

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The documentation for this determination is presented in Section II.B of this action, “Extension of Marginal Area Attainment Date,” and summarized in Section III of this action, “Environmental Justice Considerations,” and the relevant documents have been placed in the public docket for this action.

With respect to the determinations of whether areas have attained the NAAQS by the attainment date, the EPA has no discretionary authority to address EJ in these determinations. The CAA directs that within 6 months following the applicable attainment date, the Administrator shall determine, based on the area’s design value as of the attainment date, whether the area attained the standard by that date. CAA section 181(b)(2)(A). Except for any Severe or Extreme area, any area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law to either the next higher classification or the classification applicable to the area’s design value. *Id.*

*K. Judicial Review*

Section 307(b)(1) of the CAA governs judicial review of final actions by the EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit: (i) When the agency action consists of “nationally applicable regulations promulgated, or final actions taken, by the Administrator,” or (ii) when such action is locally or regionally applicable, if “such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.” For locally or regionally applicable final actions, the CAA reserves to the EPA complete discretion whether to invoke the exception in (ii).<sup>60</sup>

<sup>60</sup>In deciding whether to invoke the exception by making and publishing a finding that this action, if finalized, is based on a determination of nationwide scope or effect, the Administrator intends to take into account a number of policy considerations, including his judgment balancing the benefit of obtaining the D.C. Circuit’s authoritative centralized

The EPA is proposing findings regarding attainment of the NAAQS in nonattainment areas within 18 states located in nine of the ten EPA regions pursuant to a uniform process and standard. The EPA is also proposing to establish SIP submission and implementation deadlines for all newly reclassified areas in the identified states using a common, nationwide method. The jurisdictions that would be affected by this action, if finalized, represent a wide geographic area, and fall within several different judicial circuits.

If the Administrator takes final action on this proposal, then, in consideration of the effects of the action across the country, the EPA views this action to be “nationally applicable” within the meaning of CAA section 307(b)(1). In the alternative, to the extent a court finds this proposal, if finalized, to be locally or regionally applicable, the Administrator intends to exercise the complete discretion afforded to him under the CAA to make and publish a finding that this action is based on a determination of “nationwide scope or effect” within the meaning of CAA section 307(b)(1).<sup>61</sup>

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

*40 CFR Part 81*

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Michael Regan,**

*Administrator.*

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review versus allowing development of the issue in other contexts and the best use of agency resources.

<sup>61</sup>In the report on the 1977 Amendments that revised CAA section 307(b)(1), Congress noted that the Administrator’s determination that the “nationwide scope or effect” exception applies would be appropriate for any action that has a scope or effect beyond a single judicial circuit. See H.R. Rep. No. 95–294 at 323–24, reprinted in 1977 U.S.C.A.N. 1402–03.

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

[Docket No. 220407–0087]

RIN 0648–BL21

**Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2022 Harvest Specifications for Pacific Whiting, and 2022 Pacific Whiting Tribal Allocation**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule for the 2022 Pacific whiting fishery under the authority of the Pacific Coast Groundfish Fishery Management Plan, the Magnuson-Stevens Fishery Conservation and Management Act, the Pacific Whiting Act of 2006 (Whiting Act), and other applicable laws. This proposed rule would establish the domestic 2022 harvest specifications for Pacific whiting including the 2022 tribal allocation for the Pacific whiting fishery, the non-tribal sector allocations, and set-asides for incidental mortality in research activities and non-groundfish fisheries. The proposed measures are intended to help prevent overfishing, achieve optimum yield, ensure that management measures are based on the best scientific information available, and provide for the implementation of tribal treaty fishing rights.

**DATES:** Comments on this proposed rule must be received no later than April 28, 2022.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2022–0034 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2022–0034 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov)

without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

#### Electronic Access

This proposed rule is accessible via the internet at the Office of the Federal Register website at <https://www.federalregister.gov>. Background information and documents are available at the NMFS website at <https://www.fisheries.noaa.gov> and at the Pacific Fishery Management Council's website at <http://www.pccouncil.org/>.

**FOR FURTHER INFORMATION CONTACT:** Colin Sayre, phone: 206-526-4656, and email: [Colin.Sayre@noaa.gov](mailto:Colin.Sayre@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background

This proposed rule announces the coastwide whiting Total Allowable Catch (TAC) of 545,000 mt, the U.S. TAC of 402,646 mt, and proposes domestic 2022 Pacific whiting harvest specifications, including, the 2022 tribal allocation of 70,463 mt, the preliminary allocations for three non-tribal commercial whiting sectors, and set-asides for incidental mortality in research activities and non-groundfish fisheries. The tribal and non-tribal allocations for Pacific whiting, as well as set-asides, would be effective until December 31, 2022.

#### *Pacific Whiting Agreement*

The transboundary stock of Pacific whiting is managed through the Agreement Between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting of 2003 (Agreement). The Agreement establishes bilateral management bodies to implement the terms of the Agreement, including the Joint Management Committee (JMC), which recommends the annual catch level for Pacific whiting.

In addition to the JMC, the Agreement establishes several other bilateral management bodies to set whiting catch levels: The Joint Technical Committee (JTC), which conducts the Pacific whiting stock assessment; the Scientific Review Group (SRG), which reviews the stock assessment; and the Advisory Panel (AP), which provides stakeholder input to the JMC.

The Agreement establishes a default harvest policy of F-40 percent, which means a fishing mortality rate that

would reduce the spawning biomass to 40 percent of the estimated unfished level. The Agreement also allocates 73.88 percent of the Pacific whiting TAC to the United States and 26.12 percent of the TAC to Canada. Based on recommendations from the JTC, SRG, and AP, the JMC determines the overall Pacific whiting TAC by March 25th of each year. NMFS, under the delegation of authority from the Secretary of Commerce, in consultation with the Secretary of State, has the authority to accept or reject this recommendation.

#### *2022 Stock Assessment and Scientific Review*

The JTC completed a stock assessment for Pacific whiting in February 2022 (see **ADDRESSES**). The assessment was reviewed by the SRG during a four-day meeting held online on February 14-17, 2022 (see **ADDRESSES** for the report). The SRG considered the 2022 assessment report and appendices to represent the best scientific information available for Pacific hake/whiting.

The 2022 assessment model uses the same structure as the 2021 stock assessment model. The model is fit to an acoustic survey index of abundance, annual commercial catches of the transboundary Pacific whiting stock, and age composition data from an acoustic survey and commercial fisheries. Age-composition data provide information to estimate relative year class strength. Updates to the data in the 2022 assessment include: The new biomass estimate and age-composition data from the acoustic survey conducted in 2021, fishery catch and age-composition data from 2021, weight-at-age data for 2021, the addition of the age-1 index time series (1995-2021), and minor changes to pre-2021 data. Due to staffing issues, age data from 2021 were unavailable from the Canadian freezer-trawler fleet and minimally available for the shoreside fleet.

