minor amount would be used as compensation, then a window period will be announced in the *Federal Register* during which additional participants will have an opportunity to apply. This notification would be made at the same time as announcement of receipt of the application and request for comments required under §660.745(b). If there are more qualified applicants than needed for a particular time and area, NMFS will choose among the qualified vessels, either randomly, in order of receipt of the completed application, or by other impartial selection methods. If the permit applicant is a state, university, or Federal entity other than NMFS, and NMFS approves the selection method, the permit applicant may choose among the qualified vessels, either randomly, in order of receipt of the vessel application, or by other impartial selection methods.
- (4) Terms and conditions. The EFP will specify the amounts that may be taken as scientific samples and as compensation, the time period during which the compensation fishing must occur, management measures that NMFS will waive for a vessel fishing under the EFP, and other terms and conditions appropriate to the fishery and the collection of resource information. NMFS may require compensation fishing to occur on the same trip that the resource information is collected.
- (5) Accounting for the catch. Samples taken under this EFP, as well as any compensation fish, count toward the current year's catch or landings.

§ 660.365 Overfished species rebuilding plans. {revised at 69 FR 57874, September 28, 2004; revised at 69 FR 77012, December 23, 2004; revised at 71 FR 78638, December 29, 2006}

For each overfished groundfish stock with an approved rebuilding plan, this section contains the standards to be used to establish annual or biennial OYs, specifically the target date for rebuilding the stock to its MSY level and the harvest control rule to be used to rebuild the stock. The harvest control rule is expressed as a "Spawning Potential Ratio" or "SPR" harvest rate. {added at 69 FR 57874, September 28, 2004; revised at 71 FR 78638, December 29, 2006}

- (a) Bocaccio. The target year for rebuilding the southern bocaccio stock to $BMSY$ is 2026. The harvest control rule to be used to rebuild the southern bocaccio stock is an annual SPR harvest rate of 77.7 percent. {added at 69 FR 57874, September 28, 2004; revised at 71 FR 78638, December 29, 2006}
- (b) Canary rockfish. The target year for rebuilding the canary rockfish stock to $BMSY$ is 2063. The harvest control rule to be used to rebuild the canary rockfish stock is an annual SPR harvest rate of 88.7 percent. {revised at 71 FR 78638, December 29, 2006}
- (c) Cowcod. The target year for rebuilding the cowcod stock south of Point Conception to $BMSY$ is 2039. The harvest control rule to be used to rebuild the cowcod stock is an annual SPR harvest rate of 90.0 percent. {added at 69 FR 57874, September 28, 2004; revised at 71 FR 78638, December 29, 2006}
- (d) Darkblotched rockfish. The target year for rebuilding the darkblotched rockfish stock to $BMSY$ is 2011. The harvest control rule to be used to rebuild the darkblotched rockfish stock is an annual SPR harvest rate of 64.1 percent in 2007 and 60.7 percent beginning in 2008. {revised at 71 FR 78638, December 29, 2006}
- (e) Pacific ocean perch (POP). The target year for rebuilding the POP stock to $BMSY$ is 2017. The harvest control rule to be used to rebuild the POP stock is an annual SPR harvest rate of 86.4 percent. {revised at 71 FR 78638, December 29, 2006}
- (f) Widow rockfish. The target year for rebuilding the widow rockfish stock to $BMSY$ is 2015. The harvest control rule to be used to rebuild the widow rockfish stock is an annual SPR harvest rate of 95.0 percent. {added at 69 FR 57874, September 28, 2004; revised at 71 FR 78638, December 29, 2006}
- (g) Yelloweye rockfish. The target year for rebuilding the yelloweye rockfish stock to $BMSY$ is 2084. The harvest control rule to be used to rebuild the yelloweye rockfish stock is an annual SPR harvest rate is 55.4 in 2007 and 60.8 in 2008. Yelloweye rockfish is subject to a ramp-down strategy where the harvest level will be reduced from current levels until 2011. Beginning in 2011, yelloweye rockfish will be subject to a constant harvest rate strategy with a constant SPR harvest rate of 71.9 percent. {added at 69 FR 57874, September 28, 2004; revised at 71 FR 78638, December 29, 2006} Lingcod. {removed at 71 FR 78638, December 29, 2006}

§ 660.370 Specifications and management measures. {revised at 69 FR 77012, December 23, 2004; revised at 70 FR 23804, May 5, 2005; revised at 70 FR 65861, November 1, 2005; revised at 71 FR 8489, February 17, 2006; corrected at 71 FR 15045, March 27, 2006; revised at 71 FR 66122, November 13, 2006; revised at 71 FR 78638, December 29, 2006; revised at 72 FR 13043, March 30, 2007}

- (a) General. NMFS will establish and adjust specifications and management measures biennially or annually and during the fishing year. Management of the Pacific Coast groundfish fishery will be conducted consistent with the standards and procedures in the PCGFMP and other applicable law. The PCGFMP is available from the Regional Administrator or the Council. Regulations under this subpart may be promulgated, removed, or revised during the fishing year. Any such action will be made according to the framework standards and procedures in the PCGFMP and other applicable law, and will be published in the *Federal Register*. {revised at 69 FR 77012, December 23, 2004}
- (b) Biennial actions. The Pacific Coast Groundfish fishery is managed on a biennial, calendar year basis. Harvest specifications and management measures will be announced biennially, with the harvest specifications for each species or species group set for two sequential calendar years. 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. {revised at 71 FR 66122, November 13, 2006}
- (c) Routine management measures. In addition to the catch restrictions in §§660.371 through 660.373, other catch restrictions that are likely to be adjusted on a biennial or more frequent basis may be imposed and announced by a single notification in the *Federal Register* if good cause exists under the APA to waive notice

and comment, and if they have been designated as routine through the two-meeting process described in the PCGFMP. Routine management measures that may be revised during the fishing year via this process are implemented in paragraph (h) of this section and in §§660.371 through 660.385 and Tables 3–5 of this subpart. Most trip, bag, and size limits, and area closures in the groundfish fishery have been designated “routine,” which means they may be changed rapidly after a single Council meeting. Council meetings are held in the months of March, April, June, September, and November. Inseason changes to routine management measures are announced in the *Federal Register* pursuant to the requirements of the Administrative Procedure Act (APA). Changes to trip limits are effective at the times stated in the *Federal Register*. Once a change is effective, it is illegal to take and retain, possess, or land more fish than allowed under the new trip limit. This means that, unless otherwise announced in the *Federal Register*, offloading must begin before the time a fishery closes or a more restrictive trip limit takes effect. The following catch restrictions have been designated as routine: {revised at 69 FR 77012, December 23, 2004}

(1) Commercial limited entry and open access fisheries-- {revised at 69 FR 77012, December 23, 2004}

(i) Trip landing and frequency limits, size limits, all gear. Trip landing and frequency limits have been designated as routine for the following species or species groups: widow rockfish, canary rockfish, yellowtail rockfish, Pacific ocean perch, yelloweye rockfish, black rockfish, blue rockfish, splitnose rockfish, chilipepper rockfish, bocaccio, cowcod, minor nearshore rockfish or shallow and deeper minor nearshore rockfish, shelf or minor shelf rockfish, and minor slope rockfish; DTS complex which is composed of Dover sole, sablefish, shortspine thornyheads, and longspine thornyheads; petrale sole, rex sole, arrowtooth flounder, Pacific sanddabs, and the flatfish complex, which is composed of those species plus any other flatfish species listed at §660.302; Pacific whiting; lingcod; Pacific cod; spiny dogfish; and “other fish” as a complex consisting of all groundfish species listed at §660.302 and not otherwise listed as a distinct species or species group. Size limits have been designated as routine for sablefish and lingcod. Trip landing and frequency limits and size limits for species with those limits designated as routine may be imposed or adjusted on a biennial or more frequent basis for the purpose of keeping landings within the harvest levels announced by NMFS, and for the other purposes given in paragraphs (c)(1)(i)(A) and (B) of this section. {revised at 71 FR 8489, February 17, 2006}

(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 protect overfished species; 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 limits 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 a biennial or more frequent basis for the purpose of rebuilding and protecting overfished or depleted stocks. To achieve the rebuilding of an overfished or depleted stock, the Pacific whiting primary seasons described at §660.373(b), may be closed for any or all of the fishery sectors identified at §660.373(a) before the sector allocation is reached if any of the bycatch limits identified at §660.373(b)(4) are reached. {suspended at 70 FR 23840, May 5, 2005 until 11/1/05; suspension extended at 70 FR 65861, November 1, 2005 until 5/1/06}

(iii) Type of limited entry trawl gear on board. Limits on the type of limited entry trawl gear on board a vessel may be imposed on a biennial or more frequent basis. Requirements and restrictions on limited entry trawl gear type are found at §660.381. {added at 71 FR 78638, December 29, 2006}

(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 protect and rebuild overfished species; to avoid waste.

(ii) Size limits. To protect juvenile fish; to protect and rebuild overfished species; to enhance the quality of the recreational fishing experience.

(iii) Season duration restrictions. To spread the available catch over a large number of anglers; to protect and rebuild overfished species; to avoid waste; to enhance the quality of the recreational fishing experience.

(3) All fisheries, all gear types depth-based management measures. Depth-based management measures, particularly the setting of closed areas known as Groundfish Conservation Areas may be imposed on any sector of the groundfish fleet using specific boundary lines that approximate depth contours with latitude/longitude waypoints. Depth-based management measures and the setting of closed areas may be used to protect and rebuild overfished stocks. {revised at 71 FR 66122, November 13, 2006}

(d) Automatic actions. Automatic management actions may be initiated by the NMFS Regional Administrator without prior public notice, opportunity to comment, or a Council meeting. These actions are nondiscretionary, and the impacts must have been taken into account prior to the action. Unless otherwise stated, a single notice will be published in the *Federal Register* making the action effective if good cause exists under the APA to waive notice and comment. Automatic actions are used in the Pacific whiting fishery to close the fishery or reinstate trip limits when a whiting harvest guideline, commercial harvest guideline, or a sector’s allocation is reached, or is projected to be reached; or to reapportion unused allocation to other sectors of the fishery. An automatic action is also used in the Pacific whiting fishery to implement the Ocean Salmon Conservation Zone, described at 660.373(c)(3), when NMFS projects the Pacific whiting fishery may take in excess of 11,000 Chinook within a calendar year. {revised at 69 FR 77012, December 23, 2004; suspended at 70 FR 23804, May 5, 2005 until 11/1/05; suspension extended at 70 FR 65861, November 1, 2005 until 5/1/06; revised at 71 FR 78638, December 29, 2006}

(e) Prohibited species. Groundfish species or species groups under the PCGFMP for which quotas have been achieved and/or the fishery closed are prohibited species. In addition, the following are prohibited species:

- (1) Any species of salmonid.
- (2) Pacific halibut.
- (3) Dungeness crab caught seaward of Washington or Oregon.

(f) Exempted fisheries. U.S. vessels operating under an exempted fishing permit (EFP) issued under 50 CFR part 600 are also subject to restrictions in §§660.301 through 660.394, unless otherwise provided in the permit. EFPs may include the collecting of scientific samples of groundfish species that would otherwise be prohibited for retention. {revised at 69 FR 77012, December 23, 2004}

(g) Applicability. Groundfish species harvested in the territorial sea (0–3 nm) will be counted toward the catch limitations in §§660.370 through 660.385 and in Tables 1–5 of this subpart. {added at 69 FR 77012, December 23, 2004}

(h) Fishery restrictions-- {added at 69 FR 77012, December 23, 2004; revised at 71 FR 66122, November 13, 2006}

(1) Commercial trip limits and recreational bag and boat limits. Commercial trip limits and recreational bag and boat limits defined in §660.302 and set in §§660.371 through 660.373, §§660.381 through 660.385 and Tables 3–5 of this subpart must not be exceeded.

(2) Landing. As stated at 50 CFR 660.302 (in the definition of “Landing”), once the offloading of any species begins, all fish aboard the vessel are counted as part of the landing and must be reported as such. Transfer of fish at sea is prohibited under §660.306(a)(12) unless a vessel is participating in the primary whiting fishery as part of the mothership or catcher-processor sectors, as described at §660.373(a).

(3) Fishing ahead. Unless the fishery is closed, a vessel that has landed its cumulative or daily limit may continue to fish on the limit for the next legal period, so long as no fish (including, but not limited to, groundfish with no trip limits, shrimp, prawns, or other nongroundfish species or shellfish) are landed (offloaded) until the next legal period. Fishing ahead is not allowed during or before a closed period.

(4) Weights and percentages. All weights are round weights or round-weight equivalents unless otherwise specified. Percentages are based on round weights, and, unless otherwise specified, apply only to legal fish on board.

(5) Size limits, length measurement, and weight limits--

(i) Size limits and length measurement. Unless otherwise specified, size limits in the commercial and recreational groundfish fisheries apply to the “total length,” which is the longest measurement of the fish without mutilation of the fish or the use of force to extend the length of the fish. No fish with a size limit may be retained if it is in such condition that its length has been extended or cannot be determined by these methods. For conversions not listed here, contact the state where the fish will be landed. Washington state regulations require all fish with a size limit landed into Washington to be landed with the head on. {revised at 71 FR 78638, December 29, 2006}

(A) Whole fish. For a whole fish, total length is measured from the tip of the snout (mouth closed) to the tip of the tail in a natural, relaxed position.

(B) “Headed” fish. For a fish with the head removed (“headed”), the length is measured from the origin of the first dorsal fin (where the front dorsal fin meets the dorsal surface of the body closest to the head) to the tip of the upper lobe of the tail; the dorsal fin and tail must be left intact.

