

stock to B_{MSY} is 2025. The harvest control rule to be used to rebuild the darkblotched rockfish stock is an annual SPR harvest rate of 64.9 percent.

(e) *Pacific Ocean Perch (POP)*. POP was declared overfished in 1999. The target year for rebuilding the POP stock to B_{MSY} is 2020. The harvest control rule to be used to rebuild the POP stock is an annual SPR harvest rate of 86.4 percent.

(f) *Petrale Sole*. Petrale sole was declared overfished in 2010. The target year for rebuilding the petrale sole stock to B_{MSY} is 2016. The harvest control rule is the 25–5 default adjustment, which corresponds to an annual SPR harvest rate of 32.4 percent in 2012.

(g) *Widow rockfish*. Widow rockfish was declared overfished in 2001. The target year for rebuilding the widow rockfish stock to B_{MSY} is 2010. The harvest control rule is a constant catch of 600 mt, which corresponds to an annual SPR harvest rate of 91.3 percent in 2012.

(h) *Yelloweye rockfish*. Yelloweye rockfish was declared overfished in 2002. The target year for rebuilding the yelloweye rockfish stock to B_{MSY} is 2074. The harvest control rule to be used to rebuild the yelloweye rockfish stock is an annual SPR harvest rate of 76.0 percent.

[76 FR 77420, Dec. 13, 2011]

§ 660.50 Pacific Coast treaty Indian fisheries.

(a) *Pacific Coast treaty Indian tribes have treaty rights*. Pacific Coast treaty Indian tribes have treaty rights to harvest groundfish in their usual and accustomed fishing areas in U.S. waters. 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 U&A fishing areas.

(b) *Pacific Coast treaty Indian tribes*. 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) *Usual and accustomed fishing areas (U&A)*. The Pacific Coast treaty Indian tribes' U&A 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.

(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.

(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.

(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.

(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 or set-aside of fish that will be managed by the tribes, or through regulations in this section that will apply specifically to the tribal fisheries.

(1) *Tribal allocations, set-asides, and regulations*. An allocation, set-aside 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.

(2) *Co-management*. 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.

Fishery Conservation and Management

§ 660.50

(e) *Fishing by a member of a Pacific Coast treaty Indian tribe.* A member of a Pacific Coast treaty Indian tribe fishing under this section and within their U&A fishing area is not subject to the provisions of other sections of subparts C through G of this part.

(1) *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.

(2) *Permits.* A limited entry permit described under §660.25, subpart C is not required for a member of a Pacific Coast treaty Indian tribe to fish in a tribal fishery described in paragraph (d) of this section.

(3) *Federal and tribal laws and regulations.* Any member of a Pacific Coast treaty Indian tribe must comply with this section, and with any applicable tribal law and regulation, when participating in a tribal groundfish fishery described in this section.

(4) *Fishing outside the U&A or without a groundfish allocation.* 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, set-aside, or regulation under this section, is subject to the regulations in the other sections of subpart C through subpart G of this part. Treaty fisheries operating within tribal allocations are prohibited from operating outside U&A fishing areas.

(f) *Pacific Coast treaty Indian fisheries allocations and harvest guidelines.* The tribal harvest guideline for black rockfish is provided in paragraph (f)(1) of this section. Tribal fishery allocations for sablefish are provided in paragraph (f)(2) of this section, and Pacific whiting are provided in paragraph (f)(4) of this section. Trip limits for certain species were recommended by the tribes and the Council and are specified here with the tribal allocations.

(1) *Black rockfish.* (i) 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, and not to the restrictions in other sections of subparts C through G of this part.

(ii) For the commercial harvest of black rockfish off Washington State, a treaty Indian tribes' harvest guideline is set at 30,000 lb (13,608 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 Pacific Coast treaty Indian tribes. There are no tribal harvest restrictions for black rockfish in the area between Cape Alava and Destruction Island.

(2) *Sablefish.* (i) The sablefish allocation to Pacific coast treaty Indian Tribes is 10 percent of the sablefish ACL 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.

(ii) The Tribal allocation is 552 mt in 2011 and 535 in 2012 per year. This allocation is, for each year, 10 percent of the Monterey through Vancouver area (North of 36° N. lat.) ACL. The Tribal allocation is reduced by 1.5 percent for estimated discard mortality.

(3) *Lingcod.* Lingcod taken in the treaty fisheries are subject to an overall expected total lingcod catch of 250 mt.

(4) *Pacific whiting.* The tribal allocation for 2012 is 48,556 mt.

(5) *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.

(g) *Washington coastal tribal fisheries management measures—(1) Rockfish.* The tribes will require full retention of all overfished rockfish species and all other marketable rockfish species during treaty fisheries.

§ 660.55

50 CFR Ch. VI (10–1–12 Edition)

(2) *Thornyheads*. The Tribes will manage their fisheries to the following limits for shortspine and longspine thornyheads. The limits would be accumulated across vessels into a cumulative fleetwide harvest target for the year. The limits available to individual fishermen will then be adjusted inseason to stay within the overall harvest target as well as estimated impacts to overfished species. The annual following limits apply:

(i) Shortspine thornyhead cumulative trip limits are 17,000-lb (7,711-kg) per 2 months.

(ii) Longspine thornyhead cumulative trip limits are 22,000-lb (9,979-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) *Yellowtail and widow rockfish*. 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 catch limit of 677 mt for the entire fleet. Landings of widow rockfish must not exceed 10 percent of the weight of yellowtail rockfish landed, for a given vessel, throughout the year. These limits may be adjusted by the tribe inseason to minimize the incidental catch of canary rockfish and widow rockfish, provided the catch of yellowtail rockfish does not exceed 677 mt for the fleet.

(6) *Other rockfish*. 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) *Flatfish and other fish*. Treaty fishing vessels using bottom trawl gear are subject to the following limits: For Dover sole, English sole, other flatfish 110,000 lbs (49,895 kg) per 2 months; and for arrowtooth flounder 150,000 lbs (68,039 kg) per 2 months. The Dover sole and arrowtooth 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 months limit for the entire year. Trawl vessels are restricted to using small footrope trawl gear.

(8) *Pacific whiting*. Tribal whiting processed at-sea by non-tribal vessels, must be transferred within the tribal U&A from a member of a Pacific Coast treaty Indian tribe fishing under this section.

(9) *Spiny dogfish*. The tribes will manage their spiny dogfish fishery within the limited entry trip limits for the non-tribal fisheries.

(10) *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.

(11) *EFH*. Measures implemented to minimize adverse impacts to groundfish EFH, as described in § 660.12 of this subpart, do not apply to tribal fisheries in their U&A fishing areas.

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§ 660.55 Allocations.

(a) *General*. An allocation is the apportionment of a harvest privilege for a specific purpose, to a particular person, group of persons, or fishery sector. The opportunity to harvest Pacific Coast groundfish is allocated among participants in the fishery when the ACLs for a given year are established in the biennial harvest specifications. For any stock that has been declared overfished, any formal allocation may be temporarily revised for the duration of the rebuilding period. For certain species, primarily trawl-dominant species, beginning with the 2011–2012 biennial specifications process, separate allocations for the trawl and nontrawl fishery (which for this purpose includes limited entry fixed gear, directed open access, and recreational fisheries) will be established biennially or annually