The Pacific whiting biomass is a highly cyclical and highly productive stock. Since the 1960s, it is estimated to have ranged from well below to above unfished levels. Compared to other groundfish stocks, the Pacific whiting stock has high recruitment variability, with low average recruitment levels and occasional large year-classes that often comprise much of the biomass. At the start of 2022, the Pacific whiting stock continues to be supported by multiple above average cohorts, including the 2010, 2014, 2016, and 2017 year classes which comprise 14 percent, 25 percent, 24 percent and 17 percent, respectively of the stock biomass. The 2010 year class is estimated to be the second

highest recruitment in the assessment time series; the 2014 and 2016 year classes are estimated to be above average in strength; and the 2012 and 2017 year classes are about average. The assessment estimates small year classes in 2011, 2013, 2015, and 2018. The estimated biomass was relatively steady from 2017 to 2019, and then declined in 2020 and 2021 due to the 2014 and 2016 year classes moving through the growth-mortality transition during a period of high catches. Based on limited data, the 2020 cohort looks likely to be large.

At the start of 2022, the relative spawning biomass is still well above the biomass level associated with the default harvest rate (40 percent of unfished level), and is estimated to be at 69 percent of unfished levels, or 1,253,810 mt. The stock is considered at a healthy level, the estimated probability that spawning biomass at the start of 2022 is below 40 percent of unfished levels is 6.7 percent. The joint probability that the relative spawning stock biomass is both below 40 percent of unfished levels, and that fishing mortality is above the relative fishing intensity of the Agreement's F-40 percent default harvest rate is estimated to be 0 percent.

#### *2022 Pacific Whiting Coastwide and U.S. TAC Recommendation*

The AP and JMC met virtually March 1-3, 2022, to develop advice on a 2022 coastwide TAC. The AP provided its 2022 TAC recommendation to the JMC on March 02, 2022. The JMC reviewed the advice of the JTC, the SRG, and the AP, and agreed on a TAC recommendation for transmittal to the United States and Canadian Governments.

The Agreement directs the JMC to base the catch limit recommendation on the default harvest rate unless scientific evidence demonstrates that a different rate is necessary to sustain the offshore Pacific whiting resource. After consideration of the 2022 stock assessment and other relevant scientific information, the JMC did not use the default harvest rate, and instead agreed on a more conservative approach. There were two primary reasons for choosing a TAC well below the level of F-40 percent. First, the JMC noted the increasing age of the 2010, 2014, and 2016 year classes and wished to extend access to these stocks as long as possible, which a lower TAC could accomplish. Second, there is uncertainty regarding the size of the 2020 year class. Maintaining a modest TAC for 2022 was deemed prudent by the JMC until an additional year of data is available on the size of the 2020 year

class. This conservative TAC setting process, endorsed by the AP, resulted in a TAC that is less than what it would be using the default harvest rate under the Agreement.

Under the Agreement, the U.S. TAC is 73.88 percent of the coastwide TAC. Based on the JMC’s recommended coastwide TAC of 545,000 mt, the recommended 2022 U.S. TAC is 402,646 mt. This recommendation is consistent with the best available scientific information, provisions of the Agreement, and the Whiting Act. The recommendation was transmitted via letter to the United States and Canadian Governments on March 3, 2022. NMFS, under delegation of authority from the Secretary of Commerce, approved the TAC recommendation of 402,646 mt for U.S. fisheries on March 25, 2022

*Tribal Allocation*

The regulations at 50 CFR 660.50(d) identify the procedures for implementing the treaty rights that Pacific Coast treaty Indian tribes have to harvest groundfish in their usual and accustomed fishing areas in U.S. waters. Tribes with treaty fishing rights in the area covered by the Pacific Coast Groundfish FMP request allocations, set-asides, or regulations specific to the tribes during the Council’s biennial harvest specifications and management measures process. The regulations state that the Secretary will develop tribal allocations and regulations in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

NMFS allocates a portion of the U.S. TAC of Pacific whiting to the tribal fishery, following the process established in 50 CFR 660.50(d). The tribal allocation is subtracted from the U.S. Pacific whiting TAC before allocation to the non-tribal sectors.

Four Washington coastal treaty Indian tribes including the Makah Indian Tribe, Quileute Indian Tribe, Quinault Indian Nation, and the Hoh Indian Tribe (collectively, the “Treaty Tribes”), can participate in the tribal Pacific whiting fishery. Tribal allocations of Pacific whiting have been based on discussions with the Treaty Tribes regarding their intent for those fishing years. The Hoh Tribe has not expressed an interest in participating in the Pacific whiting fishery to date. The Quileute Tribe and Quinault Indian Nation have expressed interest in beginning to participate in the Pacific whiting fishery at a future date. To date, only the Makah Tribe has prosecuted a tribal fishery for Pacific whiting, and has harvested Pacific whiting since 1996 using midwater trawl gear. Table 1 below provides a

recent history of U.S. TACs and annual tribal allocation in metric tons (mt).

TABLE 1—U.S. TOTAL ALLOWABLE CATCH AND ANNUAL TRIBAL ALLOCATION IN METRIC TONS (MT)

Year	U.S. TAC <sup>1</sup>	Tribal allocation
2010	193,935 mt	49,939 mt
2011	290,903 mt	66,908 mt
2012	186,037 mt	48,556 mt
2013	269,745 mt	63,205 mt
2014	316,206 mt	55,336 mt
2015	325,072 mt	56,888 mt
2016	367,553 mt	64,322 mt
2017	441,433 mt	77,251 mt
2018	441,433 mt	77,251 mt
2019	441,433 mt	77,251 mt
2020	424,810 mt	74,342 mt
2021	369,400 mt	64,645 mt

<sup>1</sup> Beginning in 2012, the United States started using the term Total Allowable Catch, or TAC, based on the Agreement between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting. Prior to 2012, the terms Optimal Yield (OY) and Annual Catch Limit (ACL) were used.

In 2009, NMFS, the States of Washington and Oregon, and the Treaty Tribes started a process to determine the long-term tribal allocation for Pacific whiting. However, they have not yet determined a long-term allocation. This rule proposes the 2022 tribal allocation of Pacific whiting. This allocation does not represent a long-term allocation and is not intended to set precedent for future allocations.

In exchanges between NMFS and the Treaty Tribes during August 2021, the Makah Tribe indicated their intent to participate in the tribal Pacific whiting fishery in 2022 and requested 17.5 percent of the U.S. TAC. The Quinault Indian Nation, Quileute Indian Tribe, and Hoh Indian Tribe informed NMFS in September 2021 that they will not participate in the 2022 fishery. NMFS proposes a tribal allocation that accommodates the tribal request, specifically 17.5 percent of the U.S. TAC. The proposed 2022 U.S. TAC is 402,646 mt, and therefore the proposed 2022 tribal allocation is 70,463 mt. NMFS has determined that the current scientific information regarding the distribution and abundance of the coastal Pacific whiting stock indicates the 17.5 percent is within the range of the tribal treaty right to Pacific whiting.