- (C) Filets. A filet is the flesh from one side of a fish extending from the head to the tail, which has been removed from the body (head, tail, and backbone) in a single continuous piece. Filet lengths may be subject to size limits for some groundfish taken in the recreational fishery off California (see §660.384). A filet is measured along the length of the longest part of the filet in a relaxed position; stretching or otherwise manipulating the filet to increase its length is not permitted.
- (ii) Weight limits and conversions. The weight limit conversion factor established by the state where the fish is or will be landed will be used to convert the processed weight to round weight for purposes of applying the trip limit. Weight conversions provided herein are those conversions currently in use by the States of Washington, Oregon and California and may be subject to change by those states. Fishery participants should contact fishery enforcement officials in the state where the fish will be landed to determine that state's official conversion factor. To determine the round weight, multiply the processed weight times the conversion factor.
- (iii) Sablefish. The following conversion applies to both the limited entry and open access fisheries when trip limits are in effect for those fisheries. For headed and gutted (eviscerated) sablefish the weight conversion factor is 1.6 (multiply the headed and gutted weight by 1.6 to determine the round weight).
- (iv) Lingcod. The following conversions apply in both limited entry and open access fisheries.
- (A) North of 42° N. lat., for lingcod with the head removed, the minimum size limit is 18 inches (46 cm), which corresponds to 22 inches (56 cm) total length for whole fish. {revised at 71 FR 78638, December 29, 2006}
- (B) South of 42° N. lat., for lingcod with the head removed, the minimum size limit is 19.5 inches (49.5 cm), which corresponds to 24 inches (61 cm) total length for whole fish. {revised at 71 FR 78638, December 29, 2006}
- (C) The weight conversion factor for headed and gutted lingcod is 1.5. The conversion factor for lingcod that has only been gutted with the head on is 1.1. {added at 71 FR 78638, December 29, 2006}
- (6) Sorting. Under §660.306(a)(7), it is unlawful for any person to "fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, scientific sorting designation, quota, harvest guideline, or OY, if the vessel fished or landed in an area during a time when such trip limit, size limit, scientific sorting designation, quota, harvest guideline, or OY applied." The States of Washington, Oregon, and California may also require that vessels record their landings as sorted on their state fish tickets. This provision applies to both the limited entry and open access fisheries. The following species must be sorted: {revised at 71 FR 78638, December 29, 2006; revised at 72 FR 13043, March 30, 2007}
- (i) For vessels with a limited entry permit: {revised at 72 FR 13043, March 30, 2007}
- (A) Coastwide – widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, shortbelly rockfish, black rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, shortspine and longspine thornyhead, Dover sole, arrowtooth flounder, petrale sole, starry flounder, English sole, other flatfish, lingcod, sablefish, Pacific cod, spiny dogfish, other fish and Pacific whiting;
- (B) North of 40°10' N. lat.--POP, yellowtail rockfish, and, for fixed gear, blue rockfish;
- (C) South of 40°10' N. lat.--minor shallow nearshore rockfish, minor deeper nearshore rockfish, California scorpionfish, chilipepper rockfish, bocaccio rockfish, splitnose rockfish, Pacific sanddabs, and cabezon.
- (ii) For open access vessels (vessels without a limited entry permit): {revised at 72 FR 13043, March 30, 2007}
- (A) Coastwide -widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, black rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, Dover sole, arrowtooth flounder, petrale sole, rex sole, other flatfish, lingcod, sablefish, Pacific whiting, and Pacific sanddabs;
- (B) North of 40°10' N. lat.--blue rockfish, POP, yellowtail rockfish;
- (C) South of 40°10' N. lat.--minor shallow nearshore rockfish, minor deeper nearshore rockfish, chilipepper rockfish, bocaccio rockfish, splitnose rockfish, and cabezon;
- (D) South of Point Conception, CA--thornyheads.
- (7) Operating in both limited entry and open access fisheries. Open access trip limits apply to any fishing conducted with open access gear, even if the vessel has a valid limited entry permit with an endorsement for another type of gear. A vessel that operates in both the open access and limited entry fisheries is not entitled to two separate trip limits for the same species. If a vessel has a limited entry permit and uses open access gear, but the open access limit is smaller than the limited entry limit, the open access limit may not be exceeded and counts toward the limited entry limit. If a vessel has a limited entry permit and uses open access gear, but the open access limit is larger than the limited entry limit, the smaller limited entry limit applies, even if taken entirely with open access gear.
- (8) "Crossover provisions," operating in north-south management areas with different trip limits. NMFS uses different types of management areas for West Coast groundfish management. One type of management area is the north-south management area, a large ocean area with northern and southern boundary lines wherein trip limits, seasons, and conservation areas follow a single theme. Within each north-south management area, there may be one or more conservation areas, detailed in §§660.302 and 660.390 through 660.394. The provisions within this paragraph apply to vessels operating in different north-south management areas. Trip limits for a species or a species group may differ in different north-south management areas along the coast. The following "crossover" provisions apply to vessels operating in different geographical areas that have different cumulative or "per trip" trip limits for the same species or species group. Such crossover provisions do not apply to species that are subject only to daily trip limits, or to the trip limits for black rockfish off Washington (see §660.371).
- (i) Going from a more restrictive to a more liberal area. If a vessel takes and retains any groundfish species or species group of groundfish in an area where a more restrictive trip limit applies before fishing in an area where a more liberal trip limit (or no trip limit) applies, then that vessel is subject to the more restrictive trip limit for the entire period to which that trip limit applies, no matter where the fish are taken and retained, possessed, or landed.
- (ii) Going from a more liberal to a more restrictive area. If a vessel takes and retains a groundfish species or species group in an area where a higher trip limit or no trip limit applies, and takes and retains, possesses or lands the same species or species group in an area where a more restrictive trip limit applies, that vessel is subject to the more restrictive trip limit for the entire period to which that trip limit applies, no matter where the fish are taken and retained, possessed, or landed.
- (iii) Operating in two different areas where a species or species group is managed with different types of trip limits. During the fishing year, NMFS may implement management measures for a species or species group that set different types of trip limits (for example, per trip limits versus cumulative trip limits) for different areas. If a vessel fishes for a species or species group that is managed with different types of trip limits in two different areas within the same cumulative limit period, then that vessel is subject to the most restrictive overall cumulative limit for that species, regardless of where fishing occurs.
- (iv) Minor rockfish. Several rockfish species are designated with species-specific limits on one side of the 40° 10' N. lat. management line, and are included as part of a minor rockfish complex on the other side of the line. A vessel that takes and retains fish from a minor rockfish complex (nearshore, shelf, or slope) on both sides of a management line during a single cumulative limit period is subject to the more restrictive cumulative limit for that minor rockfish complex during that period.
- (A) If a vessel takes and retains minor slope rockfish north of 40° 10' N. lat., that vessel is also permitted to take and retain, possess or land splitnose rockfish up to its cumulative limit south of 40° 10' N. lat., even if splitnose rockfish were a part of the landings from minor slope rockfish taken and retained north of 40° 10' N. lat. {revised at 71 FR 78638, December 29, 2006}
- (B) If a vessel takes and retains minor slope rockfish south of 40° 10' N. lat., that vessel is also permitted to take and retain, possess or land POP up to its cumulative limit north of 40° 10' N. lat., even if POP were a part of the landings from minor slope rockfish taken and retained south of 40° 10' N. lat. {revised at 71 FR 78638, December 29, 2006}
- (C) If a trawl vessel takes and retains minor shelf rockfish south of 40° 10' N. lat., that vessel is also permitted to take and retain, possess, or land yellowtail rockfish up to its cumulative limits north of 40° 10' N. lat., even if yellowtail rockfish is part of the landings from minor shelf rockfish taken and retained south of 40° 10' N. lat. Yellowtail rockfish is included in overall shelf rockfish limits for limited entry fixed gear and open access gear groups. Widow rockfish is included in overall shelf rockfish limits for all gear groups.
- (D) If a trawl vessel takes and retains minor shelf rockfish north of 40° 10' N. lat., that vessel is also permitted to take and retain, possess, or land chilipepper rockfish up to its cumulative limits south of 40° 10' N. lat., even if chilipepper rockfish is part of the landings from minor shelf rockfish taken and retained north of 40° 10' N. lat.
- (v) "DTS complex". There are often differential trawl trip limits for the "DTS complex" north and south of latitudinal management lines. Vessels operating in the limited entry trawl fishery are subject to the crossover provisions in this paragraph when making landings that include any one of the four species in the "DTS complex." {revised at 71 FR 78638, December 29, 2006}
- (vi) Flatfish complex. There are often differential trip limits for the flatfish complex (butter, curlfin, English, flathead, petrale, rex, rock, and sand soles, Pacific sanddab, and starry flounder) north and south of latitudinal management lines. Vessels operating in the limited entry trawl fishery are subject to the crossover provisions in this paragraph when making landings that include any one of the species in the flatfish complex. {revised at 71 FR 78638, December 29, 2006}

§ 660.371 Black rockfish fishery management. {revised at 69 FR 77012, December 23, 2004}

The trip limit for black rockfish (*Sebastes melanops*) for commercial fishing vessels using hook-and-line gear between the U.S.-Canada border and Cape Alava (48°09.50' N. lat.), and between Destruction Island (47°40' N. lat.) and Leadbetter Point (46°38.17' N. lat.), is 100 lbs (45 kg) or 30 percent, by weight of all fish on board, whichever is greater, per vessel per fishing trip. These per trip limits apply to limited entry and open access fisheries, in conjunction with the cumulative trip limits and other management measures in §§660.382 and 660.383. The crossover provisions in §660.370(h)(8) do not apply to the black rockfish per-trip limits.

§ 660.372 Fixed gear sablefish fishery management. {revised at 69 FR 77012, December 23, 2004; revised at 70 FR 16145, March 30, 2005; revised at 70 FR 23040, May 4, 2005; revised at 71 FR 10614, March 2, 2006; revised at 71 FR 24601, April 26, 2006; revised at 71 FR 78638, December 29, 2006}

This section applies to the primary season for the fixed gear limited entry sablefish fishery north of 36° N. lat., except for paragraph (c), of this section, which also applies to the open access fishery north of 36° N. lat. and to both the limited entry and open access fisheries south of 36° N. lat. Limited entry and open access fixed gear sablefish fishing outside of the primary sablefish season north of 36° N. lat. is governed by routine management measures imposed under §660.370. {revised at 69 FR 77012, December 23, 2004}

(a) Sablefish endorsement. A vessel may not participate in the primary season for the fixed gear limited entry fishery, unless at least one limited entry permit with both a gear endorsement for longline or trap (or pot) 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 §660.334(d).

(b) Primary season limited entry, fixed gear sablefish fishery--

(1) Season dates. North of 36° N. lat., the primary sablefish season for the limited entry, fixed gear, sablefish-endorsed vessels begins at 12 noon Lt. on April 1 and ends at 12 noon Lt. on October 31, unless otherwise announced by the Regional Administrator through the routine management measures process described at §660.370(c). {revised at 69 FR 77012, December 23, 2004; revised at 71 FR 10614, March 2, 2006; revised at 71 FR 78638, December 29, 2006}

(2) Gear type. During the primary season and when fishing against primary season cumulative limits, each vessel authorized to participate in that season under paragraph (a) of this section may fish for sablefish with any of the gear types, except trawl gear, endorsed on at least one of the permits registered for use with that vessel.

(3) Cumulative limits.

(i) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. During the primary season, each vessel authorized to participate in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the permits registered for use with that vessel. If multiple limited entry permits with sablefish endorsements are registered for use with a single vessel, that vessel may land up to the total of all cumulative limits announced in this paragraph for the tiers for those permits, except as limited by paragraph (b)(3)(ii) of this section. Up to 3 permits may be registered for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than 3 primary season sablefish cumulative limits in any one year. A vessel registered for use with multiple limited entry permits is subject to per vessel limits for species other than sablefish, and to per vessel limits when participating in the daily trip limit fishery for sablefish under paragraph (c) of this section. The following annual limits are in effect: Tier 1 at 48,500 lb (21,999 kg), Tier 2 at 22,000 lb (9,979 kg), and Tier 3 at 12,500 lb (5,670 kg). {revised at 69 FR 77012, December 23, 2004; revised at 70 FR 16145, March 30, 2005; revised at 71 FR 78638, December 29, 2006}

(ii) If a permit is registered to more than one vessel during the primary season in a single year, the second vessel may only take the portion of the cumulative limit for that permit that has not been harvested by the first vessel to which the permit was registered. The combined primary season sablefish landings for all vessels registered to that permit may not exceed the cumulative limit for the tier associated with that permit. {redesignated at 69 FR 77012, December 23, 2004}

(iii) A cumulative trip limit is the maximum amount of sablefish that may be taken and retained, possessed, or landed per vessel in a specified period of time, with no limit on the number of landings or trips. {redesignated at 69 FR 77012, December 23, 2004}

(iv) Incidental halibut retention north of Pt. Chehalis, WA (46°53.30' N. lat.). From May 1 through October 31, vessels authorized to participate in the primary sablefish fishery, licensed by the International Pacific Halibut Commission for commercial fishing in Area 2A (waters off Washington, Oregon, California), and fishing with longline gear north of Pt. Chehalis, WA (46°53.30' N. lat.) may land up to the following cumulative limits: 100 lb (45 kg) dressed weight, head-on of halibut per 1,000 lb (454 kg) dressed weight of sablefish, plus up to two additional halibut per fishing trip in excess of this ratio. "Dressed" halibut in this area means halibut landed eviscerated with their heads on. Halibut taken and retained in the primary sablefish fishery north of Pt. Chehalis may only be landed north of Pt. Chehalis and may not be possessed or landed south of Pt. Chehalis. {added at 70 FR 23040, May 4, 2005; revised at 71 FR 24601, April 26, 2006}

(4) Owner-on-board Requirement. Beginning January 1, 2007, any person who owns or has ownership interest in a limited entry permit with a sablefish endorsement, as described at §660.334(d), must be on board the vessel registered for use with that permit at any time that the vessel has sablefish on board the vessel that count toward that permit's cumulative sablefish landing limit. This person must carry government issued photo identification while aboard the vessel. A permit owner is not obligated to be on board the vessel registered for use with the sablefish-endorsed limited entry permit during the primary sablefish season if: {added at 71 FR 10614, March 2, 2006}

(i) The person, partnership or corporation had ownership interest in a limited entry permit with a sablefish endorsement prior to November 1, 2000. A person who has ownership interest in a partnership or corporation that owned a sablefish-endorsed permit as of November 1, 2000, but who did not individually own a sablefish-endorsed limited entry permit as of November 1, 2000, is not exempt from the owner-on-board requirement when he/she leaves the partnership or corporation and purchases another permit individually. A person, partnership, or corporation that is exempt from the owner-on-board requirement may sell all of their permits, buy another sablefish-endorsed permit within up to a year from the date the last permit was approved for transfer, and retain their exemption from the owner-on-board requirements. Additionally, a person, partnership, or corporation that qualified for the owner-on-board exemption, but later divested their interest in a permit or permits, may retain rights to an owner-on-board exemption as long as that person, partnership, or corporation purchases another permit by March 2, 2007. A person, partnership or corporation could only purchase a permit if it has not added or changed individuals since November 1, 2000, excluding individuals that have left the partnership or corporation, or that have died.

(ii) The person who owns or who has ownership interest in a sablefish-endorsed limited entry permit is prevented from being on board a fishing vessel because the person died, is ill, or is injured. The person requesting the exemption must send a letter to NMFS requesting an exemption from the owner-on-board requirements, with appropriate evidence as described at §660.372(b)(4)(ii)(A) or (B). All emergency exemptions for death, injury, or illness will be evaluated by NMFS and a decision will be made in writing to the permit owner within 60 calendar days of receipt of the original exemption request.

(A) Evidence of death of the permit owner shall be provided to NMFS in the form of a copy of a death certificate. In the interim before the estate is settled, if the deceased permit owner was subject to the owner-on-board requirements, the estate of the deceased permit owner may send a letter to NMFS with a copy of the death certificate, requesting an exemption from the owner-on-board requirements. An exemption due to death of the permit owner will be effective only until such time that the estate of the deceased permit owner has transferred the deceased permit owner's permit to a beneficiary or up to three years after the date of death as proven by a death certificate, whichever is earlier. An exemption from the owner-on-board requirements will be conveyed in a letter from NMFS to the estate of the permit owner and is required to be on the vessel during fishing operations.

(B) Evidence of illness or injury that prevents the permit owner from participating in the fishery shall be provided to NMFS in the form of a letter from a certified medical practitioner. This letter must detail the relevant medical conditions of the permit owner and how those conditions prevent the permit owner from being onboard a fishing vessel during the primary season. An exemption due to injury or illness will be effective only for the calendar year of the request for exemption, and will not be granted for more than three consecutive or total years. NMFS will consider any exemption granted for less than 12 months in a year to count as one year against the 3-year cap. In order to extend an emergency medical exemption for a succeeding year, the permit owner must submit a new request and provide documentation from a certified medical practitioner detailing why the permit owner is still unable to be onboard a fishing vessel. An emergency exemption will be conveyed in a letter from NMFS to the permit owner and is required to be on the vessel during fishing operations.

(c) Limited entry and open access daily trip limit fisheries both north and south of 36° N. lat. {revised at 69 FR 77012, December 23, 2004}

(1) Before the start of the primary season, all sablefish landings made by a vessel authorized under paragraph (a) of this section to participate in the primary season will be subject to the restrictions and limits of the limited entry daily and/or weekly trip limit fishery for sablefish, which is governed by routine management measures imposed under §660.370(c).

- (2) Following the start of the primary season, all landings made by a vessel authorized under paragraph (a) of this section to participate in the primary season will count against the primary season cumulative limit(s) associated with the permit(s) registered for use with that vessel. A vessel that is eligible to participate in the primary sablefish season may participate in the daily trip limit fishery for sablefish once that vessel's primary season sablefish limit(s) have been taken, or after the end of the primary season, whichever occurs earlier. Any subsequent sablefish landings by that vessel will be subject to the restrictions and limits of the limited entry daily and/or trip limit fishery for sablefish for the remainder of the calendar year.
- (3) No vessel may land sablefish against both its primary season cumulative sablefish limits and against the daily and/or weekly trip limit fishery limits within the same 24 hour period of 0001 hours l.t. to 2400 hours l.t. If a vessel has taken all of its tier limit except for an amount that is smaller than the daily trip limit amount, that vessel's subsequent sablefish landings are automatically subject to daily and/or weekly trip limits.
- (4) Vessels registered for use with a limited entry, fixed gear permit that does not have a sablefish endorsement may participate in the limited entry, daily and/or weekly trip limit fishery for as long as that fishery is open during the year, subject to routine management measures imposed under §660.370(c). Daily and/or weekly trip limits for the limited entry fishery north and south of 36° N. lat. are provided in Tables 4 (North) and 4 (South) of this subpart.
- (5) Open access vessels may participate in the open access, daily trip limit fishery for as long as that fishery is open during the year, subject to the routine management measures imposed under §660.370(c). Daily and/or weekly trip limits for the open access fishery north and south of 36° N. lat. are provided in Tables 5 (North) and 5 (South) of this subpart.

(d) Trip limits. Trip and/or frequency limits may be imposed in the limited entry fishery on vessels that are not participating in the primary season under §660.370(c). Trip and/or size limits to protect juvenile sablefish in the limited entry or open-access fisheries also may be imposed at any time under §660.370(c). Trip limits may be imposed in the open-access fishery at any time under §660.370(c).