*Non-Tribal Research and Bycatch Set-Asides*

The U.S. non-tribal whiting fishery is managed under the Council’s Pacific Coast Groundfish FMP. Each year, the Council recommends a set-aside of Pacific whiting to accommodate

incidental mortality of the fish in research activities and non-groundfish fisheries based on estimates of scientific research catch and estimated bycatch mortality in non-groundfish fisheries. At its November 2021 meeting, the Council recommended an incidental mortality set-aside of 750 mt for 2022. This set-aside is unchanged from the 750 mt set-aside amount for incidental mortality in 2021. The 750 mt recommendation, however, reflects the recent average mortality that has declined from 942 mt in 2014–2016 to 216 mt in 2017–2019. This rule proposes the Council’s recommendations.

*Non-Tribal Harvest Guidelines and Allocations*

In addition to the tribal allocation, this proposed rule establishes the fishery harvest guideline (HG), also called the non-tribal allocation. The proposed 2022 fishery HG for Pacific whiting is 331,433 mt. This amount was determined by deducting the 70,463 mt tribal allocation and the 750 mt allocation for scientific research catch and fishing mortality in non-groundfish fisheries from the U.S. TAC of 402,646 mt. The regulations further allocate the fishery HG among the three non-tribal sectors of the Pacific whiting fishery: The catcher/processor (C/P) Co-op Program, the Mothership (MS) Co-op Program, and the Shorebased Individual Fishing Quota (IFQ) Program. The C/P Co-op Program is allocated 34 percent (112,687 mt for 2022), the MS Co-op Program is allocated 24 percent (79,544 mt for 2022), and the Shorebased IFQ Program is allocated 42 percent (139,202 mt for 2022). The fishery south of 42° N lat. may not take more than 6,960 mt (5 percent of the Shorebased IFQ Program allocation) prior to May 15, the start of the primary Pacific whiting season north of 42° N lat.

TABLE 2—2022 PROPOSED PACIFIC WHITING ALLOCATIONS IN METRIC TONS

Sector	2022 Pacific whiting allocation (mt)
Tribal	70,463
Catcher/Processor (C/P) Co-op Program	112,687
Mothership (MS) Co-op Program	79,544
Shorebased IFQ Program	139,202

This proposed rule would be implemented under the statutory and regulatory authority of section 305(d) of the Magnuson-Stevens Act, the Pacific Whiting Act of 2006, the regulations governing the groundfish fishery at 50

CFR 660.5–660.360, and other applicable laws. Additionally, with this proposed rule, NMFS, would ensure that the fishery is managed in a manner consistent with treaty rights of four Treaty Tribes to fish in their “usual and accustomed grounds and stations” in common with non-tribal citizens. *United States v. Washington*, 384 F. Supp. 313 (W.D. 1974).

### Classification

NMFS notes that the public comment period for this proposed rule is 15 days. Finalizing the Pacific whiting harvest specifications close to the start of the Pacific whiting fishing season on May 15th provides the industry with more time to plan and execute the fishery and gives them earlier access to the finalized allocations of Pacific whiting. Given the considerably short timeframe between the JMC meeting in early March and the start of the primary whiting season on May 15, NMFS has determined that a 15-day comment period best balances the interest in allowing the public adequate time to comment on the proposed measures while implementing the management measures, including the finalizing Pacific whiting allocations, in a timely manner.

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Pacific Coast Groundfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. In making its final determination, NMFS will take into account the complete record, including comments received during the comment period.

Pursuant to Executive Order 13175, this proposed rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the Pacific Coast Groundfish FMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council’s jurisdiction. In addition, regulations implementing the Pacific Coast Groundfish FMP establish a procedure by which the tribes with treaty fishing rights in the area covered by the Pacific Coast Groundfish FMP request allocations or regulations specific to the Tribes, in writing, before the first of the two meetings at which the Council considers groundfish management measures. The regulations at 50 CFR 660.50(d) further state, 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. The tribal management measures in this proposed rule have been developed following these procedures.

The Office of Management and Budget has determined that this proposed rule is not significant for purposes of Executive Order 12866.

A range of potential total harvest levels for Pacific whiting have been considered under the Final Environmental Impact Statement for Harvest Specifications and Management Measures for 2015–2016 and Biennial Periods thereafter (2015/16 FEIS) and in the Environmental Assessment for Harvest Specifications and Management Measures for 2021–2022 and Biennial Periods Thereafter and is available from NMFS (see **ADDRESSES**). The 2015/16 FEIS examined the harvest specifications and management measures for 2015–16 and 10-year projections for routinely adjusted harvest specifications and management measures. The 10-year projections were produced to evaluate the impacts of the ongoing implementation of harvest specifications and management measures and to evaluate the impacts of the routine adjustments that are the main component of each biennial cycle. The EA for the 2021–22 cycle tiers from the 2015/16 FEIS and focuses on the harvest specifications and management measures that were not within the scope of the 10-year projections in the 2015/16 FEIS.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this action, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action is contained in the **SUMMARY** section and at the beginning of the **SUPPLEMENTARY INFORMATION** section of the preamble. A summary of the IRFA follows. Copies of the IRFA are available from NMFS (See **ADDRESSES**).

Under the RFA, the term “small entities” includes small businesses, small organizations, and small governmental jurisdictions. The Small Business Administration has established size criteria for entities involved in the fishing industry that qualify as small businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts, not in excess of \$11 million for all its affiliated operations worldwide (see 80 FR 81194,

December 29, 2015). A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. A small organization is any nonprofit enterprise that is independently owned and operated and is not dominant in its field. Effective February 26, 2016, a seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 750 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide (See NAICS 311710 at 81 FR 4469; January 26, 2016). For purposes of rulemaking, NMFS is also applying the seafood processor standard to catcher processors because whiting C/Ps earn the majority of the revenue from processed seafood product.

### *Description and Estimate of the Number of Small Entities to Which the Rule Applies, and Estimate of Economic Impacts by Entity Size and Industry*

This proposed rule affect how Pacific whiting is allocated to the following sectors/programs: Tribal, Shorebased IFQ Program Trawl Fishery, MS Co-op Program Whiting At-sea Trawl Fishery, and C/P Co-op Program Whiting At-sea Trawl Fishery. The amount of Pacific whiting allocated to these sectors is based on the U.S. TAC, which is developed and approved through the process set out in the Agreement between the U.S. and Canada, and the Whiting Treaty Act.

We expect one tribal entity to fish for Pacific whiting in 2022. Tribes are not considered small entities for the purposes of RFA. Impacts to tribes are nevertheless considered in this analysis.

As of January 2022, the Shorebased IFQ Program is composed of 164 Quota Share permits/accounts (134 of which were allocated whiting quota pounds), and 35 first receivers, one of which is designated as whiting-only receivers and 11 that may receive both whiting and non-whiting.

These regulations also directly affect participants in the MS Co-op Program, a general term to describe the limited access program that applies to eligible harvesters and processors in the MS sector of the Pacific whiting at-sea trawl fishery. This program consists of six MS processor permits, and a catcher vessel fleet currently composed of a single co-op, with 34 Mothership/Catcher Vessel (MS/CV) endorsed permits (with three permits each having two catch history assignments).

These regulations also directly affect the C/P Co-op Program, composed of 10

C/P endorsed permits owned by three companies that have formed a single coop. These co-ops are considered large entities from several perspectives; they have participants that are large entities, and have in total more than 750 employees worldwide including affiliates.

Although there are three non-tribal sectors, many companies participate in two sectors and some participate in all three sectors. As part of the permit application processes for the non-tribal fisheries, based on a review of the Small Business Administration size criteria, permit applicants are asked if they considered themselves a “small” business, and they are asked to provide detailed ownership information. Data on employment worldwide, including affiliates, are not available for these companies, which generally operate in Alaska as well as the West Coast and may have operations in other countries as well. NMFS has limited entry permit holders self-report size status. For 2021, all 10 C/P permits reported they are not small businesses, as did 8 mothership catcher vessels. There is substantial, but not complete overlap between permit ownership and vessel ownership so there may be a small number of additional small entity vessel owners who will be impacted by this rule. After accounting for cross participation, multiple Quota Share account holders, and affiliation through ownership, NMFS estimates that there are 103 non-tribal entities directly affected by these proposed regulations, 89 of which are considered “small” businesses.

This rule will allocate Pacific whiting between tribal and non-tribal harvesters (a mixture of small and large businesses). Tribal fisheries consist of a mixture of fishing activities that are similar to the activities that non-tribal fisheries undertake. Tribal harvests may be delivered to both shoreside plants and motherships for processing. These processing facilities also process fish harvested by non-tribal fisheries. The effect of the tribal allocation on non-tribal fisheries will depend on the level of tribal harvests relative to their allocation and the reapportionment process. If the tribes do not harvest their entire allocation, there are opportunities during the year to reapportion unharvested tribal amounts to the non-tribal fleets. For example, in 2021 NMFS reapportioned 34,645 mt of the original 64,645 mt tribal allocation. This reapportionment was based on conversations with the tribes and the best information available at the time, which indicated that this amount would not limit tribal harvest opportunities for the remainder of the year. The

reapportioning process allows unharvested tribal allocations of Pacific whiting to be fished by the non-tribal fleets, benefitting both large and small entities. The revised Pacific whiting allocations for 2021 following the reapportionment were: Tribal 30,000 mt, C/P Co-op 115,141 mt; MS Co-op 81,275 mt; and Shorebased IFQ Program 142,232 mt.

The prices for Pacific whiting are largely determined by the world market because most of the Pacific whiting harvested in the United States is exported. The U.S. Pacific whiting TAC is highly variable, as have subsequent harvests and ex-vessel revenues. For the years 2016 to 2020, the total Pacific whiting fishery (tribal and non-tribal) averaged harvests of approximately 303,782 mt annually. The 2021 U.S. non-tribal fishery had a Pacific whiting catch of approximately 268,926 mt, and the tribal fishery landed less than 3,000 mt.

Impacts to the U.S. non-tribal fishery are measured with an estimate of ex-vessel revenue. The proposed coastwide TAC of 545,000 mt would result in an U.S. TAC of 402,646 mt and, after deduction of the tribal allocation and the incidental catch set-aside, a U.S. non-tribal harvest guideline of 331,433 mt. Using the 2021 weighted-average non-tribal price per metric ton (e.g. \$221 per metric ton), the proposed TAC is estimated to result in an ex-vessel revenue of \$73.3 million for the U.S. non-tribal fishing fleet.

Impacts to tribal catcher vessels who elect to participate in the tribal fishery are measured with an estimate of ex-vessel revenue. In lieu of more complete information on tribal deliveries, total ex-vessel revenue is estimated with the 2021 average ex-vessel price of Pacific whiting, which was \$221.15 per mt. At that price, the proposed 2022 tribal allocation of 70,463 mt would have an ex-vessel value of \$15.58 million.

*A Description of any Significant Alternatives to the Proposed Rule That Accomplish the Stated Objectives of Applicable Statutes and That Minimize any Significant Economic Impact of the Proposed Rule on Small Entities*

For the allocations to the non-tribal commercial sectors the Pacific whiting tribal allocation, and set-asides for research and incidental mortality NMFS considered two alternatives: “No Action” and the “Proposed Action.”

Under the no action alternative, NMFS would not implement allocations to the non-tribal sectors based on the JMC recommended U.S. TAC, which would not fulfill NMFS’ responsibility to manage the U.S. fishery. This is

contrary to the Whiting Act and Agreement, which requires sustainable management of the Pacific whiting resource, therefore this alternative received no further consideration.

Under the no action alternative, NMFS would not implement the set-aside amount of 750 mt recommended by the Council. Not implementing set-asides of the US whiting TAC would mean incidental mortality of the fish in research activities and non-groundfish fisheries would not be accommodated. This would be inconsistent with the Council’s recommendation, the Pacific Groundfish Fishery Management Plan, the regulations setting the framework governing the groundfish fishery, and NMFS’ responsibility to manage the fishery. Therefore the no action alternative received no further consideration.

NMFS did not consider a broader range of alternatives to the proposed tribal allocation because the tribal allocation is a percentage of the U.S. TAC and is based primarily on the requests of the tribes. These requests reflect the level of participation in the fishery that will allow them to exercise their treaty right to fish for Pacific whiting. Under the Proposed Action alternative, NMFS proposes to set the tribal allocation percentage at 17.5 percent, as requested by the Tribes. This would yield a tribal allocation of 70,463 mt for 2022. Consideration of a percentage lower than the tribal request of 17.5 percent is not appropriate in this instance. As a matter of policy, NMFS has historically supported the harvest levels requested by the Tribes. Based on the information available to NMFS, the tribal request is within their tribal treaty rights. A higher percentage would arguably also be within the scope of the treaty right. However, a higher percentage would unnecessarily limit the non-tribal fishery.

Under the no action alternative, NMFS would not make an allocation to the tribal sector. This alternative was considered, but the regulatory framework provides for a tribal allocation on an annual basis only. Therefore, the no action alternative would result in no allocation of Pacific whiting to the tribal sector in 2022, which would be inconsistent with NMFS’ responsibility to manage the fishery consistent with the Tribes’ treaty rights. Given that there is a tribal request for allocation in 2022, this alternative received no further consideration.

*Regulatory Flexibility Act Determination of No Significant Impact*

NMFS determined this proposed rule would not adversely affect small entities. The reapportioning process allows unharvested tribal allocations of Pacific whiting, fished by small entities, to be fished by the non-tribal fleets, benefitting both large and small entities.

NMFS has prepared an IRFA and is requesting comments on this conclusion. See **ADDRESSES**.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

No Federal rules have been identified that duplicate, overlap, or conflict with this action.

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

Fisheries, Fishing, Indian Fisheries.

Dated: April 7, 2022.