§ 660.373 Pacific whiting (whiting) fishery management. [revised at 69 FR 57874, September 28, 2004; revised at 69 FR 77012, December 23, 2004; corrected at 70 FR 13118, March 18, 2005; revised at 70 FR 22808, May 3, 2005; added at 70 FR 51682, August 31, 2005; revised at 70 FR 58066, October 5, 2005; revised at 71 FR 29257, May 22, 2006; revised at 71 FR 37839, July 3, 2006; revised at 71 FR 58289, October 3, 2006; revised at 71 FR 66122, November 13, 2006; revised at 71 FR 78638, December 29, 2006; revised at 72 FR 13043, March 30, 2007; revised at 71 FR 19390, April 18, 2007]

(a) Sectors. The catcher/processor sector is composed of catcher/processors, which are vessels that harvest and process whiting during a calendar year. The mothership sector is composed of motherships and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting during a calendar year. The shore-based sector is composed of vessels that harvest whiting for delivery to shore-based processors. { revised at 71 FR 78638, December 29, 2006 }

(b) Seasons. The primary seasons for the whiting fishery are: For the shore-based sector, the period(s) when the large-scale target fishery is conducted (when trip limits under paragraph (b) of this section are not in effect); for catcher/processors, the period(s) when at-sea processing is allowed and the fishery is open for the catcher/processor sector; and for vessels delivering to motherships, the period(s) when at-sea processing is allowed and the fishery is open for the mothership sector. Before and after the primary seasons, trip landing or frequency limits may be imposed under §660.370(c). The sectors are defined at §660.370(a).

(1) North of 40°30' N. lat. Different starting dates may be established for the catcher/processor sector, the mothership sector, catcher vessels delivering to shoreside processors north of 42° N. lat., and catcher vessels delivering to shoreside processors between 42°-40°30' N. lat.

(i) Procedures. The primary seasons for the whiting fishery north of 40°30' N. lat. generally will be established according to the procedures of the PCGFMP for developing and implementing harvest specifications and apportionments. The season opening dates remain in effect unless changed, generally with the harvest specifications and management measures.

(ii) Criteria. The start of a primary season may be changed based on a recommendation from the Council and consideration of the following factors, if applicable: Size of the harvest guidelines for whiting and bycatch species; age/size structure of the whiting population; expected harvest of bycatch and prohibited species; availability and stock status of prohibited species; expected participation by catchers and processors; environmental conditions; timing of alternate or competing fisheries; industry agreement; fishing or processing rates; and other relevant information.

(iii) Primary whiting seasons. After the start of a primary season for a sector of the whiting fishery, the season remains open for that sector until the quota is taken and the fishery season for that sector is closed by NMFS. The primary seasons for the whiting fishery are as follows: { added at 69 FR 77012, December 23, 2004; revised at 71 FR 78638, December 29, 2006 }

(A) Catcher/processor sector – May 15;

(B) Mothership sector May 15;

(C) Shore-based sector June 15 north of 42° N. lat.; April 1 between 42° – 40°30' N. lat.

(2) South of 40°30' N. lat. The primary season starts on April 15 south of 40°30' N. lat. {revised at 71 FR 78638, December 29, 2006}

(3) Trip limits in the whiting fishery. The "per trip" limit for whiting before and after the regular (primary) season for the shore-based sector is announced in Table 3 of this subpart, and is a routine management measure under §660.370(c). This trip limit includes any whiting caught shoreward of 100 fm (183 m) in the Eureka, CA area. The "per trip" limit for other groundfish species before, during, and after the regular (primary) season are announced in Table 3 (North) and Table 3 (South) of this subpart and apply as follows: { added at 69 FR 77012, December 23, 2004; revised at 71 FR 78638, December 29, 2006 }

(i) During the groundfish cumulative limit periods both before and after the primary whiting season, vessels may use either small and/or large footrope gear, but are subject to the more restrictive trip limits for those entire cumulative periods.

(ii) During the primary whiting season for a sector of the fishery, then the midwater trip limits apply and are additive to the trip limits for other groundfish species for that fishing period (i.e., vessels are not constrained by the lower midwater limits and can harvest up to a footrope-specific trawl limit plus the midwater trawl limit per species or species group for that cumulative limit period).

(4) Bycatch limits in the whiting fishery. The bycatch limits for the whiting fishery may be used inseason to close a sector or sectors of the whiting fishery to achieve the rebuilding of an overfished or depleted stock, under routine management measure authority at §660.370 (c)(1)(ii). These limits are routine management measures under §660.370 (c) and, as such, may be adjusted inseason or may have new species added to the list of those with bycatch limits. The whiting fishery bycatch limits for the sectors identified §660.323(a) are 4.7 mt of canary rockfish, 220 mt of widow rockfish, and 25 mt of darkblotched rockfish. { added at 69 FR 77012, December 23, 2004; corrected at 70 FR 13118, March 18, 2005; revised at 70 FR 22808, May 3, 2005; revised at 70 FR 58066, October 5, 2005; revised at 71 FR 29257, May 22, 2006; revised at 71 FR 37839, July 3, 2006; revised at 71 FR 58289, October 3, 2006; revised at 71 FR 78638, December 29, 2006; revised at 71 FR 19390, April 18, 2007 }

(c) Closed areas. Pacific whiting may not be taken and retained in the following portions of the fishery management area: {revised at 71 FR 66122, November 13, 2006}

(1) Klamath River Salmon Conservation Zone. The ocean area surrounding the Klamath River mouth bounded on the north by 41° 3' 8.80" N. lat. (approximately 6 nm north of the Klamath River mouth), on the west by 124°23' W. long. (approximately 12 nm from shore), and on the south by 41°26.80' N. lat. (approximately 6 nm south of the Klamath River mouth). {revised at 71 FR 78638, December 29, 2006}

(2) Columbia River Salmon Conservation Zone. The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nm due west from North Head along 46° 18' N. lat. to 124° 13.30' W. long., then southerly along a line of 167 True to 46° 11.10' N. lat. and 124° 11' W. long. (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty. {revised at 71 FR 78638, December 29, 2006}

(3) Ocean Salmon Conservation Zone. All waters shoreward of a boundary line approximating the 100 fm (183 m) depth contour. Latitude and longitude coordinates defining the boundary line approximating the 100 fm (183 m) depth contour are provided at §660.393(a). { added at 71 FR 78638, December 29, 2006 }

(d) Eureka area trip limits. Trip landing or frequency limits may be established, modified, or removed under §660.370 or §660.373, specifying the amount of Pacific whiting that may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fathom (183 m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka area (from 43 00' to 40 30' N. lat.). Unless otherwise specified, no more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fm (183 m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka management area (defined at §660.302). {revised at 71 FR 66122, November 13, 2006; revised at 72 FR 13043, March 30, 2007}

(e) At-sea processing. Whiting may not be processed at sea south of 42°00' N. lat. (Oregon-California border), unless by a waste-processing vessel as authorized under paragraph (i) of this section.

(f) Time of day. Pacific whiting may not be taken and retained by any vessel in the fishery management area south of 42°00' N. lat. between 0001 hours to one-half hour after official sunrise (local time). During this time south of 42°00' N. lat., trawl doors must be on board any vessel used to fish for whiting and the trawl must be attached to the trawl doors. Official sunrise is determined, to the nearest 5° lat., in The Nautical Almanac issued annually by the Nautical Almanac Office, U.S. Naval Observatory, and available from the U.S. Government Printing Office.

(g) 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 (g)(1) 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 harvest 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.]

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

- (i) All catch must be made available to the observers for sampling before it is sorted by the crew.
- (ii) Any retained catch in excess of cumulative trip limits must either be: Converted to meal, mince, or oil products, which may then be sold; or 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.
- (iii) 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.
- (iv) 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 www.nwr.noaa.gov.
- (v) 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.
- (vi) Prohibited species may not be retained.
- (vii) 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.

(h) Additional restrictions on catcher/processors.

- (1) A catcher/processor may receive fish from a catcher vessel, but that catch is counted against the catcher/processor allocation unless the catcher/processor has been declared as a mothership under paragraph (h)(3) of this section.
- (2) A catcher/processor may not also act as a catcher vessel delivering unprocessed whiting to another processor in the same calendar year.
- (3) When renewing its limited entry permit each year under §660.335, the owner of a catcher/processor used to take and retain whiting must declare if the vessel will operate solely as a mothership in the whiting fishery during the calendar year to which its limited entry permit applies. Any such declaration is binding on the vessel for the calendar year, even if the permit is transferred during the year, unless it is rescinded in response to a written request from the permit holder. Any request to rescind a declaration must be made by the permit holder and granted in writing by the Regional Administrator before any unprocessed whiting has been taken on board the vessel that calendar year. { revised at 69 FR 57874, September 28, 2004 }

(i) Processing fish waste at sea. A vessel that processes only fish waste (a "waste-processing vessel") is not considered a whiting processor and therefore is not subject to the allocations, seasons, or restrictions for catcher/processors or motherships while it operates as a waste-processing vessel. However, no vessel may operate as a waste-processing vessel 48 hours immediately before and after a primary season for whiting in which the vessel operates as a catcher/processor or mothership. A vessel must meet the following conditions to qualify as a waste-processing vessel:

- (1) The vessel makes meal (ground dried fish), oil, or minced (ground flesh) product, but does not make, and does not have on board, surimi (fish paste with additives), fillets (meat from the side of the fish, behind the head and in front of the tail), or headed and gutted fish (head and viscera removed).
- (2) The amount of whole whiting on board does not exceed the trip limit (if any) allowed under §660.370(c).
- (3) Any trawl net and doors on board are stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.
- (4) The vessel does not receive codends containing fish.
- (5) The vessel's operations are consistent with applicable state and Federal law, including those governing disposal of fish waste at sea.

§ 660.380 Groundfish harvest specifications. {added at 69 FR 77012, December 23, 2004}

Fishery specifications include ABCs, the designation of OYs (which may be represented by harvest guidelines (HGs) or quotas for species that need individual management,) and the allocation of commercial OYs between the open access and limited entry segments of the fishery. These specifications include fish caught in state ocean waters (0–3 nm offshore) as well as fish caught in the EEZ (3–200 nm offshore). Specifications and management measures are provided as Tables 1a and 1b, and 2a and 2b of this subpart.

§ 660.381 Limited entry trawl fishery management measures. {added at 69 FR 77012, December 23 2004; revised at 70 FR 16145, March 30, 2005; revised at 70 FR 23040, May 4, 2005}

(a) General. Limited entry trawl vessels include those vessels registered to a limited entry permit with a trawl endorsement. Most species taken in limited entry trawl fisheries will be managed with cumulative trip limits (see trip limits in Tables 3 (North) and 3 (South) of this subpart), size limits (see §660.370 (h)(5)), seasons (see Pacific whiting at §660.373), gear restrictions (see paragraph (b) of this section) and closed areas (see paragraph (d) of this section and §660.390 throughout 660.399). The trawl fishery has gear requirements and trip limits that differ by the type of trawl gear on board and the area fished. Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (d)(1) of this section and §660.390). The trip limits in Table 3 (North) and Table 3 (South) of this subpart apply to vessels participating in the limited entry groundfish trawl fishery and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally-managed groundfish. {revised at 71 FR 78638, December 29, 2006}

(b) Trawl gear requirements and restrictions. Trawl nets may be fished with or without otter boards, and may use warps or cables to herd fish.

- (1) Codends. Only single-walled codends may be used in any trawl. Double-walled codends are prohibited.
- (2) Mesh size. Groundfish trawl gear must meet the minimum mesh size requirements in this paragraph. Mesh size requirements apply throughout the net. Minimum trawl mesh sizes are: bottom trawl, 4.5 inches (11.4 cm); midwater trawl, 3.0 inches (7.6 cm). Minimum trawl mesh size requirements are met if a 20-gauge stainless steel wedge, less one thickness of the metal wedge, can be passed with only thumb pressure through at least 16 of 20 sets of two meshes each of wet mesh.
- (3) Chafing gear. Chafing gear may encircle no more than 50 percent of the net's circumference. No section of chafing gear may be longer than 50 meshes of the net to which it is attached. Chafing gear may be used only on the last 50 meshes, measured from the terminal (closed) end of the codend. Except at the corners, the terminal end of each section of chafing gear on all trawl gear must not be connected to the net. (The terminal end is the end farthest from the mouth of the net.) Chafing gear must be attached outside any riblines and restraining straps. There is no limit on the number of sections of chafing gear on a net. {revised at 70 FR 23040, May 4, 2005; revised at 71 FR 78638, December 29, 2006}
- (4) Large footrope trawl gear. Large footrope gear is bottom trawl gear with a footrope diameter larger than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope).
- (5) Small footrope trawl gear. Small footrope gear is bottom trawl gear with a footrope diameter of 8 inches (20 cm) or smaller (including rollers, bobbins or other material encircling or tied along the length of the footrope). Other lines or ropes that run parallel to the footrope may not be augmented with material encircling or tied along their length such that they have a diameter larger than 8 inches (20 cm). For enforcement purposes, the footrope will be measured in a straight line from the outside edge to the opposite outside edge at the widest part on any individual part, including any individual disk, roller, bobbin, or any other device. {revised at 70 FR 23040, May 4, 2005}
- (i) Selective flatfish trawl gear is a type of small footrope trawl gear. The selective flatfish trawl net must be a two-seamed net with no more than two riblines, excluding the codend. The breastline may not be longer than 3 ft (0.92 m) in length. There may be no floats along the center third of the

headrope or attached to the top panel except on the riblines. The footrope must be less than 105 ft (32.26 m) in length. The headrope must be not less than 30 percent longer than the footrope. An explanatory diagram of a selective flatfish trawl net is provided as Figure 1 of part 660, subpart G. {revised at 70 FR 23040, May 4, 2005}

(ii) Reserved

(6) Midwater (or pelagic) trawl gear. Midwater trawl gear must have unprotected footropes at the trawl mouth, and must not have rollers, bobbins, tires, wheels, rubber discs, or any similar device anywhere on any part of the net. The footrope of midwater gear may not be enlarged by encircling it with chains or by any other means. Ropes or lines running parallel to the footrope of midwater trawl gear must be bare and may not be suspended with chains or any other materials. Sweep lines, including the bottom leg of the bridle, must be bare. For at least 20 ft (6.15 m) immediately behind the footrope or headrope, bare ropes or mesh of 16-inch (40.6-cm) minimum mesh size must completely encircle the net. A band of mesh (a "skirt") may encircle the net under transfer cables, lifting or splitting straps (chokers), but must be: over riblines and restraining straps; the same mesh size and coincide knot-to-knot with the net to which it is attached; and no wider than 16 meshes.

(c) Cumulative trip limits and prohibitions by limited entry trawl gear type. Management measures may vary depending on the type of trawl gear (i.e., large footrope, small footrope, selective flatfish, or midwater trawl gear) used and/or on board a vessel during a fishing trip and the area fished. Trawl nets may be used on and off the seabed. For some species or species groups, Table 3 (North) and Table 3 (South) provide cumulative and/or trip limits that are specific to different types of trawl gear: large footrope, small footrope (including selective flatfish), selective flatfish, and midwater. If Table 3 (North) and Table 3 (South) provide gear specific limits for a particular species or species group, it is unlawful to take and retain, possess or land that species or species group with limited entry trawl gears other than those listed.

(1) Large footrope trawl gear. It is unlawful for any vessel using large footrope gear to fish for groundfish shoreward of the RCAs defined at paragraph (d) of this section and at §§660.390 through 660.394. The use of large footrope gear is permitted seaward of the RCAs coastwide.

(2) Small footrope trawl gear. North of 40°10' N. lat., it is unlawful for any vessel using small footrope gear (except selective flatfish gear) to fish for groundfish or have small footrope trawl gear (except selective flatfish gear) onboard while fishing shoreward of the RCA defined at paragraph (d) of this section and at §§660.390 through 660.394. South of 40° 10' N. lat., small footrope gear is required shoreward of the RCA. Small footrope gear is permitted seaward of the RCA coastwide.

(i) North of 40° 10' N. lat., selective flatfish gear is required shoreward of the RCA defined at paragraph (d) of this section and at §§660.390 through 660.394. South of 40° 10' N. lat., selective flatfish gear is permitted, but not required, shoreward of the RCA. The use of selective flatfish trawl gear is permitted seaward of the RCA coastwide.

(ii) Reserved

(3) Midwater trawl gear. North of 40°10' N. lat., midwater trawl gear is permitted only for vessels participating in the primary Pacific whiting fishery (for details on the Pacific whiting fishery see §660.373). South of 40°10' N. lat., the use of midwater trawl gear is prohibited shoreward of the RCA and permitted seaward of the RCA.