**Carrie Robinson,**

*Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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

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

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

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

■ 2. In § 660.50, revise paragraph (f)(4) to read as follows:

**§ 660.50 Pacific Coast treaty Indian fisheries.**

\* \* \* \* \*

(f) \* \* \*

(4) *Pacific whiting.* The tribal allocation for 2022 is 70,463 mt.

\* \* \* \* \*

■ 3. Revise Table 2a to part 660, subpart C, to read as follows:

**TABLE 2a TO PART 660, SUBPART C—2022, AND BEYOND, SPECIFICATIONS OF OFL, ABC, ACL, ACT AND FISHERY HARVEST GUIDELINES (WEIGHTS IN METRIC TONS). CAPITALIZED STOCKS ARE OVERFISHED**

Stocks	Area	OFL	ABC	ACL <sup>a</sup>	Fishery HG <sup>b</sup>
YELLOWEYE ROCKFISH <sup>c</sup>	Coastwide	98	83	51	42.2
Arrowtooth Flounder <sup>d</sup>	Coastwide	11,764	8,458	8,458	6,362.9
Big Skate <sup>e</sup>	Coastwide	1,606	1,389	1,389	1,331.7
Black Rockfish <sup>f</sup>	California (S of 42° N lat.)	373	341	341	338.7
Black Rockfish <sup>g</sup>	Washington (N of 46°16' N lat.)	319	291	291	272.9
Bocaccio <sup>h</sup>	S of 40°10' N lat	1,870	1,724	1,724	1,676.2
Cabazon <sup>i</sup>	California (S of 42° N lat.)	210	195	195	193.7
California Scorpionfish <sup>j</sup>	S of 34°27' N lat	303	275	275	271.1
Canary Rockfish <sup>k</sup>	Coastwide	1,432	1,307	1,307	1,237.6
Chilipepper <sup>l</sup>	S of 40°10' N lat	2,474	2,259	2,259	2,161.3
Cowcod <sup>m</sup>	S of 40°10' N lat	113	82	82	70.8
Cowcod	(Conception)	94	70	NA	NA
Cowcod	(Monterey)	19	12	NA	NA
Darkblotched Rockfish <sup>n</sup>	Coastwide	901	831	831	811.9
Dover Sole <sup>o</sup>	Coastwide	87,540	78,436	50,000	48,402.8
English Sole <sup>p</sup>	Coastwide	11,127	9,101	9,101	8,850.4
Lingcod <sup>q</sup>	N of 40°10' N lat	5,395	4,974	4,958	4,679.6
Lingcod <sup>r</sup>	S of 40°10' N lat	1,334	1,230	1,172	1,159
Longnose Skate <sup>s</sup>	Coastwide	2,036	1,761	1,761	1,509.6
Longspine Thornyhead <sup>t</sup>	N of 34°27' N lat	4,838	3,227	2,452	2,398.3
Longspine Thornyhead <sup>u</sup>	S of 34°27' N lat			774	771.8
Pacific Cod <sup>v</sup>	Coastwide	3,200	1,926	1,600	1,093.9
Pacific Ocean Perch <sup>w</sup>	N of 40°10' N lat	4,371	3,711	3,711	3,686.3
Pacific Whiting <sup>x</sup>	Coastwide	715,643	x/	x/	331,433/
Petrals Sole <sup>y</sup>	Coastwide	3,936	3,660	3,660	3,272.5
Sablefish <sup>z</sup>	N of 36° N lat	9,005	8,375	6,566	See Table 1c
Sablefish <sup>aa</sup>	S of 36° N lat			1,809	1,781.6
Shortspine Thornyhead <sup>bb</sup>	N of 34°27' N lat	3,194	2,130	1,393	1,314.6
Shortspine Thornyhead <sup>cc</sup>	S of 34°27' N lat			737	730.3
Spiny Dogfish <sup>dd</sup>	Coastwide	2,469	1,585	1,585	1,241.0
Splitnose <sup>ee</sup>	S of 40°10' N lat	1,837	1,630	1,630	1,611.6
Starry Flounder <sup>ff</sup>	Coastwide	652	392	392	343.6
Widow Rockfish <sup>gg</sup>	Coastwide	14,826	13,788	13,788	13,539.7
Yellowtail Rockfish <sup>hh</sup>	N of 40°10' N lat	6,324	5,831	5,831	4,793.5

**Stock Complexes**

Blue/Deacon/Black Rockfish <sup>ii</sup>	Oregon	672	600	600	597.7
Cabazon/Kelp Greenling <sup>jj</sup>	Washington	22	17	17	15
Cabazon/Kelp Greenling <sup>kk</sup>	Oregon	208	190	190	189.8
Nearshore Rockfish North <sup>ll</sup>	N of 40°10' N lat	93	77	77	73.9
Nearshore Rockfish South <sup>mmm</sup>	S of 40°10' N lat	1,233	1,011	1,010	1,005.6
Other Fish <sup>nn</sup>	Coastwide	286	223	223	201.7
Other Flatfish <sup>oo</sup>	Coastwide	7,808	4,838	4,838	4,617.1
Shelf Rockfish North <sup>pp</sup>	N of 40°10' N lat	1,821	1,450	1,450	1,377.6
Shelf Rockfish South <sup>qq</sup>	S of 40°10' N lat	1,832	1,429	1,428	1,295.2
Slope Rockfish North <sup>rr</sup>	N of 40°10' N lat	1,842	1,568	1,568	1,502.1

TABLE 2a TO PART 660, SUBPART C—2022, AND BEYOND, SPECIFICATIONS OF OFL, ABC, ACL, ACT AND FISHERY HARVEST GUIDELINES (WEIGHTS IN METRIC TONS). CAPITALIZED STOCKS ARE OVERFISHED—Continued

Stocks	Area	OFL	ABC	ACL <sup>a</sup>	Fishery HG <sup>b</sup>
Slope Rockfish South <sup>ss</sup>	S of 40°10' N lat	871	705	705	666.1

<sup>a</sup> Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

<sup>b</sup> Fishery HGs means the HG or quota after subtracting Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT.

<sup>c</sup> Yelloweye rockfish. The 51 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2029 and an SPR harvest rate of 65 percent. 8.85 mt is deducted from the ACL to accommodate the Tribal fishery (5 mt), EFP catch (0.24 mt), research (2.92 mt), and the incidental open access fishery (0.69 mt) resulting in a fishery HG of 42.2 mt. The non-trawl HG is 38.8 mt. The combined non-nearshore/nearshore HG is 8.1 mt. Recreational HGs are: 9.9 mt (Washington); 9 mt (Oregon); and 11.7 mt (California). In addition, the nontrawl ACT is 30.4 mt and the combined non-nearshore/nearshore ACT is 6.3 mt. Recreational ACTs are: 7.8 mt (Washington), 7.1 (Oregon), and 9.2 mt (California).

<sup>d</sup> Arrowtooth flounder. 2,095.08 mt is deducted from the ACL to accommodate the Tribal fishery (2,041 mt), EFP fishing (0.1 mt), research (12.98 mt) and incidental open access (41 mt), resulting in a fishery HG of 6,362.9 mt.

<sup>e</sup> Big skate. 57.31 mt is deducted from the ACL to accommodate the Tribal fishery (15 mt), EFP fishing (0.1 mt), and research catch (5.49 mt), and incidental open access (36.72 mt), resulting in a fishery HG of 1,331.7 mt.

<sup>f</sup> Black rockfish (California). 2.26 mt is deducted from the ACL to accommodate EFP fishing (1.0 mt), research (0.08 mt), and incidental open access (1.18 mt), resulting in a fishery HG of 338.7 mt.

<sup>g</sup> Black rockfish (Washington). 18.1 mt is deducted from the ACL to accommodate the Tribal fishery (18 mt) and research catch (0.1 mt), resulting in a fishery HG of 272.9 mt.

<sup>h</sup> Bocaccio south of 40°10' N lat. The stock is managed with stock-specific harvest specifications south of 40°10' N lat. and within the Minor Shelf Rockfish complex north of 40°10' N lat. 47.82 mt is deducted from the ACL to accommodate EFP catch (40 mt), research (5.6 mt), and incidental open access (2.22 mt), resulting in a fishery HG of 1,676.2 mt. The 2022 combined allocation to the nearshore and non-nearshore fishery is 315.7 mt. The California recreational fishery south of 40°10' N lat. has an HG of 706.1 mt.

<sup>i</sup> Cabezon (California). 1.28 mt is deducted from the ACL to accommodate EFP (1 mt), research (0.02 mt), and incidental open access fishery (0.26 mt), resulting in a fishery HG of 193.7 mt.

<sup>j</sup> California scorpionfish south of 34°27' N lat. 3.89 mt is deducted from the ACL to accommodate research (0.18 mt) and the incidental open access fishery (3.71 mt), resulting in a fishery HG of 271.1 mt.

<sup>k</sup> Canary rockfish. 69.39 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), EFP catch (8 mt), and research catch (10.08 mt), and the incidental open access fishery (1.31 mt), resulting in a fishery HG of 1,237.6 mt. The combined nearshore/non-nearshore HG is 123.5 mt. Recreational HGs are: 42.2 mt (Washington); 63.5 mt (Oregon); and 113.9 mt (California).

<sup>l</sup> Chilipepper rockfish south of 40°10' N lat. Chilipepper are managed with stock-specific harvest specifications south of 40°10' N lat. and within the Minor Shelf Rockfish complex north of 40°10' N lat. 97.7 mt is deducted from the ACL to accommodate EFP fishing (70 mt), research (14.04 mt), the incidental open access fishery (13.66 mt), resulting in a fishery HG of 2,161.3 mt.

<sup>m</sup> Cowcod south of 40°10' N lat. 11.17 mt is deducted from the ACL to accommodate EFP fishing (1 mt), research (10 mt), and incidental open access (0.17 mt), resulting in a fishery harvest guideline of 70.83 mt. A single ACT of 50 mt is being set for the Conception and Monterey areas combined.

<sup>n</sup> Darkblotched rockfish. 19.06 mt is deducted from the ACL to accommodate the Tribal fishery (0.2 mt), EFP catch (0.6 mt), and research catch (8.46 mt), and the incidental open access fishery (9.8 mt) resulting in a fishery HG of 811.9 mt.

<sup>o</sup> Dover sole. 1,597.21 mt is deducted from the ACL to accommodate the Tribal fishery (1,497 mt), EFP fishing (0.1 mt), research (50.84 mt), and incidental open access (49.27 mt), resulting in a fishery HG of 48,402.8 mt.

<sup>p</sup> English sole. 250.63 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), EFP fishing (0.1 mt), research (8 mt), and the incidental open access fishery (42.52 mt), resulting in a fishery HG of 8,850.4 mt.

<sup>q</sup> Lingcod north of 40°10' N lat. 278.38 mt is deducted from the ACL for the Tribal fishery (250 mt), EFP catch (0.1 mt), research (16.6 mt), and the incidental open access fishery (11.68 mt) resulting in a fishery HG of 4,679.6 mt.

<sup>r</sup> Lingcod south of 40°10' N lat. 13 mt is deducted from the ACL to accommodate EFP catch (1.5 mt), research (3.19 mt), and incidental open access fishery (8.31 mt), resulting in a fishery HG of 1,159 mt.

<sup>s</sup> Longnose skate. 251.40 mt is deducted from the ACL to accommodate the Tribal fishery (220 mt), EFP catch (0.1 mt), and research catch (12.46 mt), and incidental open access fishery (18.84 mt), resulting in a fishery HG of 1,509.6 mt.

<sup>t</sup> Longspine thornyhead north of 34°27' N lat. 53.71 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), research catch (17.49 mt), and the incidental open access fishery (6.22 mt), resulting in a fishery HG of 2,398.3 mt.

<sup>u</sup> Longspine thornyhead south of 34°27' N lat. 2.24 mt is deducted from the ACL to accommodate research catch (1.41 mt) and the incidental open access fishery (0.83 mt), resulting in a fishery HG of 771.8 mt.

<sup>v</sup> Pacific cod. 506.1 mt is deducted from the ACL to accommodate the Tribal fishery (500 mt), EFP fishing (0.1 mt), research catch (5.47 mt), and the incidental open access fishery (0.53 mt), resulting in a fishery HG of 1,093.9 mt.

<sup>w</sup> Pacific ocean perch north of 40°10' N lat. 24.73 mt is deducted from the ACL to accommodate the Tribal fishery (9.2 mt), EFP fishing (0.1 mt), research catch (5.39 mt), and the incidental open access fishery (10.04 mt), resulting in a fishery HG of 3,686.2 mt.

<sup>x</sup> The 2022 OFL of 715,643 mt is based on the 2022 assessment with an F40 percent of FMSY proxy. The 2022 coastwide Total Allowable Catch (TAC) is 545,000 mt. The U.S. TAC is 73.88 percent of the coastwide TAC. The 2022 U.S. TAC is 402,646 mt. From the U.S. TAC, 70,463 mt is deducted to accommodate the Tribal fishery, and 750 mt is deducted to accommodate research and bycatch in other fisheries, resulting in a 2022 fishery HG of 331,433 mt. The TAC for Pacific whiting is established under the provisions of the Agreement with Canada on Pacific Hake/Whiting and the Pacific Whiting Act of 2006, 16 U.S.C. 7001–7010, and the international exception applies. Therefore, no ABC or ACL values are provided for Pacific whiting.

<sup>y</sup> Petrale sole. 387.54 mt is deducted from the ACL to accommodate the Tribal fishery (350 mt), EFP catch (0.1 mt), research (24.14 mt), and the incidental open access fishery (13.3 mt), resulting in a fishery HG of 3,272.5 mt.