(4) More than one type of trawl gear on board. The cumulative trip limits in Table 3 (North) or Table 3 (South) of this subpart must not be exceeded. A vessel that is trawling within a Groundfish Conservation Area (GCA) with trawl gear authorized for use within a GCA may not have any other type of trawl gear on board.

(i) North of 40° 10' N. lat., a vessel may have more than one type of limited entry trawl gear on board, either simultaneously or successively, during a cumulative limit period. If a vessel fishes exclusively with selective flatfish trawl gear during an entire cumulative limit period, then the vessel is subject to the selective flatfish trawl gear cumulative limits during that limit period, regardless of whether the vessel is fishing shoreward or seaward of the RCA. If a vessel fishes exclusively with large or small footrope trawl gear during an entire cumulative limit period, the vessel is subject to the small or large footrope trawl gear cumulative limits and that vessel must fish seaward of the RCA during that limit period. If more than one type of bottom trawl gear (selective flatfish, large footrope, or small footrope) is on board, either simultaneously or successively, at any time during a cumulative limit period, then the most restrictive cumulative limit associated with the bottom trawl gears on board during that cumulative limit period applies for the entire cumulative limit period, regardless of whether the vessel is fishing shoreward or seaward of the RCA. Midwater trawl gear is allowed only for vessels participating in the primary whiting season. On non-whiting trips (defined as any fishing trip that takes, retains, possess, or lands less than 10,000 lb (4,536 kg) of whiting), vessels with both large footrope and midwater trawl gear on board during a trip are subject to the large footrope limits while fishing with large footrope gear seaward of the RCA. {revised at 70 FR 16145, March 30, 2005}

(ii) South of 40° 10' N. lat., a vessel may have more than one type of limited entry trawl gear on board, but the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative limit for that gear. If a vessel has small footrope trawl gear on board, then it may not have any other trawl gear on board. For vessels using more than one type of trawl gear during a cumulative limit period, limits are additive up to the largest limit for the type of gear used during that period. (Example: If a vessel harvests 300 lb (136 kg) of chilipepper rockfish with small footrope gear, it may harvest up to 11,700 lb (5,209 kg) of chilipepper rockfish with large footrope gear during July and August.) If a vessel fishes north of 40° 10' N. lat. with either selective flatfish or small footrope gear onboard the vessel at any time during the cumulative limit period, the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative trip limit for that gear.

(d) Trawl Groundfish Conservation Areas (GCAs). A Groundfish Conservation Area (GCA), a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude. The following GCAs apply to vessels participating in the limited entry trawl fishery.

(1) Cowcod Conservation Areas (CCAs). Vessels using limited entry trawl gear are prohibited from fishing within the CCAs. See §660.390 for the coordinates that define the CCAs. Limited entry trawl vessels may transit through the Western CCA with their gear stowed and groundfish on board only in a corridor through the Western CCA bounded on the north by the latitude line at 33°00.50' N. lat., and bounded on the south by the latitude line at 32°59.50' N. lat. It is unlawful to take and retain, possess, or land groundfish within the CCAs, except as authorized in this paragraph, when those waters are open to fishing.

(2) Farallon Islands. Under California law, commercial fishing for all groundfish is prohibited between the shoreline and the 10 fm (18 m) depth contour around the Farallon Islands. (See §660.390)

(3) Cordell Banks. Commercial fishing for groundfish is prohibited in waters of depths less than 100 fm (183 m) around Cordell Banks as defined by specific latitude and longitude coordinates at §660.390. {revised at 71 FR 78638, December 29, 2006}

(4) Trawl rockfish conservation areas. The trawl RCAs are closed areas, defined by specific latitude and longitude coordinates designed to approximate specific depth contours, where fishing with limited entry trawl gear is prohibited.

(i) Coastwide, it is unlawful to take and retain, possess, or land any species of fish taken with trawl gear within the trawl RCA, except as permitted for vessels participating in the primary whiting season and for vessels fishing with demersal seine gear between 38° N. lat. and 36° N. lat. shoreward of a boundary line approximating the 100 fm (183 m) depth contour as defined at §660.393. Throughout the year, boundaries for the trawl RCA are provided in Table 3 (North) and Table 3 (South) of this subpart, and may be modified by NMFS inseason pursuant to §660.370(c). Trawl RCA boundaries are defined by specific latitude and longitude coordinates which are provided at §§660.390 through 660.394. {revised at 71 FR 78638, December 29, 2006}

(ii) Trawl vessels may transit through the trawl RCA, with or without groundfish on board, provided all groundfish trawl gear is stowed either: Below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; or remaining on deck uncovered if the trawl doors are hung from their stanchions and the net is disconnected from the doors. These restrictions do not apply to vessels fishing with mid-water trawl gear for Pacific whiting or taking and retaining yellowtail rockfish or widow rockfish in association with Pacific whiting caught with mid-water trawl gear. {revised at 71 FR 78638, December 29, 2006}

(iii) If a vessel fishes in the trawl RCA, it may not participate in any fishing on that trip that is prohibited by the restrictions that apply within the trawl RCA. [For example, if a vessel participates in the pink shrimp fishery within the RCA, the vessel cannot on the same trip participate in the DTS fishery seaward of the RCA.] Nothing in these Federal regulations supercede any state regulations that may prohibit trawling shoreward of the 3-nm state waters boundary line.

(5) Essential Fish Habitat Conservation Areas. The Essential Fish Habitat Conservation Areas (EFHCAs) are closed areas, defined by specific latitude and longitude coordinates at §§660.396 through 660.399, where specified types of fishing are prohibited. Prohibitions applying to specific EFHCAs are found at §660.306. {revised at 71 FR 78638, December 29, 2006}

§ 660.382 Limited entry fixed gear fishery management measures. {added at 69 FR 77012, December 23, 2004; revised at 71 FR 24601, April 26, 2006}

(a) General. Most species taken in limited entry fixed gear (longline and pot/trap) fisheries will be managed with cumulative trip limits (see trip limits in Tables 4

(North) and 4 (South) of this subpart, size limits (see §660.370(h)(5)), seasons (see trip limits in Tables 4 (North) and 4 (South) of this subpart and primary sablefish season dates in §660.372(b)), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (c) of this section and §§660.390 through 660.399). Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (c)(4) of this section and §660.390). Yelloweye rockfish and canary rockfish retention is prohibited in the limited entry fixed gear fisheries. Regulations governing and tier limits for the limited entry, fixed gear primary sablefish season north of 36° N. lat. are found in §660.372. Vessels not participating in the primary sablefish season are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see §660.371. The trip limits in Table 4 (North) and Table 4 (South) of this subpart apply to vessels participating in the limited entry groundfish fixed gear fishery and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally-managed groundfish. {revised at 71 FR 78638, December 29, 2006}

(b) Gear Restrictions--

(1) General. The following types of fishing gear are authorized in the limited entry fixed gear fishery, with the restrictions set forth in this section: longline and pot or trap. Vessels participating in the limited entry fixed gear fishery may also fish with open access gear subject to the gear restrictions at §660.383(b), but will be subject to the most restrictive trip limits for the gear used as specified at §660.370(h)(7).

(2) Limited entry fixed gear.

(i) Fixed gear (longline, trap or pot) must be:

- (A) Marked at the surface, at each terminal end, with a pole, flag, light, radar reflector, and a buoy.
- (B) Attended at least once every 7 days.

(ii) A buoy used to mark fixed gear under paragraph (b)(2)(i)(A) of this section must be marked with a number clearly identifying the owner or operator of the vessel. The number may be either:

- (A) If required by applicable state law, the vessel's number, the vessel's number, the commercial fishing license number, or buoy brand number; or
- (B) The vessel documentation number issued by the USCG, or, for an undocumented vessel, the vessel registration number issued by the state.

(3) Traps or pots. Traps must have biodegradable escape panels constructed with 21 or smaller untreated cotton twine in such a manner that an opening at least 8 inches (20.3 cm) in diameter results when the twine deteriorates.

(c) Groundfish Conservation Areas. A Groundfish Conservation Area (GCA), a type of closed area, is a geographic area defined by coordinates expressed in degrees latitude and longitude. The following GCAs apply to vessels participating in the limited entry fixed gear fishery. {revised at 71 FR 78638, December 29, 2006}

(1) North Coast Recreational Yelloweye Rockfish Conservation Area. The latitude and longitude coordinates of the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified at §660.390. The North Coast Recreational YRCA is designated as an area to be avoided (a voluntary closure) by commercial fixed gear fishers. {added at 71 FR 78638, December 29, 2006}

(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 §660.390. Fishing with limited entry fixed gear is prohibited within the North Coast Commercial YRCA. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the North Coast Commercial YRCA. Limited entry fixed gear vessels may transit through the North Coast Commercial YRCA with or without groundfish on board. {added at 71 FR 78638, December 29, 2006}

(3) South Coast Recreational Yelloweye Rockfish Conservation Area. The latitude and longitude coordinates of the South Coast Recreational Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified at §660.390. The South Coast Recreational YRCA is designated as an area to be avoided (a voluntary closure) by commercial fixed gear fishers. {added at 71 FR 78638, December 29, 2006}

(4) Cowcod Conservation Areas. The latitude and longitude coordinates of the Cowcod Conservation Areas (CCAs) boundaries are specified at §660.390. It is unlawful to take and retain, possess, or land groundfish within the CCAs, except for species authorized in this paragraph caught according to gear requirements in this paragraph, when those waters are open to fishing. Commercial fishing vessels may transit through the Western CCA with their gear stowed and groundfish on board only in a corridor through the Western CCA bounded on the north by the latitude line at 33°00.50' N. lat., and bounded on the south by the latitude line at 32°59.50' N. lat. Fishing with limited entry fixed gear is prohibited within the CCAs, except as follows: {revised at 71 FR 24601, April 26, 2006; revised at 71 FR 78638, December 29, 2006}

(i) Fishing for "other flatfish" is permitted within the CCAs using no more than 12 hooks, "Number 2" or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line. {added at 71 FR 78638, December 29, 2006}

(ii) Fishing for rockfish and lingcod is permitted shoreward of the 20 fm (37 m) depth contour. {added at 71 FR 78638, December 29, 2006}

(5) Non-trawl Rockfish Conservation Areas. Fishing for groundfish with non-trawl gear (limited entry or open access longline and pot or trap, open access hook-and-line, gillnet, set net, trammel net and spear) is prohibited within the non-trawl rockfish conservation area (RCA). An exception to this prohibition is that commercial fishing for "other flatfish" is permitted within the non-trawl RCA off California (between 42° N. lat. south to the U. S./Mexico border) using no more than 12 hooks, "Number 2" or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line. It is unlawful to take and retain, possess, or land groundfish taken with non-trawl gear within the non-trawl RCA, unless otherwise authorized in this section. Limited entry fixed gear vessels may transit through the non-trawl RCA, with or without groundfish on board. These restrictions do not apply to vessels fishing for species other than groundfish with non-trawl gear, although non-trawl vessels on a fishing trip for species other than groundfish that occurs within the non-trawl RCA may not retain any groundfish taken on that trip. If a vessel fishes in the non-trawl RCA, it may not participate in any fishing on that trip that is prohibited by the restrictions that apply within the non-trawl RCA. [For example, if a vessel participates in the salmon troll fishery within the RCA, the vessel cannot on the same trip participate in the sablefish fishery outside of the RCA.] Boundaries for the non-trawl RCA throughout the year are provided in the header to Table 4 (North) and Table 4 (South) of this subpart and may be modified by NMFS inseason pursuant to §660.370(c). Non-trawl RCA boundaries are defined by specific latitude and longitude coordinates and are provided at §§660.390 through 660.394. {revised at 71 FR 24601, April 26, 2006; revised at 71 FR 78638, December 29, 2006}

(6) Farallon Islands. Under California law, commercial fishing for all groundfish is prohibited between the shoreline and the 10 fm (18 m) depth contour around the Farallon Islands. An exception to this prohibition is that commercial fishing for "other flatfish" is permitted around the Farallon Islands using no more than 12 hooks, "Number 2" or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line. (See Table 4 (South) of this subpart.) For a definition of the Farallon Islands, see §660.390. {revised at 71 FR 24601, April 26, 2006; revised at 71 FR 78638, December 29, 2006}

(7) Cordell Banks. Commercial fishing for groundfish is prohibited in waters of depths less than 100 fm (183 m) around Cordell Banks, as defined by specific latitude and longitude coordinates at §660.390. An exception to this prohibition is that commercial fishing for "other flatfish" is permitted around Cordell Banks using no more than 12 hooks, "Number 2" or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line. {revised at 71 FR 24601, April 26, 2006}

(8) Essential Fish Habitat Conservation Areas. The Essential Fish Habitat Conservation Areas (EFHCAs) are closed areas, defined by specific latitude and longitude coordinates at §§660.396 through 660.399, where specified types of fishing are prohibited. Prohibitions applying to specific EFHCAs are found at §660.306. {revised at 71 FR 78638, December 29, 2006}

§ 660.383 Open access fishery management measures. {added at 69 FR 77012, December 23,

2004; revised at 70 FR 23804, May 5, 2005; revised at 70 FR 38596, July 5, 2005; revised at 70 FR 65861, November 1, 2005; revised at 71 FR 8489, February 17, 2006; revised at 71 FR 24601, April 26, 2006; revised at 71 FR 78638, December 29, 2006}

(a) General. Groundfish species taken in open access fisheries will be managed with cumulative trip limits (see trip limits in Tables 5 (North) and 5 (South) of this subpart), size limits (see §660.370(h)(5)), seasons (see seasons in Tables 5 (North) and 5 (South) of this subpart), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (c) of this section and §§660.390 through 660.399). Unless otherwise specified, a vessel operating in the open access fishery is subject to, and must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery. Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (c)(5) of this section and §660.390). Retention of yelloweye rockfish and canary rockfish is prohibited in all open access fisheries. For information on the open access daily/weekly trip limit fishery for sablefish, see §660.372(c) and the trip limits in Tables 5 (North) and 5 (South) of this subpart. Open access vessels are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see §660.371. The trip limits in Table 5 (North) and Table 5 (South) of this subpart apply to vessels participating in the open access fisheries and may not be exceeded. Federal commercial

groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally managed groundfish. {revised at 71 FR 78638, December 29, 2006}

(b) Gear restrictions. Open access gear is gear used to take and retain groundfish from a vessel that is not registered for use with a limited entry permit for the Pacific Coast groundfish fishery with an endorsement for the gear used to harvest the groundfish. This includes longline, trap, pot, hook-and-line (fixed or mobile), setnet (anchored gillnet or trammel net, which are permissible south of 38° N. lat. only), spear and non-groundfish trawl gear (trawls used to target nongroundfish species: pink shrimp or ridgeback prawns, and, south of Pt. Arena, CA (38°57.50' N. lat.), California halibut or sea cucumbers). Restrictions for gears used in the open access fisheries are as follows: {revised at 71 FR 78638, December 29, 2006}

(1) Non-groundfish trawl gear. Non-groundfish trawl gear is any trawl gear other than limited entry groundfish trawl gear as described at §660.381(b) and as defined at §660.302 for trawl vessels with limited entry groundfish permits. Non-groundfish trawl gear is generally trawl gear used to target pink shrimp, ridgeback prawn, California halibut and sea cucumber. Non-groundfish trawl gear is exempt from the limited entry trawl gear restrictions at §660.381(b).

(2) Fixed gear.

(i) Fixed gear (longline, trap or pot, set net and stationary hook-and-line gear, including commercial vertical hook-and-line gear) must be:

(A) Marked at the surface, at each terminal end, with a pole, flag, light, radar reflector, and a buoy except as provided in paragraph (b)(2)(ii) of this section. {revised at 71 FR 78638, December 29, 2006}

(B) Attended at least once every 7 days.

(ii) Commercial vertical hook-and-line gear that is closely tended may be marked only with a single buoy of sufficient size to float the gear. "Closely tended" means that a vessel is within visual sighting distance or within 0.25 nm (463 m) as determined by electronic navigational equipment, of its commercial vertical hook-and-line gear.

(iii) A buoy used to mark fixed gear under paragraph (b)(2)(i)(A) or (b)(2)(ii) of this section must be marked with a number clearly identifying the owner or operator of the vessel. The number may be either: {revised at 71 FR 78638, December 29, 2006}

(A) If required by applicable state law, the vessel's number, the commercial fishing license number, or buoy brand number; or

(B) The vessel documentation number issued by the USCG, or, for an undocumented vessel, the vessel registration number issued by the state.

(3) Set nets. Fishing for groundfish with set nets is prohibited in the fishery management area north of 38°00.00' N. lat.