<sup>z</sup> Sablefish north of 36° N lat. This coastwide ACL value is not specified in regulations. The coastwide ACL value is apportioned north and south of 36° N lat., using a rolling 5-year average estimated swept area biomass from the NMFS NWFSC trawl survey, with 78.4 percent apportioned north of 36° N lat. and 21.5 percent apportioned south of 36° N lat. The northern ACL is 6,566 mt and is reduced by 656.6 mt for the Tribal allocation (10 percent of the ACL north of 36° N lat.). The 656.6 mt Tribal allocation is reduced by 1.7 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 1c.

<sup>aa</sup> Sablefish south of 36° N lat. The ACL for the area south of 36° N lat. is 1,809 mt (21.6 percent of the calculated coastwide ACL value). 27.4 mt is deducted from the ACL to accommodate research (2.40 mt) and the incidental open access fishery (25 mt), resulting in a fishery HG of 1,781.6 mt.

<sup>bb</sup> Shortspine thornyhead north of 34°27' N lat. 78.4 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), EFP catch (0.1 mt), and research catch (10.48 mt), and the incidental open access fishery (17.82 mt), resulting in a fishery HG of 1,314.6 mt for the area north of 34°27' N lat.

<sup>cc</sup> Shortspine thornyhead south of 34°27' N lat. 6.71 mt is deducted from the ACL to accommodate research catch (0.71 mt) and the incidental open access fishery (6 mt), resulting in a fishery HG of 730.3 mt for the area south of 34°27' N lat.

<sup>dd</sup> Spiny dogfish. 344 mt is deducted from the ACL to accommodate the Tribal fishery (275 mt), EFP catch (1.1 mt), research (34.27 mt), and the incidental open access fishery (33.63 mt), resulting in a fishery HG of 1,241 mt.



<sup>ee</sup> Splitnose rockfish south of 40°10' N lat. Splitnose rockfish in the north is managed in the Slope Rockfish complex and with stock-specific harvest specifications south of 40°10' N lat. 18.42 mt is deducted from the ACL to accommodate EFP catch (1.5 mt), research (11.17 mt), and the incidental open access fishery (5.75 mt), resulting in a fishery HG of 1,611.6 mt.

<sup>ff</sup> Starry flounder. 48.38 mt is deducted from the ACL to accommodate the Tribal fishery (2 mt), EFP catch (0.1 mt), research (0.57 mt), and the incidental open access fishery (45.71 mt), resulting in a fishery HG of 343.6 mt.

<sup>gg</sup> Widow rockfish. 248.32 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), EFP catch (28 mt), research (17.27 mt), and the incidental open access fishery (3.05 mt), resulting in a fishery HG of 13,539.7 mt.

<sup>hh</sup> Yellowtail rockfish north of 40°10' N lat. 1,037.55 mt is deducted from the ACL to accommodate the Tribal fishery (1,000 mt), EFP catch (10 mt), research (20.55 mt), and the incidental open access fishery (7 mt), resulting in a fishery HG of 4,793.5 mt.

<sup>ii</sup> Black rockfish/Blue rockfish/Deacon rockfish (Oregon). 2.32 mt is deducted from the ACL to accommodate the EFP catch (0.5 mt), research (0.08 mt), and the incidental open access fishery (1.74 mt), resulting in a fishery HG of 597.7 mt.

<sup>jj</sup> Cabezon/kelp greenling (Washington). 2 mt is deducted from the ACL to accommodate the Tribal fishery, therefore the fishery HG is 15 mt.

<sup>kk</sup> Cabezon/kelp greenling (Oregon). 0.21 mt is deducted from the ACL to accommodate EFP catch (0.1 mt), research (0.05 mt), and the incidental open access fishery (0.06 mt), resulting in a fishery HG of 189.8 mt.

<sup>ll</sup> Nearshore Rockfish north of 40°10' N lat. 3.08 mt is deducted from the ACL to accommodate the Tribal fishery (1.5 mt), EFP catch (0.5 mt), research (0.47 mt), and the incidental open access fishery (0.61 mt), resulting in a fishery HG of 73.9 mt. State-specific HGs are 17.7 mt (Washington), 22.2 mt (Oregon), and 37.4 mt (California).

<sup>mm</sup> Nearshore Rockfish south of 40°10' N lat. 4.42 mt is deducted from the ACL to accommodate research catch (2.68 mt) and the incidental open access fishery (1.74 mt), resulting in a fishery HG of 1,005.6 mt.

<sup>nn</sup> Other Fish. The Other Fish complex is comprised of kelp greenling off California and leopard shark coastwide. 21.34 mt is deducted from the ACL to accommodate EFP catch (0.1 mt), research (6.29 mt), and the incidental open access fishery (14.95 mt), resulting in a fishery HG of 201.7 mt.

<sup>oo</sup> Other Flatfish. The Other Flatfish complex is comprised of flatfish species managed in the PCGFMP that are not managed with stock-specific OFLs/ABCs/ACLs. Most of the species in the Other Flatfish complex are unassessed and include: butter sole, curfin sole, flathead sole, Pacific sanddab, rock sole, sand sole, and rex sole. 220.89 mt is deducted from the ACL to accommodate the Tribal fishery (60 mt), EFP catch (0.1 mt), research (23.63 mt), and the incidental open access fishery (137.16 mt), resulting in a fishery HG of 4,617.1 mt.

<sup>pp</sup> Shelf Rockfish north of 40°10' N lat. 72.44 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), EFP catch (1.5 mt), research (15.32 mt), and the incidental open access fishery (25.62 mt), resulting in a fishery HG of 1,377.6 mt.

<sup>qq</sup> Shelf Rockfish south of 40°10' N lat. 132.77 mt is deducted from the ACL to accommodate EFP catch (50 mt), research catch (15.1 mt), and the incidental open access fishery (67.67 mt) resulting in a fishery HG of 1,295.2 mt.

<sup>rr</sup> Slope Rockfish north of 40°10' N lat. 65.89 mt is deducted from the ACL to accommodate the Tribal fishery (36 mt), EFP catch (1.5 mt), and research (10.51 mt), and the incidental open access fishery (18.88 mt), resulting in a fishery HG of 1,502.1 mt.

<sup>ss</sup> Slope Rockfish south of 40°10' N lat. 38.94 mt is deducted from the ACL to accommodate EFP catch (1 mt), and research (18.21 mt), and the incidental open access fishery (19.73 mt), resulting in a fishery HG of 666.1 mt. Blackgill rockfish has a stock-specific HG for the entire groundfish fishery south of 40°10' N lat. set equal to the species' contribution to the 40–10-adjusted ACL. Harvest of blackgill rockfish in all groundfish fisheries south of 40°10' N lat. counts against this HG of 174 mt.