(4) Traps or pots. Traps must have biodegradable escape panels constructed with 21 or smaller untreated cotton twine in such a manner that an opening at least 8 inches (20.3 cm) in diameter results when the twine deteriorates.

(5) Spears. Spears may be propelled by hand or by mechanical means.

(c) Open Access Groundfish Conservation Areas. A Groundfish Conservation Area (GCA), a type of closed area, is a geographic area defined by coordinates expressed in degrees latitude and longitude. The following GCAs apply to participants in the open access fishery. {revised at 71 FR 78638, December 29, 2006}

(1) North Coast Recreational Yelloweye Rockfish Conservation Area. The latitude and longitude coordinates of the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified at §660.390. The North Coast Recreational YRCA is designated as an area to be avoided (a voluntary closure) by commercial fixed gear fishers. {revised at 71 FR 78638, December 29, 2006}

(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 §660.390. Fishing with open access gear is prohibited within the North Coast Commercial YRCA. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the North Coast Commercial YRCA. Open access vessels may transit through the North Coast Commercial YRCA with or without groundfish on board. {added at 71 FR 78638, December 29, 2006}

(3) South Coast Recreational Yelloweye Rockfish Conservation Area. The latitude and longitude coordinates of the South Coast Recreational Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified at §660.390. The South Coast Recreational YRCA is designated as an area to be avoided (a voluntary closure) by commercial fixed gear fishers. {added at 71 FR 78638, December 29, 2006}

(4) Salmon Troll Yelloweye Rockfish Conservation Area. The latitude and longitude coordinates of the Salmon Troll Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified in the groundfish regulations at §660.390 and in the salmon regulations at §660.405. Fishing with salmon troll gear is prohibited within the Salmon Troll YRCA. It is unlawful for commercial salmon troll vessels to take and retain, possess, or land fish taken with salmon troll gear within the Salmon Troll YRCA. Open access vessels may transit through the Salmon Troll YRCA with or without fish on board. {added at 71 FR 78638, December 29, 2006}

(5) Cowcod Conservation Areas. The latitude and longitude coordinates of the Cowcod Conservation Areas (CCAs) boundaries are specified at §660.390. It is unlawful to take and retain, possess, or land groundfish within the CCAs, except for species authorized in this paragraph caught according to gear requirements in this paragraph, when those waters are open to fishing. Commercial fishing vessels may transit through the Western CCA with their gear stowed and groundfish on board only in a corridor through the Western CCA bounded on the north by the latitude line at 33°00.50' N. lat., and bounded on the south by the latitude line at 32°59.50' N. lat. Fishing with open access gear is prohibited in the CCAs, except as follows: {revised at 71 FR 24601, April 26, 2006; revised at 71 FR 78638, December 29, 2006}

(i) Fishing for "other flatfish" is permitted within the CCAs using no more than 12 hooks, "Number 2" or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line. {added at 71 FR 78638, December 29, 2006}

(ii) Fishing with open access non-trawl gear for rockfish and lingcod is permitted shoreward of the 20 fm (37 m) depth contour. {added at 71 FR 78638, December 29, 2006}

Non-trawl Rockfish Conservation Area for the open access fisheries. Fishing for groundfish with non-trawl gear (limited entry or open access longline and pot or trap, open access hook-and-line, gillnet, set net, trammel net and spear) is prohibited within the non-trawl rockfish conservation area (RCA). An exception to this prohibition is that commercial fishing for "other flatfish" is permitted within the non-trawl RCA off California (between 42° N. lat. south to the U.S./Mexico border) using no more than 12 hooks, "Number 2" or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line. It is unlawful to take and retain, possess, or land groundfish taken with non-trawl gear within the non-trawl RCA, unless otherwise authorized in this section. Open access non-trawl gear vessels may transit through the non-trawl RCA, with or without groundfish on board. These restrictions do not apply to vessels fishing for species other than groundfish or Pacific halibut with non-trawl gear, although non-trawl vessels on a fishing trip for species other than groundfish and Pacific halibut that occurs within the non-trawl RCA may not retain any groundfish taken on that trip (The Pacific halibut regulations at 50 CFR 300.63(e) describe the RCA that applies to the commercial halibut fishery). If a vessel fishes in the non-trawl RCA, it may not participate in any fishing on that trip that is prohibited by the restrictions that apply within the non-trawl RCA. Retention of groundfish caught by salmon troll gear is prohibited in the non-trawl RCA, except that salmon trollers may retain yellowtail rockfish caught both inside and outside the non-trawl RCA subject to the limits in Tables 5 (North) and 5 (South) of this subpart. Boundaries for the non-trawl RCA throughout the year are provided in the open access trip limit tables, Table 5 (North) and Table 5 (South) of this subpart and may be modified by NMFS inseason pursuant to §660.370(c). Non-trawl RCA boundaries are defined by specific latitude and longitude coordinates which are specified at §§660.390 through 660.394. {revised at 71 FR 24601, April 26, 2006; revised at 71 FR 78638, December 29, 2006}

(6) Non-groundfish Trawl Rockfish Conservation Area for the open access non-groundfish trawl fisheries. {revised at 71 FR 8489, February 17, 2006; revised at 71 FR 78638, December 29, 2006}

(i) Fishing with any non-groundfish trawl gear in the open access fisheries is prohibited within the non-groundfish trawl RCA coastwide, except as authorized in this paragraph. Nothing in these Federal regulations supercedes any state regulations that may prohibit trawling shoreward of the 3 nm state waters boundary line. Trawlers operating in the open access fisheries with legal groundfish trawl gear are considered to be operating in the non-groundfish trawl fishery and are, therefore, prohibited from fishing in the non-groundfish trawl RCA. Coastwide, it is unlawful to take and retain, possess, or land any species of fish taken with non-groundfish trawl gear within the non-groundfish trawl RCA, except as permitted in this paragraph for vessels participating in the pink shrimp and ridgeback prawn trawl fisheries. Boundaries for the non-groundfish trawl RCA throughout the year in the open access fishery are provided in Table 5 (North) and Table 5 (South) of this subpart and may be modified by NMFS inseason pursuant to §660.370(c). Non-groundfish trawl RCA boundaries are defined by specific latitude and longitude coordinates which are specified below at §§660.390 through 660.394. The non-groundfish trawl RCA is closed coastwide to open access non-groundfish trawl fishing, except as follows:

(A) Pink shrimp trawling is permitted in the non-groundfish trawl RCA, and

(B) When the shoreward line of the non-groundfish trawl RCA is shallower than 100 fm (183 m), the ridgeback prawn trawl fishery south of 34°27.00' N. lat. may operate out to the 100 fm (183 m) boundary line specified at §660.393 (i.e., the shoreward boundary of the non-groundfish trawl RCA is at the 100 fm (183 m) boundary line all year for the ridgeback prawn trawl fishery in this area).

(ii) If a vessel fishes in the non-groundfish trawl RCA, it may not participate in any fishing on that trip that is prohibited by the restrictions that apply within the non-groundfish trawl RCA. [For example, if a vessel participates in the pink shrimp fishery within the RCA, the vessel cannot on the same trip participate in the DTS fishery seaward of the RCA.]

(8) Farallon Islands. Under California law, commercial fishing for all groundfish is prohibited between the shoreline and the 10 fm (18 m) depth contour around the Farallon Islands. An exception to this prohibition is that commercial fishing for "other flatfish" is permitted around the Farallon Islands using no more than 12 hooks, "Number 2" or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line. (See Table 5 (South) of this subpart.) For a definition of the Farallon Islands, see §660.390. {revised at 71 FR 24601, April 26, 2006; revised at 71 FR 78638, December 29, 2006}

(9) Cordell Banks. Commercial fishing for groundfish is prohibited in waters of depths less than 100 fm (183 m) around Cordell Banks, as defined by specific latitude and longitude coordinates at §660.390. An exception to this prohibition is that commercial fishing for "other flatfish" is permitted around Cordell Banks using no more than 12 hooks, "Number 2" or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line. {revised at 71 FR 24601, April 26, 2006; revised at 71 FR 78638, December 29, 2006}

(10) Essential Fish Habitat Conservation Areas. The Essential Fish Habitat Conservation Areas (EFHCAs) are closed areas, defined by specific latitude and longitude coordinates at §§660.396 through 660.399, where specified types of fishing are prohibited. Prohibitions applying to specific EFHCAs are found at §660.306. {added at 71 FR 78638, December 29, 2006}

(d) Groundfish taken with non-groundfish trawl gear by vessels engaged in fishing for ridgeback prawns, California halibut, or sea cucumbers. Trip limits for groundfish retained in the ridgeback prawn, California halibut, or sea cucumber fisheries are in the open access trip limit table, Table 5 (South) of this subpart. The table also generally describes the RCAs for vessels participating in these fisheries.

(1) Participation in the ridgeback prawn fishery. A trawl vessel will be considered participating in the ridgeback prawn fishery if:

- (i) It is not registered to a valid Federal limited entry groundfish permit issued under §660.333 for trawl gear; and {revised at 71 FR 78638, December 29, 2006}
- (ii) The landing includes ridgeback prawns taken in accordance with California Fish and Game Code, section 8595, which states: "Prawns or shrimp may be taken for commercial purposes with a trawl net, subject to Article 10 (commencing with Section 8830) of Chapter 3."

(2) Participation in the California halibut fishery. A trawl vessel will be considered participating in the California halibut fishery if:

It is not registered to a valid Federal limited entry groundfish permit issued under §660.333 for trawl gear; {revised at 71 FR 78638, December 29, 2006}

- (i) All fishing on the trip takes place south of Pt. Arena, CA (38°57.50' N. lat.); and
- (ii) The landing includes California halibut of a size required by California Fish and Game Code section 8392(a), which states: "No California halibut may be taken, possessed or sold which measures less than 22 in (56 cm) in total length, unless it weighs 4 lb (1.8144 kg) or more in the round, 3 and one-half lbs (1.587 kg) or more dressed with the head on, or 3 lbs (1.3608 kg) or more dressed with the head off. Total length means the shortest distance between the tip of the jaw or snout, whichever extends farthest while the mouth is closed, and the tip of the longest lobe of the tail, measured while the halibut is lying flat in natural repose, without resort to any force other than the swinging or fanning of the tail."

(3) Participation in the sea cucumber fishery. A trawl vessel will be considered to be participating in the sea cucumber fishery if:

- (i) It is not registered to a valid Federal limited entry groundfish permit issued under §660.333 for trawl gear; {revised at 71 FR 78638, December 29, 2006}
- (ii) All fishing on the trip takes place south of Pt. Arena, CA (38°57.50' N. lat.); and
- (iii) The landing includes sea cucumbers taken in accordance with California Fish and Game Code, section 8405, which requires a permit issued by the State of California.

(e) Groundfish taken with non-groundfish trawl gear by vessels engaged in fishing for pink shrimp. Trip limits for groundfish retained in the pink shrimp fishery are in Tables 5 (North) and

5 (South) of this subpart. Notwithstanding §660.370(h)(7), a vessel that takes and retains pink shrimp and also takes and retains groundfish in either the limited entry or another open access fishery during the same applicable cumulative limit period that it takes and retains pink shrimp (which may be 1 month or 2 months, depending on the fishery and the time of year), may retain the larger of the two limits, but only if the limit(s) for each gear or fishery are not exceeded when operating in that fishery or with that gear. The limits are not additive; the vessel may not retain a separate trip limit for each fishery.

§ 660.384 Recreational fishery management measures. {added at 69 FR 77012, December 23, 2004; corrected at 70 FR 13118, March 18, 2005; revised at 70 FR 16145, March 30, 2005; revised at 70 FR 20304, April 19, 2005; revised at 70 FR 23040, May 4, 2005; revised at 70 FR 58066, October 5, 2005; revised at 70 FR 72385, December 5, 2005; revised at 71 FR 8489, February 17, 2006; revised at 71 FR 18227, April 11, 2006; revised at 71 FR 37839, July 3, 2006; revised at 71 FR 58289, October 3, 2006; revised 71 FR 69076, November 29, 2006; revised at 71 FR 78638, December 29, 2006; revised at 71 FR 19390, April 18, 2007}

(a) General. Federal recreational groundfish regulations are not intended to supersede any more restrictive state recreational groundfish regulations relating to federally-managed groundfish. The bag limits include fish taken in both state and Federal waters.

(b) Gear restrictions. The only types of fishing gear authorized for recreational fishing are hook-and-line and spear. Spears may be propelled by hand or by mechanical means. More fishery-specific gear restrictions may be required by state as noted in paragraph (c) of this section (e.g. California's recreational "other flatfish" fishery).

(c) State-specific recreational fishery management measures. Federal recreational groundfish regulations are not intended to supersede any more restrictive State recreational groundfish regulations relating to federally-managed groundfish. Off the coast of Washington, Oregon, and California, boat limits apply, whereby each fisher aboard a vessel may continue to use angling gear until the combined daily limits of groundfish for all licensed and juvenile anglers aboard has been attained (additional state restrictions on boat limits may apply).

(1) Washington. For each person engaged in recreational fishing off the coast of Washington, the groundfish bag limit is 15 groundfish per day, including rockfish and lingcod, and is open year-round (except for lingcod). In the Pacific halibut fisheries, retention of groundfish is governed in part by annual management measures for Pacific halibut fisheries, which are published in the *Federal Register*. South of Leadbetter Point, WA to the Washington/Oregon border, when Pacific halibut are onboard the vessel, no groundfish may be taken and retained, possessed or landed, except sablefish and Pacific cod. The following sublimits and closed areas apply: {revised at 70 FR 20304, April 19, 2005; revised at 71 FR 18227, April 11, 2006}

(i) Recreational Groundfish Conservation Areas off Washington.

(A) North Coast Recreational Yelloweye Rockfish Conservation Area. Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land groundfish taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing in the North Coast Recreational YRCA may not be in possession of any groundfish. Recreational vessels may transit through the North Coast Recreational YRCA with or without groundfish on board. The North Coast Recreational YRCA is defined by latitude and longitude coordinates specified at §660.390. {revised at 71 FR 78638, December 29, 2006}

(B) South Coast Recreational Yelloweye Rockfish Conservation Area. Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land groundfish taken with recreational gear within the South Coast Recreational YRCA. A vessel fishing in the South Coast Recreational YRCA may not be in possession of any groundfish. Recreational vessels may transit through the South Coast Recreational YRCA with or without groundfish on board. The South Coast Recreational YRCA is defined by latitude and longitude coordinates specified at §660.390. {added at 71 FR 78638, December 29, 2006}

Recreational Rockfish Conservation Area. Fishing for groundfish with recreational gear is prohibited within the recreational RCA. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA. A vessel fishing in the recreational RCA may not be in possession of any groundfish. [For example, if a vessel participates in the recreational salmon fishery within the RCA, the vessel cannot be in possession of groundfish while in the RCA. The vessel may, however, on the same trip fish for and retain groundfish shoreward of the RCA on the return trip to port.] {revised at 70 FR 58066, October 5, 2005; revised at 70 FR 72385, December 5, 2005; revised at 71 FR 8489, February 17, 2006; revised at 71 FR 18227, April 11, 2006; revised at 71 FR 78638, December 29, 2006}

(1) Between the U. S. border with Canada and the Queets River, recreational fishing for groundfish is prohibited seaward of a boundary line approximating the 20-fm (37-m) depth contour from May 21 through September 30, except on days when the Pacific halibut fishery is open in this area. Days open to Pacific halibut recreational fishing off Washington are announced on the NMFS hotline at (206) 526-6667 or (800) 662-9825. Coordinates for the boundary line approximating the 20-fm (37-m) depth contour are listed in §660.391. {revised at 71 FR 78638, December 29, 2006; revised at 71 FR 19390, April 18, 2007}

(2) Between the Queets River and Leadbetter Point, recreational fishing for groundfish is prohibited seaward of a boundary line approximating the 30-fm (55-m) depth contour from March 17, 2007, through June 15, 2007, except that recreational fishing for sablefish and Pacific cod is permitted within the recreational RCA from May 1 through June 15. In 2008, recreational fishing for groundfish is prohibited seaward of a boundary line approximating the 30-fm (55-m) depth contour from March 15, 2008, through June 15, 2008, except that recreational fishing for sablefish and Pacific cod is permitted within the recreational RCA from May 1 through June 15. Coordinates for the boundary line approximating the 30-fm (55-m) depth contour are listed in §660.391. {revised at 71 FR 78638, December 29, 2006; revised at 71 FR 19390, April 18, 2007}

(ii) Rockfish. In areas of the EEZ seaward of Washington that are open to recreational groundfish fishing, there is a 10 rockfish per day bag limit. Taking and retaining canary rockfish and yelloweye rockfish is prohibited.

(iii) Lingcod. In areas of the EEZ seaward of Washington that are open to recreational groundfish fishing and when the recreational season for lingcod is open, there is a bag limit of 2 lingcod per day, which may be no smaller than 22 in (56 cm) total length. The recreational fishing season for lingcod is open as follows: {revised at 71 FR 78638, December 29, 2006}

(A) Between the U. S./Canada border to 48° 10' N. lat. (Cape Alava) (Washington Marine Area 4), recreational fishing for lingcod is open, for 2007, from April 15 through October 13, and for 2008, from April 15 through October 15. {added at 71 FR 78638, December 29, 2006}

(B) Between 48°10' N. lat. (Cape Alava) and 46°16' N. lat. (Washington/Oregon border) (Washington Marine Areas 1–3), recreational fishing for lingcod is open for 2007, from March 17 through October 13, and for 2008, from March 15 through October 18. {added at 71 FR 78638, December 29, 2006}

(2) Oregon--

(i) Recreational Groundfish Conservation Areas off Oregon. {revised at 70 FR 72385, December 5, 2005, revised at 71 FR 8489, February 17, 2006; revised at 71 FR 78638, December 29, 2006}

(A) Stonewall Bank Yelloweye Rockfish Conservation Area. Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land groundfish taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not be in possession of any groundfish. Recreational vessels may transit through the Stonewall Bank YRCA with or without groundfish on board. The Stonewall Bank YRCA is defined by latitude and longitude coordinates specified at §660.390. {added at 71 FR 78638, December 29, 2006}

(B) Recreational Rockfish Conservation Area. Fishing for groundfish with recreational gear is prohibited within the recreational RCA, a type of closed area or GCA. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA. A vessel fishing in the recreational RCA may not be in possession of any groundfish. [For example, if a vessel participates in the recreational salmon fishery within the RCA, the vessel cannot be in possession of groundfish while in the RCA. The vessel may, however, on the same trip fish for and retain groundfish shoreward of the RCA on the return trip to port.] Off Oregon, from April 1 through September 30, recreational fishing for groundfish is prohibited seaward of a recreational RCA boundary line approximating the 40 fm (73 m) depth contour. Coordinates for the boundary line approximating the 40 fm (73 m) depth contour are listed at §660.391. {revised at 71 FR 78638, December 29, 2006}

(C) Essential Fish Habitat Conservation Areas. The Essential Fish Habitat Conservation Areas (EFHCAs) are closed areas, defined by specific latitude and longitude coordinates at §§660.396 through 660.399, where specified types of fishing are prohibited. Prohibitions applying to specific EFHCAs are found at §660.306. {added at 71 FR 78638, December 29, 2006}

(ii) Seasons. Recreational fishing for groundfish is open from January 1 through December 31, subject to the closed areas described in paragraph (c)(2) of this section.

Bag limits, size limits. The bag limits for each person engaged in recreational fishing in the EEZ seaward of Oregon are two lingcod per day, which may be no smaller than 22 in (56 cm) total length; and 8 marine fish per day, which excludes Pacific halibut, salmonids, tuna, perch species, sturgeon, sanddabs, flatfish, lingcod, striped bass, hybrid bass, offshore pelagic species and baitfish (herring, smelt, anchovies and sardines), but which includes rockfish, greenling, cabezon and other groundfish species. The bag limit for all flatfish is 25 fish per day, which excludes Pacific halibut, but which includes all soles, flounders and Pacific sanddabs. In the Pacific halibut fisheries, retention of groundfish is governed in part by annual management measures for Pacific halibut fisheries, which are published in the Federal Register. Between the Oregon border with Washington and Cape Falcon, when Pacific halibut are onboard the vessel, groundfish may not be taken and retained, possessed or landed, except sablefish and Pacific cod. Between Cape Falcon and Humbug Mountain, during days open to the Oregon Central Coast “all-depth” sport halibut fishery, when Pacific halibut are onboard the vessel, no groundfish may be taken and retained, possessed or landed, except sablefish. “All-depth” season days are established in the annual management measures for Pacific halibut fisheries, which are published in the Federal Register and are announced on the NMFS halibut hotline, 1 800 662 9825. The minimum size limit for cabezon retained in the recreational fishery is 16 in (41 cm), and for greenling is 10 in (26 cm). Taking and retaining canary rockfish and yelloweye rockfish is prohibited at all times and in all areas. {revised at 70 FR 16115, March 30, 2005; revised at 70 FR 20304, April 19, 2005; revised at 70 FR 58066, October 5, 2005; revised at 70 FR 72385, December 5, 2005; revised at 71 FR 8489, February 17, 2006; revised at 71 FR 18227, April 11, 2006; revised at 71 FR 58289, October 3, 2006; revised 71 FR 69076, November 29, 2006; revised at 71 FR 78638, December 29, 2006}

(3) California. Seaward of California, California law provides that, in times and areas when the recreational fishery is open, there is a 20 fish bag limit for all species of finfish, within which no more than 10 fish of any one species may be taken or possessed by any one person. [Note: There are some exceptions to this rule. The following groundfish species are not subject to a bag limit: petrale sole, Pacific sanddab and starry flounder.] For groundfish species not specifically mentioned in this paragraph, fishers are subject to the overall 20–fish bag limit for all species of finfish and the depth restrictions at paragraph (c)(3)(i) of this section. Recreational spearfishing for all federally-managed groundfish, except lingcod during January, February, March, and December, is exempt from closed areas and seasons, consistent with Title 14 of the California Code of Regulations. This exemption applies only to recreational vessels and divers provided no other fishing gear, except spearfishing gear, is on board the vessel. California state law may provide regulations similar to Federal regulations for the following state-managed species: ocean whitefish, California sheephead, and all greenlings of the genus Hexagrammos. Kelp greenling is the only federally-managed greenling. Retention of cowcod, yelloweye rockfish, and canary rockfish is prohibited in the recreational fishery seaward of California all year in all areas. For each person engaged in recreational fishing in the EEZ seaward of California, the following closed areas, seasons, bag limits, and size limits apply: {corrected at 70 FR 13118, March 18, 2005; revised at 71 FR 78638, December 29, 2006}

(i) Recreational Groundfish Conservation Areas off California. A Groundfish Conservation Area (GCA), a type of closed area, is a geographic area defined by coordinates expressed in degrees latitude and longitude. The following GCAs apply to participants in California's recreational fishery.

(A) Recreational Rockfish Conservation Areas. The recreational RCAs are areas that are closed to recreational fishing for groundfish. Fishing for groundfish with recreational gear is prohibited within the recreational RCA, except that recreational fishing for “other flatfish” is permitted within the recreational RCA as specified in paragraph (c)(3)(iv) of this section. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA, unless otherwise authorized in this section. A vessel fishing in the recreational RCA may not be in possession of any species prohibited by the restrictions that apply within the recreational RCA. [For example, if a vessel participates in the recreational salmon fishery within the RCA, the vessel cannot be in possession of rockfish while in the RCA. The vessel may, however, on the same trip fish for and retain rockfish shoreward of the RCA on the return trip to port.]

(1) Between 42° N. lat. (California/Oregon border) and 40°10.00' N. lat. (North Region), recreational fishing for all groundfish (except “other flatfish” as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 30 fm (55 m) depth contour along the mainland coast and along islands and offshore seamounts from May 1 through December 31; and is closed entirely from January 1 through April 30 (i.e., prohibited seaward of the shoreline). Coordinates for the boundary line approximating the 30 fm (55 m) depth contour are specified in §660.391. {revised at 70 FR 23040, May 4, 2005; revised at 71 FR 78638, December 29, 2006}

(2) Between 40°10' N. lat. and 37°11' N. lat. (North Central Region), recreational fishing for all groundfish (except “other flatfish” as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of the 30 fm (55 m) depth contour along the mainland coast and along islands and offshore seamounts from June 1 through November 30; and is closed entirely from January 1 through May 31 and from December 1–31 (i.e., prohibited seaward of the shoreline). Closures around the Farallon Islands (see paragraph (c)(3)(i)(C) of this section) and Cordell Banks (see paragraph (c)(3)(i)(D) of this section) also apply in this area. {revised at 70 FR 72385, December 5, 2005; revised at 71 FR 8489, February 17, 2006; revised at 71 FR 37839, July 3, 2006; revised at 71 FR 78638, December 29, 2006}

(3) Between 37°11' N. lat. and 34°27' N. lat. (South Central Regions - Monterey and Morro Bay), recreational fishing for all groundfish (except “other flatfish” as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line

approximating the 40 fm (73 m) depth contour along the mainland coast and along islands and offshore seamounts from May 1 through November 30; and is closed entirely from January 1 through April 30 and from December 1 – 31 (i.e., prohibited seaward of the shoreline). Coordinates for the boundary line approximating the 40 fm (73 m) depth contour are specified in §660.391. {revised at 70 FR 23040, May 4, 2005; revised at 71 FR 37839, July 3, 2006; revised at 71 FR 78638, December 29, 2006}

(4) South of 34°27' N. latitude (South Region), recreational fishing for all groundfish (except California scorpionfish as specified below in this paragraph and in paragraph (v) and “other flatfish” as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 60 fm (110 m) depth contour from March 1 through December 31 along the mainland coast and along islands and offshore seamounts, except in the CCAs where fishing is prohibited seaward of the 20 fm (37 m) depth contour when the fishing season is open (see paragraph (c)(3)(i)(B) of this section). Recreational fishing for all groundfish (except California scorpionfish and “other flatfish”) is closed entirely from January 1 through February 28 (i.e., prohibited seaward of the shoreline). Recreational fishing for California scorpionfish south of 34°27' N. lat. is prohibited seaward of a boundary line approximating the 40 fm (73 m) depth contour from January 1 through February 28, and seaward of the 60 fm (110 m) depth contour from March 1 through December 31, except in the CCAs where fishing is prohibited seaward of the 20 fm (37 m) depth contour when the fishing season is open. Coordinates for the boundary line approximating the 40 fm (73 m) and 60 fm (110 m) depth contours are specified in §§660.391 and 660.392. {revised at 70 FR 23040, May 4, 2005; revised at 71 FR 8489, February 17, 2006; revised at 71 FR 37839, July 3, 2006; revised at 71 FR 78638, December 29, 2006}

(B) Cowcod Conservation Areas. The latitude and longitude coordinates of the Cowcod Conservation Areas (CCAs) boundaries are specified at §660.390. In general, recreational fishing for all groundfish is prohibited within the CCAs, except that fishing for “other flatfish” is permitted within the CCAs as specified in paragraph (c)(3)(iv) of this section. However, recreational fishing for the following species is permitted shoreward of the 20 fm (37 m) depth contour when the season for those species is open south of 34°27' N. lat.: Minor nearshore rockfish, cabezon, kelp greenling, lingcod, California scorpionfish, and “other flatfish” (subject to gear requirements at paragraph (c)(3)(iv) of this section during January–February). [NOTE: California state regulations also permit recreational fishing for California sheephead, ocean whitefish, and all greenlings of the genus Hexagrammos shoreward of the 20 fm (37 m) depth contour in the CCAs when the season for the RCG complex is open south of 34°27' N. lat.] It is unlawful to take and retain, possess, or land groundfish within the CCAs, except for species authorized in this section. {corrected at 70 FR 13118, March 18, 2005; revised at 71 FR 78638, December 29, 2006}

(C) Farallon Islands. Under California state law, recreational fishing for groundfish is prohibited between the shoreline and the 10 fm (18 m) depth contour around the Farallon Islands, except that recreational fishing for “other flatfish” is permitted around the Farallon Islands as specified in paragraph (c)(3)(iv) of this section. (Note: California state regulations also prohibit the retention of other greenlings of the genus Hexagrammos, California sheephead and ocean whitefish.) For a definition of the Farallon Islands, see §660.390.

(D) Cordell Banks. Recreational fishing for groundfish is prohibited in waters less than 100 fm (183 m) around Cordell Banks as defined by specific latitude and longitude coordinates at §660.390, except that recreational fishing for “other flatfish” is permitted around Cordell Banks as specified in paragraph (c)(3)(iv) of this section. [Note: California state regulations also prohibit fishing for all greenlings of the genus Hexagrammos, California sheephead and ocean whitefish.] Essential Fish Habitat Conservation Areas. The Essential Fish Habitat Conservation Areas (EFHCAs) are closed areas, defined by specific latitude and longitude coordinates at §§660.396 through 660.399, where specified types of fishing are prohibited. Prohibitions applying to specific EFHCAs are found at §660.306. {added at 71 FR 78638, December 29, 2006}

(ii) RCG Complex. The California rockfish, cabezon, greenling complex (RCG Complex), as defined in state regulations (Section 1.91, Title 14, California Code of Regulations), includes all rockfish, kelp greenling, rock greenling, and cabezon. This category does not include California scorpionfish, also known as “sculpin.

(A) Seasons. When recreational fishing for the RCG Complex is open, it is permitted only outside of the recreational RCAs described in paragraph (c)(3)(i) of this section.

(1) North of 40° 10' N. lat. (North Region), recreational fishing for the RCG Complex is open from May 1 through December 31. {revised 70 FR 23040, May 4, 2005; revised at 71 FR 78638, December 29, 2006}

(2) Between 40°10' N. lat. and 37°11' N. lat. (North Central Region), recreational fishing for the RCG Complex is open from June 1 through November 30 (i.e., it's closed from January 1 through May 31 and from December 1–31). {revised at 70 FR 23040, May 4, 2005; revised at 71 FR 78638, December 29, 2006}

(3) Between 37°11' N. lat. and 34°27' N. lat. (South Central Regions - Monterey and Morro Bay), recreational fishing for the RCG Complex is open from May 1 through November 30 (i.e., it's closed from January 1 through April 30 and from December 1–31). {revised at 71 FR 37839, July 3, 2006; revised at 71 FR 78638, December 29, 2006}

(4) South of 34°27' N. lat. (South Region), recreational fishing for the RCG Complex is open from March 1 through December 31 (i.e., it's closed from January 1 through February 29). {revised at 70 FR 23040, May 4, 2005; revised at 71 FR 78638, December 29, 2006}

(B) Bag limits, hook limits. In times and areas when the recreational season for the RCG Complex is open, there is a limit of 2 hooks and 1 line when fishing for rockfish. The bag limit is 10 RCG Complex fish per day coastwide. Retention of canary rockfish, yelloweye rockfish and cowcod is prohibited. North of 40° 10' N. lat., within the 10 RCG Complex fish per day limit, no more than 2 may be bocaccio, no more than 2 may be greenling (kelp and/or other greenlings) and no more than 1 may be cabezon. South of 40° 10' N. lat., within the 10 RCG Complex fish per day limit, no more than 1 may be bocaccio, no more than 2 may be greenling (kelp and/or other greenlings) and no more than 1 may be cabezon. Multiday limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip. {revised at 70 FR 16145, March 30, 2005; revised at 71 FR 78638, December 29, 2006}

(C) Size limits. The following size limits apply: bocaccio may be no smaller than 10 in (25 cm) total length; cabezon may be no smaller than 15 in (38 cm) total length; and kelp and other greenling may be no smaller than 12 in (30 cm) total length.

(D) Dressing/Filleting. Cabezon, kelp greenling, and rock greenling taken in the recreational fishery may not be filleted at sea. Rockfish skin may not be removed when filleting or otherwise dressing rockfish taken in the recreational fishery. The following rockfish filet size limits apply: bocaccio filets may be no smaller than 5 in (12.8 cm) and brown-skinned rockfish filets may be no smaller than 6.5 in (16.6 cm). “Brown-skinned” rockfish include the following species: brown, calico, copper, gopher, kelp, olive, speckled, squarespot, and yellowtail.

(iii) Lingcod--

(A) Seasons. When recreational fishing for lingcod is open, it is permitted only outside of the recreational RCAs described in paragraph (c)(3)(i) of this section.