■ 4. Revise Table 2b to part 660, subpart C, to read as follows:

TABLE 2b TO PART 660, SUBPART C—2022, AND BEYOND, ALLOCATIONS BY SPECIES OR SPECIES GROUP  
[Weight in metric tons]

Stocks/stock complexes	Area	Fishery HG or ACT <sup>a,b</sup>	Trawl		Non-Trawl	
			%	Mt	%	Mt
YELLOWEYE ROCKFISH <sup>a</sup>	Coastwide .....	42.2	8	3.4	92	38.8
Arrowtooth flounder .....	Coastwide .....	6,362.9	95	6,044.8	5	318.1
Big skate <sup>a</sup> .....	Coastwide .....	1,331.7	95	1,265.1	5	66.6
Bocaccio <sup>a</sup> .....	S of 40°10' N lat .....	1,676.2	39.04	654.4	60.96	1,021.8
Canary rockfish <sup>a</sup> .....	Coastwide .....	1,237.6	72.281	894.6	27.719	343.1
Chilipepper rockfish .....	S of 40°10' N lat .....	2,161.3	75	1,621	25	540.3
Cowcod <sup>a</sup> .....	S of 40°10' N lat .....	50	36	18	64	32
Darkblotched rockfish .....	Coastwide .....	811.9	95	771.3	5	40.6
Dover sole .....	Coastwide .....	4,8402.8	95	45,982.7	5	2,420.1
English sole .....	Coastwide .....	8,850.4	95	8,407.8	5	442.5
Lingcod .....	N of 40°10' N lat .....	4,679.6	45	2,105.8	55	2,573.8
Lingcod <sup>a</sup> .....	S of 40°10' N lat .....	1,159	40	463.6	60	695.4
Longnose skate <sup>a</sup> .....	Coastwide .....	1,509.6	90	1,358.6	10	151
Longspine thornyhead .....	N of 34°27' N lat .....	2,398.3	95	2,278.4	5	119.9
Pacific cod .....	Coastwide .....	1,093.9	95	1,039.2	5	54.7
Pacific ocean perch .....	N of 40°10' N lat .....	3,686.3	95	3,502	5	184.3
Pacific whiting <sup>c</sup> .....	Coastwide .....	331,443	100	331,443	0	0
Petrale sole <sup>a</sup> .....	Coastwide .....	3,272.5	.....	3,242.5	.....	30
Sablefish .....	N of 36° N lat .....	NA	See Table 1c			
Sablefish .....	S of 36° N lat .....	1,781.6	42	748.3	58	1,033.3
Shortspine thornyhead .....	N of 34°27' N lat .....	1,314.6	95	1,248.9	5	65.7
Shortspine thornyhead .....	S of 34°27' N lat .....	730.3	.....	50	.....	680.3
Splitnose rockfish .....	S of 40°10' N lat .....	1,611.6	95	1,531	5	80.6
Starry flounder .....	Coastwide .....	343.6	50	171.8	50	171.8
Widow rockfish <sup>a</sup> .....	Coastwide .....	13,539.7	.....	13,139.7	.....	400
Yellowtail rockfish .....	N of 40°10' N lat .....	4,783.5	88	4,209.5	12	574
Other Flatfish .....	Coastwide .....	4,617.1	90	4,155.4	10	461.7
Shelf Rockfish <sup>a</sup> .....	N of 40°10' N lat .....	1,377.6	60.2	829.3	39.8	548.3
Shelf Rockfish <sup>a</sup> .....	S of 40°10' N lat .....	1,295.2	12.2	158	87.8	1,137.2
Slope Rockfish .....	N of 40°10' N lat .....	1,502.1	81	1,216.7	19	285.4



TABLE 2b TO PART 660, SUBPART C—2022, AND BEYOND, ALLOCATIONS BY SPECIES OR SPECIES GROUP—Continued  
[Weight in metric tons]

Stocks/stock complexes	Area	Fishery HG or ACT <sup>a,b</sup>	Trawl		Non-Trawl	
			%	Mt	%	Mt
Slope Rockfish <sup>a</sup>	S of 40°10' N lat	666.1		523.9		142.2

<sup>a</sup> Allocations decided through the biennial specification process.

<sup>b</sup> The cowcod fishery harvest guideline is further reduced to an ACT of 50 mt.

<sup>c</sup> Consistent with regulations at § 660.55(i)(2), the commercial harvest guideline for Pacific whiting is allocated as follows: 34 percent for the C/P Coop Program; 24 percent for the MS Coop Program; and 42 percent for the Shorebased IFQ Program. No more than 5 percent of the Shorebased IFQ Program allocation may be taken and retained south of 42° N lat. before the start of the primary Pacific whiting season north of 42° N lat.

■ 5. In § 660.140, revise paragraph (d)(1)(ii)(D) to read as follows:

**§ 660.140 Shorebased IFQ Program.**  
\* \* \* \* \*

(d) \* \* \*  
(1) \* \* \*  
(ii) \* \* \*

(D) *Shorebased trawl allocations.* For the trawl fishery, NMFS will issue QP

based on the following shorebased trawl allocations:

TABLE 1 TO PARAGRAPH (d)(1)(ii)(D)

IFQ species	Area	2021 shorebased trawl allocation (mt)	2022 shorebased trawl allocation (mt)
YELLOWEYE ROCKFISH	Coastwide	3.3	3.4
Arrowtooth flounder	Coastwide	7,376.02	5,974.77
Bocaccio	South of 40°10' N lat	663.75	654.38
Canary rockfish	Coastwide	880.96	858.56
Chilipepper	South of 40°10' N lat	1,695.2	1,621
Cowcod	South of 40°10' N lat	18	18
Darkblotched rockfish	Coastwide	743.39	694.94
Dover sole	Coastwide	45,972.65	45,972.65
English sole	Coastwide	8,478.2	8,407.9
Lingcod	North of 40°10' N lat	2,275.78	2,090.83
Lingcod	South of 40°10' N lat	435.6	463.6
Longspine thornyhead	North of 34°27' N lat	2,451.28	2,278.38
Pacific cod	Coastwide	1,039.21	1,039.21
Pacific halibut (IBQ)	North of 40°10' N lat	69.6	69.6
Pacific ocean perch	North of 40°10' N lat	3,337.74	3,201.94
Pacific whiting	Coastwide	127,682	139,202
Petrale sole	Coastwide	3,692.9	3,237.5
Sablefish	North of 36° N lat	3,139.59	2,985.42
Sablefish	South of 36° N lat	786	748
Shortspine thornyhead	North of 34°27' N lat	1,212.12	1,178.87
Shortspine thornyhead	South of 34°27' N lat	50	50
Splitnose rockfish	South of 40°10' N lat	1,565.20	1,531.00
Starry flounder	Coastwide	171.8	171.8
Widow rockfish	Coastwide	13,600.68	12,663.68
Yellowtail rockfish	North of 40°10' N lat	4,091.13	3,898.4
Other Flatfish complex	Coastwide	4,088.00	4,120.40
Shelf Rockfish complex	North of 40°10' N lat	831.07	794.56
Shelf Rockfish complex	South of 40°10' N lat	159.24	158.02
Slope Rockfish complex	North of 40°10' N lat	938.58	916.71
Slope Rockfish complex	South of 40°10' N lat	526.4	523.9

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