(1) North of 40° 10' N. lat. (North Region), recreational fishing for lingcod is open from May 1 through November 30 (i.e., it's closed from January 1 through April 30 and from December 1–31). {revised at 71 FR 78638, December 29, 2006}

(2) Between 40°10' N. lat. and 37°11' N. lat. (North Central Region), recreational fishing for lingcod is open from June 1 through November 30 (i.e., it's closed from January 1 through May 31 and from December 1–31). {revised at 71 FR 78638, December 29, 2006}

(3) Between 37°11' N. lat. and 34°27' N. lat. (South Central Regions - Monterey and Morro Bay), recreational fishing for lingcod is open from May 1 through November 30 (i.e., it's closed from January 1 through April 30 and from December 1 - 31). {revised at 71 FR 37839, July 3, 2006; revised at 71 FR 78638, December 29, 2006}

(4) South of 34°27' N. lat. (South Region), recreational fishing for lingcod is open from April 1 through November 30 (i.e., it's closed from January 1 through March 31 and from December 1 - 31). {revised at 70 FR 23040, May 4, 2005; revised at 71 FR 78638, December 29, 2006}

(B) Bag limits, hook limits. In times and areas when the recreational season for lingcod is open, there is a limit of 2 hooks and 1 line when fishing for lingcod. The bag limit is 2 lingcod per day. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(C) Size limits. Lingcod may be no smaller than 24 in (61 cm) total length.

(D) Dressing/Filleting. Lingcod filets may be no smaller than 16 in (41 cm) in length.

(iv) “Other flatfish”. Coastwide off California, recreational fishing for “other flatfish” is permitted both shoreward of and within the closed areas described in paragraph (c)(3)(i) of this section. “Other flatfish” are defined at §660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole. Recreational fishing for “other flatfish” is permitted within the closed areas, subject to a limit of up to 12 hooks, “Number 2” or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to 2 lb (0.91 kg) of weight per line. “Other flatfish,” except Pacific sanddab, are subject to the overall 20 fish bag limit for all species of finfish, of which there may be no more than 10 fish of any one species. There is no season restriction or size limit for “other flatfish;” however,

it is prohibited to filet "other flatfish" at sea. {revised at 71 FR 78638, December 29, 2006}

(v) California scorpionfish. California scorpionfish predominantly occur south of 40° 10.00' N. lat. {revised at 71 FR 78638, December 29, 2006}

(A) Seasons. When recreational fishing for California scorpionfish is open, it is permitted only outside of the recreational RCAs described in paragraph (c)(3)(i) of this section.

(1) Between 40°10' N. lat. and 37°11' N. lat. (North Central Region), recreational fishing for California scorpionfish is open from June 1 through November 30 (i.e., it's closed from January 1 through May 31 and from December 1 through December 31).

{revised at 70 FR 23040, May 4, 2005; revised at 71 FR 78638, December 29, 2006}

(2) Between 37°11' N. lat. and 34°27' N. lat. (South Central Regions - Monterey and Morro Bay), recreational fishing for California scorpionfish is open from May 1 through November 30 (i.e., it's closed from January 1 through April 30 and from

December 1 through December 31). {revised at 71 FR 37839, July 3,

2006; revised at 71 FR 78638, December 29, 2006}

(3) South of 34°27' N. lat. (South Region), recreational fishing for California scorpionfish is open from January 1 through December

31. {revised at 71 FR 37839, July 3, 2006; revised at 71 FR 78638, December 29, 2006}

(B) Bag limits, hook limits. South of 40° 10.00' N. lat., in times and areas where the recreational season for California scorpionfish is open, the bag limit is 5 California scorpionfish per day. California scorpionfish do not count against the 10 RCG Complex fish per day limit. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(C) Size limits. California scorpionfish may be no smaller than 10 in (25 cm) total length.

(D) Dressing/Filleting. California scorpionfish filets may be no smaller than 5 in (12.8 cm) and must bear an intact 1 in (2.6 cm) square patch of skin.

§ 660.385 Washington coastal tribal fisheries management measures. {added at 69 FR 77017, December 23, 2004; revised at 70 FR 22808, May 3, 2005; revised at 71 FR 8489, February 17, 2006, revised at 71 FR 27408, May 11, 2006; revised at 71 FR 37839, July 3, 2006; revised at 71 FR 78638, December 29, 2006}

In 1994, the United States formally recognized that the four Washington coastal treaty Indian tribes (Makah, Quileute, Hoh, and Quinault) have treaty rights to fish for groundfish in the Pacific Ocean, and concluded that, in general terms, the quantification of those rights is 50 percent of the harvestable surplus of groundfish that pass through the tribes usual and accustomed fishing areas (described at §660.324). Measures implemented to minimize adverse impacts to groundfish EFH, as described in §660.306, do not apply to tribal fisheries in their usual and accustomed fishing areas (described in §660.324). Treaty fisheries operating within tribal allocations are prohibited from operating outside usual and accustomed fishing areas. Tribal fishery allocations for sablefish and whiting, are provided in paragraphs (a) and (e) of this section, respectively, and the tribal harvest guideline for black rockfish is provided in paragraph (b)(1) of this section. Trip limits for certain species were recommended by the tribes and the Council and are specified here with the tribal allocations. {revised at 71 FR 27308, May 11, 2006}

(a) Sablefish. The tribal allocation is 561.4 mt per year. This allocation is, for each year, 10 percent of the Monterey through Vancouver area OY, less 1.9 percent estimated discard mortality. {revised at 71 FR 78638, December 29, 2006}

(b) Rockfish. The tribes will require full retention of all overfished rockfish species and all other marketable rockfish species during treaty fisheries. {revised at 71 FR 78638, December 29, 2006}

(1) For the commercial harvest of black rockfish off Washington State, a harvest guideline of: 20,000 lb (9,072 kg) north of Cape Alava, WA (48°09.50' N. lat.) and 10,000 lb (4,536 kg) between Destruction Island, WA (47°40' N. lat.) and Leadbetter Point, WA (46°38.17' N. lat.). There are no tribal harvest restrictions for the area between Cape Alava and Destruction Island. {revised at 71 FR 78638, December 29, 2006}

(2) Thornyheads. The tribes will manage their fisheries to the limited entry trip limits in place at the beginning of the year for both shortspine and longspine thornyheads as follows: {added at 71 FR 78638, December 29, 2006}

(i) Trawl gear.

(A) Shortspine thornyhead cumulative trip limits are as follows:

(1) Small and large footrope trawl gear- 7,500 lb (3,402 kg) per 2 months.

(2) Selective flatfish trawl gear- 3,000 lb (1,361 kg) per 2 months.

(3) Multiple bottom trawl gear- 3,000 lb (1,361 kg) per 2 months.

(B) Longspine thornyhead cumulative trip limits are as follows:

(1) Small and large footrope trawl gear- 22,000 lb (9,979 kg) per 2 months.

(2) Selective flatfish trawl gear- 3,000 lb (1,361 kg) per 2 months.

(3) Multiple bottom trawl gear- 3,000 lb (1,361 kg) per 2 months.

(ii) Fixed gear.

(A) Shortspine thornyhead cumulative trip limits are 2,000 lb (907 kg) per 2 months.

(B) Longspine thornyhead cumulative trip limits are 10,000 lb (4,536 kg) per 2 months.

(3) Canary rockfish are subject to a 300 lb (136 kg) trip limit.

(4) Yelloweye rockfish are subject to a 100 lb (45 kg) trip limit.

(5) The Makah Tribe will manage the midwater trawl fisheries as follows: yellowtail rockfish taken in the directed tribal mid-water trawl fisheries are subject to a cumulative limit of 180,000 lb (81,647 kg) per 2 month period for the entire fleet. Landings of widow rockfish must not exceed 10 percent of the weight of yellowtail rockfish landed in any two-month period. These limits may be adjusted by the tribe inseason to minimize the incidental catch of canary rockfish and widow rockfish, provided the average 2 month cumulative yellowtail rockfish limit does not exceed 180,000 lb (81,647 kg) for the fleet. {revised at 71 FR 8489, February 17, 2006} {revised at 71 FR 78638, December 29, 2006}

(6) Other rockfish, including minor nearshore, minor shelf, and minor slope rockfish groups are subject to a 300 lb (136 kg) trip limit per species or species group, or to the non-tribal limited entry trip limit for those species if those limits are less restrictive than 300 lb (136 kg) per trip.

(7) Rockfish taken during open competition tribal commercial fisheries for Pacific halibut will not be subject to trip limits.

(c) Lingcod. Lingcod are subject to a 600 lb (272 kg) daily trip limit and a 1,800 lb (816 kg) weekly limit, unless taken in the treaty salmon troll fisheries.

Lingcod taken in the treaty salmon troll fisheries are subject to a 1,000 lb (454 kg) daily trip limit and a 4,000 lb (1,814 kg) weekly limit.

(d) Flatfish and other fish. Treaty fishing vessels using bottom trawl gear are subject to the limits applicable to the non-tribal limited entry trawl fishery for Dover sole, English sole, rex sole, arrowtooth flounder, and other flatfish in place at the beginning of the season. For Dover sole and arrowtooth flounder, the limited entry trip limits in place at the beginning of the season will be combined across periods and the fleet to create a cumulative harvest target. The limits available to individual vessels will then be adjusted inseason to stay within the overall harvest target as well as estimated impacts to overfished species. For petrale sole, treaty fishing vessels are restricted to a 50,000 lb (22,680 kg) per 2 month limit for the entire year. Trawl vessels are restricted to using small footrope trawl gear. {revised at 71 FR 8489, February 17, 2006; revised at 71 FR 37839, July 3, 2006}

(e) Pacific whiting. The tribal allocation is 35,000 mt. {revised at 70 FR 22808, May 3, 2005}

(f) Pacific cod. There is a tribal harvest guideline of 400 mt of Pacific cod. The tribes will manage their fisheries to stay within this harvest guideline.

{added at 71 FR 8489, February 17, 2006; revised at 71 FR 78638, December 29, 2006}

(g) Spiny dogfish. The tribes will manage their spiny dogfish fishery within the limited entry trip limits for the non-tribal fisheries. {added at 71 FR 8489, February 17, 2006; revised at 71 FR 78638, December 29, 2006}

§ 660.390 Groundfish conservation areas. {revised at 69 FR 77012, December 23, 2004; entire section revised at 71 FR 78638, December 29, 2006}

In §660.302, a groundfish conservation area is defined in part as "a geographic area defined by coordinates expressed in degrees latitude and longitude, wherein fishing by a particular gear type or types may be prohibited." While some groundfish conservation areas may be designed with the intent that their shape be determined by ocean bottom depth contours, their shapes are defined in regulation by latitude/longitude coordinates and are enforced by those coordinates. Latitude/longitude coordinates designating the large-scale boundaries for rockfish conservation areas are found in §§660.391 through 660.394. Fishing activity that is prohibited or permitted within a particular groundfish conservation area is detailed at §§660.381 through 660.384.

(a) North Coast Recreational Yelloweye Rockfish Conservation Area. The North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA) is a C-shaped

area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

- (1) 48°18.00' N. lat.; 125°18.00' W. long.;
- (2) 48°18.00' N. lat.; 124°59.00' W. long.;
- (3) 48°11.00' N. lat.; 124°59.00' W. long.;
- (4) 48°11.00' N. lat.; 125°11.00' W. long.;
- (5) 48°04.00' N. lat.; 125°11.00' W. long.;
- (6) 48°18.00' N. lat.; 125°18.00' W. long.;
- (7) 48°18.00' N. lat.; 124°59.00' W. long.;
- (8) 48°11.00' N. lat.; 124°59.00' W. long.;
- (9) 48°11.00' N. lat.; 125°11.00' W. long.;
- (10) 48°04.00' N. lat.; 125°11.00' W. long.;
- (11) 48°04.00' N. lat.; 124°59.00' W. long.;
- (12) 48°00.00' N. lat.; 124°59.00' W. long.;
- (13) 48°00.00' N. lat.; 125°18.00' W. long.; and connecting back to 48°18.00' N. lat.; 125°18.00' W. long.

(b) North Coast Commercial Yelloweye Rockfish Conservation Area. The North Coast Commercial Yelloweye Rockfish Conservation Area (YRCA) is an area off the northern Washington coast, overlapping the northern part of North Coast Recreational YRCA, intended to protect yelloweye rockfish. The North Coast Commercial YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

- (1) 48°11.77' N. lat., 125°13.03' W. long.;
- (2) 48°16.43' N. lat., 125°07.55' W. long.;
- (3) 48°14.72' N. lat., 125°01.84' W. long.;
- (4) 48°13.36' N. lat., 125°03.20' W. long.;
- (5) 48°12.74' N. lat., 125°05.83' W. long.;
- (6) 48°11.55' N. lat., 125°04.99' W. long.;
- (7) 48°09.96' N. lat., 125°06.63' W. long.;
- (8) 48°09.68' N. lat., 125°08.75' W. long.; and connecting back to 48°11.77' N. lat., 125°13.03' W. long.

{added at 71 FR 78638, December 29, 2006}

(c) Salmon Troll Yelloweye Rockfish Conservation Area. The Salmon Troll Yelloweye Rockfish Conservation Area (YRCA) is an area off the northern Washington coast, overlapping the southern part of North Coast Recreational YRCA, intended to protect yelloweye rockfish. The Salmon Troll YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

- (1) 48°00.00' N. lat., 125°14.00' W. long.;
- (2) 48°02.00' N. lat., 125°14.00' W. long.;
- (3) 48°00.00' N. lat., 125°16.50' W. long.;
- (4) 48°02.00' N. lat., 125°16.50' W. long.; and connecting back to 48°00.00' N. lat., 125°14.00' W. long.

{added at 71 FR 78638, December 29, 2006}

(d) South Coast Recreational Yelloweye Rockfish Conservation Area. The South Coast Recreational Yelloweye Rockfish Conservation Area (YRCA) is an area off the southern Washington coast intended to protect yelloweye rockfish. The South Coast Recreational YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

- (1) 46°58.00' N. lat., 124°48.00' W. long.;
- (2) 46°55.00' N. lat., 124°48.00' W. long.;
- (3) 46°58.00' N. lat., 124°49.00' W. long.;
- (4) 46°55.00' N. lat., 124°49.00' W. long.; and connecting back to 46°58.00' N. lat., 124°48.00' W. long.

{added at 71 FR 78638, December 29, 2006}

(e) Stonewall Bank Yelloweye Rockfish Conservation Area. The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

- (1) 44°37.46' N. lat.; 124°24.92' W. long.;
- (2) 44°37.46' N. lat.; 124°23.63' W. long.;
- (3) 44°28.71' N. lat.; 124°21.80' W. long.;
- (4) 44°28.71' N. lat.; 124°24.10' W. long.;
- (5) 44°31.42' N. lat.; 124°25.47' W. long.; and connecting back to 44°37.46' N. lat.; 124°24.92' W. long.

{added at 71 FR 78638, December 29, 2006}

(f) Cowcod Conservation Areas. The Cowcod Conservation Areas (CCAs) are two areas off the southern California coast intended to protect cowcod. The Western CCA is an area south of Point Conception defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed:

- (1) 33°50.00' N. lat., 119°30.00' W. long.;
- (2) 33°50.00' N. lat., 118°50.00' W. long.;
- (3) 32°20.00' N. lat., 118°50.00' W. long.;
- (4) 32°20.00' N. lat., 119°37.00' W. long.;
- (5) 33°00.00' N. lat., 119°37.00' W. long.;
- (6) 33°00.00' N. lat., 119°53.00' W. long.;
- (7) 33°33.00' N. lat., 119°53.00' W. long.;
- (8) 33°33.00' N. lat., 119°30.00' W. long.; and connecting back to 33°50.00' N. lat., 119°30.00' W. long.

(g) The Eastern CCA is an area west of San Diego defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed:

- (1) 32°42.00' N. lat., 118°02.00' W. long.;
- (2) 32°42.00' N. lat., 117°50.00' W. long.;
- (3) 32°36.70' N. lat., 117°50.00' W. long.;
- (4) 32°30.00' N. lat., 117°53.50' W. long.;
- (5) 32°30.00' N. lat., 118°02.00' W. long.;
- and connecting back to 32°42.00' N. lat., 118°02.00' W. long.

(h) Farallon Islands. The Farallon Islands, off San Francisco and San Mateo Counties, include Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock. Generally, the State of California prohibits fishing for groundfish between the shoreline and the 10 fm (18 m) depth contour around the Farallon Islands.

(i) Cordell Banks. Cordell Banks are located offshore of California's Marin County. Generally, fishing for groundfish is prohibited in waters of depths less than 100 fm (183 m) around Cordell Banks as defined by specific latitude and longitude coordinates. The Cordell Banks closed area is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

- (1) 38°03.18' N. lat., 123°20.77' W. long.;
- (2) 38°06.29' N. lat., 123°25.03' W. long.;
- (3) 38°06.34' N. lat., 123°29.32' W. long.;
- (4) 38°04.57' N. lat., 123°31.30' W. long.;
- (5) 38°02.32' N. lat., 123°31.07' W. long.;
- (6) 38°00.00' N. lat., 123°28.40' W. long.;
- (7) 37°58.10' N. lat., 123°26.66' W. long.;
- (8) 37°55.07' N. lat., 123°26.81' W. long.;
- (9) 38°00.00' N. lat., 123°23.08' W. long.; and connecting back to 38°03.18' N. lat., 123°20.77' W. long.

(j) Rockfish Conservation Areas. RCA restrictions are detailed at §§660.381 through 660.384. RCAs may apply to a single gear type or to a group of gear types such as "trawl RCAs" or "nontrawl RCAs." Specific latitude and longitude coordinates for RCA boundaries that approximate the depth contours selected for trawl,

non-trawl, and recreational RCAs are provided in §§660.391 through 660.394. Also provided in §§660.391 through 660.394 are references to islands and rocks that serve as reference points for the RCAs.

- (1) **Trawl (Limited Entry and Open Access Nongroundfish Trawl Gears) Rockfish Conservation Areas.** Trawl RCAs are intended to protect a complex of species, such as overfished shelf rockfish species, and have boundaries defined by specific latitude and longitude coordinates intended to approximate particular depth contours. Boundaries for the trawl RCA throughout the year are provided in Tables 3 and 5 (North) and Tables 3 and 5 (South) and may be modified by NMFS inseason pursuant to §660.370(c). Trawl RCA boundaries are defined by specific latitude and longitude coordinates and are provided in §§660.391 through 660.394.
- (2) **Non-Trawl (Limited Entry Fixed Gear and Open Access Non-trawl Gears) Rockfish Conservation Areas.** Non-trawl RCAs are intended to protect a complex of species, such as overfished shelf rockfish species, and have boundaries defined by specific latitude and longitude coordinates intended to approximate particular depth contours. Boundaries for the non-trawl RCA throughout the year are provided in Tables 4 and 5 (North) and Tables 4 and 5 (South) of this subpart and may be modified by NMFS inseason pursuant to §660.370(c). Non-trawl RCA boundaries are defined by specific latitude and longitude coordinates and are provided in §§660.391 through 660.394.
- (3) **Recreational Rockfish Conservation Areas.** Recreational RCAs are closed areas intended to protect overfished rockfish species. Recreational RCAs may either have boundaries defined by general depth contours or boundaries defined by specific latitude and longitude coordinates intended to approximate particular depth contours. Boundaries for the recreational RCAs throughout the year are provided in the text in §660.384(c) under each state (Washington, Oregon and California) and may be modified by NMFS inseason pursuant to §660.370. Recreational RCA boundaries are defined by specific latitude and longitude coordinates and are provided in §§660.391 through 660.394.

§ 660.391 Latitude/longitude coordinates defining the 27 fm (49 m) through 40 fm (73 m) depth contours. {added at 69 FR 77012, December 23, 2004; revised at 70 FR 16145, March 30, 2005; revised at 71 FR 8489, February 17, 2006; revised at 71 FR 78638, December 29, 2006} Boundaries for RCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 10 fm (18 m) through 40 fm (73 m) depth contours.

(a) **The 10 fm (18 m) depth contour between the U.S. border with Canada and 46°16' N. lat.** is defined by straight lines connecting all of the following points in the order stated:

- (1) 48°23.80' N. lat., 124°44.18' W. long.;
- (2) 48°23.60' N. lat., 124°44.80' W. long.;
- (3) 48°23.45' N. lat., 124°44.80' W. long.;
- (4) 48°23.30' N. lat., 124°44.20' W. long.;
- (5) 48°22.20' N. lat., 124°44.30' W. long.;
- (6) 48°20.25' N. lat., 124°42.20' W. long.;
- (7) 48°12.80' N. lat., 124°43.10' W. long.;
- (8) 48°11.10' N. lat., 124°46.50' W. long.;
- (9) 48°10.00' N. lat., 124°46.50' W. long.;
- (10) 48°08.50' N. lat., 124°44.20' W. long.;
- (11) 47°59.40' N. lat., 124°42.50' W. long.;
- (12) 47°52.60' N. lat., 124°38.80' W. long.;
- (13) 47°51.50' N. lat., 124°34.60' W. long.;
- (14) 47°39.80' N. lat., 124°28.10' W. long.;
- (15) 47°31.70' N. lat., 124°26.30' W. long.;
- (16) 47°25.20' N. lat., 124°24.80' W. long.;
- (17) 47°09.80' N. lat., 124°15.20' W. long.;
- (18) 46°54.40' N. lat., 124°14.80' W. long.;
- (19) 46°48.30' N. lat., 124°10.25' W. long.;
- (20) 46°38.17' N. lat., 124°10.30' W. long.;
- (21) 46°27.20' N. lat., 124°06.50' W. long.; and
- (22) 46° 16.00' N. lat., 124° 10.00' W. long.

{added at 71 FR 78638, December 29, 2006}

(b) **The 20 fm (37 m) depth contour between the U.S. border with Canada and 42° N. lat.** is defined by straight lines connecting all of the following points in the order stated:

- (1) 48°23.90' N. lat., 124°44.20' W. long.;
- (2) 48°23.60' N. lat., 124°44.90' W. long.;
- (3) 48°18.60' N. lat., 124°43.60' W. long.;
- (4) 48°18.60' N. lat., 124°48.20' W. long.;
- (5) 48°10.00' N. lat., 124°48.80' W. long.;
- (6) 48°02.40' N. lat., 124°49.30' W. long.;
- (7) 47°37.60' N. lat., 124°34.30' W. long.;
- (8) 47°31.70' N. lat., 124°32.40' W. long.;
- (9) 47°17.90' N. lat., 124°25.00' W. long.;
- (10) 46°58.80' N. lat., 124°18.30' W. long.;
- (11) 46°47.40' N. lat., 124°12.70' W. long.;
- (12) 46°38.17' N. lat., 124°12.40' W. long.;
- (13) 46°16.00' N. lat., 124°11.50' W. long.;

§ 660.392 Latitude/longitude coordinates defining the 50 fm (91 m) through 75 fm (137 m) depth contours. {added at 69 FR 77012, December 23, 2004; revised at 71 FR 8489, February 17, 2006; revised at 71 FR 78638, December 29, 2006}

Boundaries for RCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 50 fm (91 m) through 75 fm (137 m) depth contours.

(a) **The 50 fm (91 m) depth contour between the U.S. border with Canada and the U.S. border with Mexico** is defined by straight lines connecting all of the following points in the order stated:

- (1) 48°22.15' N. lat., 124°43.15' W. long.;
- (2) 48°22.15' N. lat., 124°49.10' W. long.;
- (3) 48°20.03' N. lat., 124°51.18' W. long.;
- (4) 48°16.61' N. lat., 124°53.72' W. long.;
- (5) 48°14.68' N. lat., 124°54.50' W. long.;
- (6) 48°12.02' N. lat., 124°55.29' W. long.;
- (7) 48°03.14' N. lat., 124°57.02' W. long.;

§ 660.393 Latitude/longitude coordinates defining the 100 fm (183 m) through 150 fm (274 m) depth contours. {added at 69 FR 77012, December 23, 2004; corrected at 70 FR 13118, March 18, 2005; revised at 70 FR 16145, March 30, 2005; revised at 71 FR 8489, February 17, 2006; revised at 71 FR 78638, December 29, 2006}

Boundaries for RCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 100 fm (183 m) through 150 fm (274 m) depth contours.

(a) **The 100 fm (183 m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico** is defined by straight lines connecting all of the following points in the order stated:

- (1) 48°15.00' N. lat., 125°41.00' W. long.;
- (2) 48°14.00' N. lat., 125°36.00' W. long.;
- (3) 48°09.50' N. lat., 125°40.50' W. long.;
- (4) 48°08.00' N. lat., 125°38.00' W. long.;

- (5) 48°05.00' N. lat., 125°37.25' W. long.;
- (6) 48°02.60' N. lat., 125°34.70' W. long.;
- (7) 47°59.00' N. lat., 125°34.00' W. long.;

§ 660.394 Latitude/longitude coordinates defining the 180 fm (329 m) through 250 fm (457m) depth contours. {added at 69 FR 77012, December 23, 2004; corrected at 70 FR 13118, March 18, 2005; revised at 70 FR 16145, March 30, 2005; revised at 71 FR 78638, December 29, 2006; revised at 72 FR 13043, March 30, 2007}

Boundaries for RCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 180 fm (329 m) through 250 fm (457 m) depth contours.

(a) The **180 fm (329 m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico** is defined by straight lines connecting all of the following points in the order stated:

- (1) 48°14.82' N. lat., 125°41.61' W. long.;
- (2) 48°12.86' N. lat., 125°37.95' W. long.;
- (3) 48°11.28' N. lat., 125°39.67' W. long.;
- (4) 48°10.13' N. lat., 125°42.62' W. long.;
- (5) 48°08.86' N. lat., 125°41.92' W. long.;
- (6) 48°08.15' N. lat., 125°44.95' W. long.;
- (7) 48°07.18' N. lat., 125°45.67' W. long.;

§ 660.395 Essential Fish Habitat (EFH). {added at 71 FR 27408, May 11, 2006}

Essential fish habitat (EFH) is defined as those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity (16 U.S.C. 1802 (10)). EFH for Pacific Coast Groundfish includes all waters and substrate within areas with a depth less than or equal to 3,500 m (1,914 fm) shoreward to the mean higher high water level or the upriver extent of saltwater intrusion (defined as upstream and landward to where ocean-derived salts measure less than 0.5 parts per thousand during the period of average annual low flow). Seamounts in depths greater than 3,500 m (1,914 fm) are also included due to their ecological importance to groundfish. Geographically, EFH for Pacific Coast groundfish includes both a large band of marine waters that extends from the Northern edge of the EEZ at the U. S. border with Canada to the Southern edge of the EEZ at the U. S. border with Mexico, and inland within bays and estuaries. The seaward extent of EFH is consistent with the westward edge of the EEZ for areas approximately north of Cape Mendocino. Approximately south of Cape Mendocino, the 3500 m depth contour and EFH is substantially shoreward of the seaward boundary of the EEZ. There are also numerous discrete areas seaward of the main 3500 m depth contour where the ocean floor rises to depths less than 3500 m and therefore are also EFH. The seaward boundary of EFH and additional areas of EFH are defined by straight lines connecting a series of latitude and longitude coordinates in §660.395(a) through §660.395(qq).

§ 660.396 EFH Conservation Areas. {added at 71 FR 27408, May 11, 2006}

EFH Conservation Areas are designated to minimize to the extent practicable adverse effects to EFH caused by fishing (16 U.S.C. 1853 section 303(a)(7)). The boundaries of areas designated as Groundfish EFH Conservation Areas are defined by straight lines connecting a series of latitude and longitude coordinates. This §660.396 provides coordinates outlining the boundaries of the coastwide EFH Conservation Area. Section 660.397 provides coordinates outlining the boundaries of EFH Conservation Areas that occur wholly off the coast of Washington. Section 660.398 provides coordinates outlining the boundaries of EFH Conservation Areas that occur wholly off the coast of Oregon. Section 660.399 provides coordinates outlining the boundaries of EFH Conservation Areas that occur wholly off the coast of California. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFH Conservation Area is detailed at §660.306 and §660.385.

§ 660.397 EFH Conservation Areas off the Coast of Washington. {added at 71 FR 27408, May 11, 2006}

Boundary line coordinates for EFH Conservation Areas off Washington are provided in this §660.397. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFH Conservation Area is detailed at §660.306 and §660.385.

§ 660.398 EFH Conservation Areas off the Coast of Oregon. {added at 71 FR 27408, May 11, 2006}

Boundary line coordinates for EFH Conservation Areas off Oregon are provided in this §660.398. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFH Conservation Area is detailed at §660.306 and §660.385.

§ 660.399 EFH Conservation Areas off the Coast of California. {added at 71 FR 27408, May 11, 2006}

Boundary line coordinates for EFH Conservation Areas off California are provided in this §660.399. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFH Conservation Area is detailed at §660.306 and §660.385.

(a) Eel River Canyon. The boundary of the Eel River Canyon EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

- (1) 40°38.27' N. lat., 124°27.16' W. long.;
- (2) 40°35.60' N. lat., 124°28.75' W. long.;
- (3) 40°37.52' N. lat., 124°33.41' W. long.;
- (4) 40°37.47' N. lat., 124°40.46' W. long.;
- (5) 40°35.47' N. lat., 124°42.97' W. long.;
- (6) 40°32.78' N. lat., 124°44.79' W. long.;
- (7) 40°24.32' N. lat., 124°39.97' W. long.;
- (8) 40°23.26' N. lat., 124°42.45' W. long.;

Final Determination Margins

We determine that the following percentage weighted-average margins exist for the POI:

**SODIUM HEXAMETAPHOSPHATE FROM
THE PRC**

Manufacturer/exporter	Weighted-average margin (percent)
Jiangyin Chengxing International Trading Co., Ltd.	92.02
Sichuan Mianzhu Norwest Phosphate Chemical Company Limited	92.02
PRC-Wide Rate (including Yibin Tianyuan Group Co., Ltd., Mianyang Aostar Phosphorous Chemical Industry Co., Ltd., and Hubei Xingfa Chemicals Group Co., Ltd.)	188.05

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all imports of subject merchandise that are entered or withdrawn from warehouse, for consumption on or after September 14, 2007, the date of publication of the preliminary determination in the **Federal Register**. We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies based on the estimated weighted-average dumping margins shown above. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be

terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: January 28, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

Comment 1: Scope Revision
Comment 2: Basis for the Final Determination

[FR Doc. E8-1971 Filed 2-1-08; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Proposed Information Collection; Comment Request; Northwest Region Vessel Identification Requirements**

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 4, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer,

Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jamie Goen, (206) 526-4646 or jamie.goen@noaa.gov.

SUPPLEMENTARY INFORMATION:**I. Abstract**

The success of fisheries management programs depends significantly on regulatory compliance. The vessel identification requirement is essential to facilitate enforcement. The ability to link fishing or other activity to the vessel owner or operator is crucial to enforcement of regulations issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. A vessel's official number is required to be displayed on the port and starboard sides of the deckhouse or hull, and on a weather deck. It identifies each vessel and should be visible at distances at sea and in the air. Vessels that qualify for particular fisheries are readily identified, gear violations are more readily prosecuted, and this allows for more cost-effective enforcement. Cooperating fishermen also use the number to report suspicious activities that they observe. The regulation-compliant fishermen ultimately benefit as unauthorized and illegal fishing is deterred and more burdensome regulations are avoided.

II. Method of Collection

Fishing vessel owners physically mark vessel with identification numbers in three locations per vessel.

III. Data

OMB Number: 0648-0355.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,693.

Estimated Time per Response: 45 minutes (15 minutes per marking).

Estimated Total Annual Burden Hours: 1,270.

Estimated Total Annual Cost to Public: \$59,255.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden

(including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 29, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8-1883 Filed 2-1-08; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Northwest Region Gear Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 4, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jamie Goen, (206) 526-4646 or jamie.goen@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The success of fisheries management programs depends significantly on regulatory compliance. The

requirements that fishing gear be marked are essential to facilitate enforcement. The ability to link fishing gear to the vessel owner or operator is crucial to the enforcement of regulations issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The marking of fishing gear is also valuable in actions concerning damage, loss, and civil proceedings. The regulations specify fishing gear must be marked with the vessel's official number, federal permit or tag number, or some other specified form of identification. The regulations further specify how the gear is to be marked (e.g., location and color). Law enforcement personnel rely on this information to assure compliance with fisheries management regulations. Gear that is not properly identified is confiscated. The identifying number on fishing gear is used by NMFS, the U.S. Coast Guard, and other marine agencies in issuing violations, prosecutions, and other enforcement actions. Gear marking helps ensure that a vessel harvests fish only from its own traps/pots/other gear and that traps/pots/other gear are not illegally placed. Gear violations are more readily prosecuted when the gear is marked, allowing for more cost effective enforcement. Cooperating fishermen also use the number to report placement or occurrence of gear in unauthorized areas. The regulation-compliant fishermen ultimately benefit from this requirement, because unauthorized and illegal fishing is deterred and more burdensome regulations are avoided.

II. Method of Collection

The physical marking of fishing buoys is done by the affected public (fishermen in the Pacific Coast Groundfish Fishery) according to regulation. No information is collected.

III. Data

OMB Number: 0648-0352.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 548.

Estimated Time per Response: 3 hours (15 minutes per marking).

Estimated Total Annual Burden Hours: 1,782.

Estimated Total Annual Cost to Public: \$2,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 29, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8-1884 Filed 2-1-08; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Large Pelagic Fishing Survey

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 4, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dr. Ronald J. Salz, (301) 713-2328 or ron.salz@noaa.gov.

SUPPLEMENTARY INFORMATION: