With regard to health care, the 2005 Perry County Petition noted that Perry County is ''home to a regional rural hospital.'' It also noted that residents also ''primarily travel to Evansville and Jasper, Indiana'' to purchase health services. The 2007 Perry County Petition also notes the regional hospital and refers to a letter from Perry County Memorial Hospital that is ''in favor of the Eastern Time Zone for the reasons set forth in the letter.'' The letter states that the hospital conducts ''a lot of business with our State Capitol in Indianapolis'' and that ''the large insurance companies'' that it does business with are also located there. While the letter provides business reasons for an Eastern Time Zone preference, it does not address the impact of the current time zone on Perry County residents and whether they are referred to health care providers in other time zones.

In order to assess the impact of a time zone change on health care, DOT requests comments on this issue and information on the number of patients referred from Perry County to health care providers in Evansville, Jasper, Indianapolis, and Louisville.

Neither the 2005 Perry County Petition nor the 2007 Perry County Petition addressed religious worship and DOT has no additional questions concerning this issue.

Regional Connections

In the original rulemaking proceeding to change time zone boundaries from the Eastern Time Zone to the Central Time Zone, petitioning counties and commenters advocated for a move by referring to their ties to other Indiana counties currently in the Central Time Zone. DOT carefully reviewed this data and utilized it in reaching its decision. DOT recognizes the importance of regional connections and the benefits of similar time zones and regional ties among counties. As described in DOT's January 2006 Final Rule's summary of the hearings and comments to the docket, the Southwestern Counties have strong regional ties to each other and Central Time Zone Counties. DOT stated, ''While Daviess, Dubois, Knox, Martin, and Perry border other Indiana counties in the Eastern Time Zone, their ties to those counties are not as strong as they are to each other and to other counties to their south, which are currently in the Central Time Zone. Along with Pike, these counties are located in the same workforce, commerce, transportation, and education regions designated by Indiana. Remaining in the same time zone and maintaining their regional ties better position counties to realize advantages in economic, cultural, social, and civic activities, thereby serving the convenience of commerce.''

The 2007 Perry County Petition addresses regional connections by noting that at DOT's hearing on time zones in November 2005, ''Perry County representatives stated that one of the reasons for the requested change was the fact that Dubois County was also petitioning to be placed in the Central Time Zone.'' It also notes that five other counties in the area petitioned for a time zone change.

DOT seeks comment on the regional connectivity of Perry County with other counties in southern Indiana, including those that have and have not petitioned for a time zone change and how a time zone change would affect regional connections.

Request for Comments

To aid us in our consideration of whether a time zone change would be for the convenience of commerce, we ask for comments on the impact on commerce of a change in the time zone and whether a new time zone would improve the convenience of commerce. The comments should address the impact on such things as economic, cultural, social, and civic activities and how time zone changes affect businesses, communication, transportation, and education. The comments should be as detailed as possible, providing the basis of the information including factual data or surveys.

Comment Period

It is important to resolve this rulemaking expeditiously so that we can provide ample notice if a change to the Petitioning Counties' and Perry County's time zone boundaries is adopted. Nevertheless, we are extending the time for public comments to August 31, 2007. We expect that the comment period is adequate time to submit the necessary data, which is based on currently available information.

Issued in Washington, DC on August 3, 2007.

D.J. Gribbin,

General Counsel.

[FR Doc. 07–3864 Filed 8–3–07; 2:56 pm]

BILLING CODE 4910–9X–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 070703215–7215–01]

RIN 0648–AU08

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Vessel Monitoring System; Open Access Fishery

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 to require all vessels fishing pursuant to the harvest guidelines, quotas, and other management measures governing the open access groundfish fishery, and all trawl vessels to provide declaration reports and to activate and use a vessel monitoring system (VMS) transceiver while fishing off the coasts of Washington, Oregon and California. NMFS has implemented a series of large-scale geographically-defined closed areas intended to: Minimize the bycatch of overfished groundfish species, minimize the bycatch of protected salmon species, and protect Essential Fish Habitat (EFH) from harm through contact with fishing gear. This action is intended to improve the monitoring of compliance with those closed areas through regular VMS transmissions of vessel locations for those vessel subject to groundfish closed area restrictions.

DATES: Comments must be received by September 7, 2007.

ADDRESSES: You may submit comments, identified by RIN 0648–AU08 by any of the following methods:

E-mail: VMSOpenAccess.nwr@noaa.gov: Include RIN 0648–AU08 in the subject line of the message.

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Fax: 206–526–6736, Attn: Becky Renko.

Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE., Seattle, WA 98115–0070, Attn: Becky Renko.

Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action may be obtained from the Pacific

Fishery Management Council (Council) by writing to the Council at 7700, NE., Ambassador Place, Portland, OR 97220, phone: 503–820–2280, or may be obtained from the Sustainable Fisheries Division, Northwest Region, NMFS, 7600 Sand Point Way, NE., BIN C15700, Bldg. 1, Seattle, WA 98115–0070.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS Northest Region and by e-mail to *David_Rostker@omb.eop.gov* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Becky Renko, phone: 206–526–6110; fax: 206–526–6736; or e-mail: *becky.renko@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This proposed rule is accessible via the Internet at the Office of the Federal Register's Web site at *http://www.access.gpo.gov/su_docs/aces/aces140.html.* Background information and documents are available at the NMFS Northwest Region Web site at *http://www.nwr.noaa.gov* and at the Council's Web site at *http://www.pcouncil.org.*

Background

The Federal groundfish fishery off the Washington, Oregon, and California coasts is managed pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Pacific Coast Groundfish FMP. The FMP was developed by the Council. Regulations implementing the FMP appear at 50 CFR part 660 subpart G.

A VMS transceiver is an electronic device that is installed on a vessel to monitor the vessel's position in relation to geographically defined areas. VMS transceivers use Global Positioning System (GPS) satellites to determine the vessel's position and then transmit that position to a communications satellite. From the communications satellite, the vessel's position is transmitted to a land-earth station operated by a communications service company. From the land-earth station, the position is transmitted to the NMFS Office for Law Enforcement (OLE) processing center where the information is validated and analyzed before being disseminated for surveillance, enforcement, and fisheries management purposes.

The VMS transceiver documents a vessel's position at a specific point in time. The frequency with which position reports are transmitted depends on the defined need of the monitoring program. Position transmissions can be made on a predetermined schedule, such as hourly, or upon request from the OLE processing center. Position reports on at least an hourly basis are currently required in the Pacific Coast groundfish fishery. A vessel operator is unable to alter the VMS transmission signal or the time of transmission. In most cases, the vessel operator is unaware of exactly when the VMS unit is transmitting. VMS transceivers are designed to be tamper resistant.

To assure compatibility with the OLE national monitoring center, NMFS requires that VMS systems meet defined standards (58 FR 49285, September 23, 1993; 59 FR 151180, March 31, 1994; 70 FR 61941, October 27, 2005) while recognizing the need to promulgate regulations and approve systems on a fishery-by-fishery basis. VMS transceiver units approved by NMFS are referred to as type-approved models. All type-approved models must have basic features identified and endorsed by NMFS; however, additional features may be added to better meet the needs of a particular fishery or a particular vessel owner. On November 17, 2003 (68 FR 64860), NMFS published a notice identifying VMS transceiver units and communication service providers that are type-approved for the Pacific Coast groundfish fishery. In the future, new transceiver units and communication service providers may be added to the type-approved list. Similarly, outdated units may be removed. Any such changes to the list of type-approved transceiver units and communication service providers will be announced in the **Federal Register** and made available to the public on the NMFS Northwest Region's groundfish Web page for VMS (*http://www.nwr.noaa.gov*).

Information collected under a VMS program is subject to the confidentiality provisions of Section 402 of the Magnuson-Stevens Act, 16 U.S.C. 1881a(b), and implementing regulations at 50 CFR part 600, subpart E. These authorities specify who may access and use the information and for what purposes.

Depth-based Management

Large-scale depth-based management areas, referred to as groundfish conservation areas (GCAs), are used to prohibit or restrict commercial and recreational groundfish fishing. The Rockfish Conservation Areas (RCAs) are a sub-group of the GCAs that were specifically designed to reduce the catch of overfished rockfish species at times and depths where they are most abundant. The boundaries used to define the RCAs are complex. The boundaries of RCAs are straight lines connecting hundreds of points of latitude and longitude that approximate fathom curves for depth ranges relating to where overfished rockfish species are commonly found. Each RCA is gear specific, so that groundfish fishing (either directed or incidental) with gears that tend to catch particular species is restricted or prohibited in areas where the overfished species are most vulnerable. The RCAs are vast, cover much of the continental shelf, and extend along the entire West Coast from Canada to Mexico.

Deep-water fisheries on the continental slope and nearshore fisheries have been permitted in areas seaward or shoreward of the RCAs. Vessels intending to fish in the deep-water slope fisheries seaward of the westernmost boundary of an RCA are allowed to transit through the RCAs. Target fisheries with measurably low catch rates of overfished species, such as midwater trawling for pelagic species, and shrimp trawling with finfish excluders, have been allowed to occur within the RCAs. Various state-managed fisheries where groundfish are incidentally taken also occur in the RCAs.

Traditional enforcement methods (aerial surveillance, boarding at sea via patrol boats, landing inspections and documentary investigation) are not as effective as VMS when the closed areas are large-scale and the lines defining the areas are irregular. Furthermore, when management measures allow some gear types and target fishing in all or a portion of the conservation area, while other fishing activities are prohibited, it is difficult and costly to effectively enforce closures using traditional methods alone. Scarce state and Federal resources also limit the use of traditional enforcement methods.

At its November 2002 meeting, the Council recommended that NMFS implement a VMS pilot program for monitoring compliance with GCA and RCA restrictions and to ensure the integrity of the depth-based management measures. NMFS prepared proposed and final rules that required all vessels registered to Pacific Coast groundfish fishery limited entry permits to carry and use a basic VMS transceiver unit (capable of one-way communications) while fishing off the coasts of Washington, Oregon and California (68 FR 27972, May 22,2003; 68 FR 62374, November 4, 2003). The VMS rule also required all limited entry vessels and any other commercial or tribal vessel using trawl gear, (including exempted gear used to take pink shrimp,

spot and ridgeback prawns, California halibut, and sea cucumber) to send declaration reports to identify their intent to fish within a conservation area with trawl gear when trawl gear would otherwise be prohibited. The pilot VMS program was implemented on January 1, 2004.

Expansion of the VMS Program

The Council's Ad Hoc VMS Committee, which is comprised of state, Federal and industry representatives, held a public meeting in October 2003 to consider expansion of the VMS program beyond the limited entry fisheries. The committee determined that commercial vessels that fish in the EEZ and that land groundfish should be considered for the next phase of the VMS program. The committee identified criteria for prioritizing expansion of the VMS program. Although the charter and private sectors of the recreational fishery were considered, the committee determined that an area-by-area evaluation of the groundfish impacts by the recreational participants was necessary before a final committee recommendation could be made. The Council considered the Ad Hoc VMS Committee's recommendations for expanding the VMS program at its November 2003 meeting, but determined that further information on the progress of the VMS pilot program was first needed. Reports on the VMS pilot program were provided by OLE at subsequent Council meetings.

At the Council's September 2004 meeting, NMFS presented a draft EA that analyzed five VMS coverage alternatives for the open access fishery. These alternatives were based on the Ad Hoc VMS Committee's October 2003 recommendations to the Council. The Council reviewed the alternatives, considered input from its advisory bodies, and listened to public testimony, before recommending a revised range of eight alternatives for further analysis. The Council also recommended an October 1, 2005 implementation date for the expanded VMS program. To allow time for the affected public to review the alternatives, the Council chose to delay its decision on expanding the VMS program until its April 2005 Council meeting.

In October 2004, the Ad Hoc VMS Committee held a public meeting to review the EA and the eight alternatives recommended for analysis by the Council. At the request of the Ad Hoc VMS Committee, an additional alternative was added to the analysis.

Between January 10, 2005, and March 5, 2005, NMFS held public meetings in eight fishing communities where open access groundfish landings have been relatively high from year to year. The purpose of the public meetings was to provide the interested public with information on the type-approved VMS systems and the alternatives that were being considered for expansion of the VMS program into the open access groundfish fisheries.

At the Council's April 2005 meeting, NMFS presented a revised draft EA that analyzed nine VMS coverage alternatives for the open access fishery. The Council reviewed the alternatives, considered input from its advisory bodies, and listened to public testimony, before recommending that further analysis be conducted. The Council specifically asked that NMFS examine thresholds for identifying vessels that land insignificant amounts of groundfish and low impact fisheries that could be considered as exceptions to the VMS requirement.

At the Council's June 2005 meeting, a preferred alternative for the ''Essential Fish Habitat Designation and Minimization of Adverse Impacts Draft Environmental Impact Statement (EIS)'' was recommended by the Council. The Council's preferred alternative for the EFH action included a recommendation that the VMS analysis be expanded to include an alternative that would require the use of VMS on all bottom trawl vessels.

In September 2005, the Ad Hoc VMS Committee held a public meeting where the proposed alternatives for expanding VMS coverage were reviewed. At the Council's November 2005 meeting, NMFS presented a revised draft EA that analyzed all thirteen VMS coverage alternatives. The Council reviewed the alternatives, considered input from its advisory bodies, and listened to public testimony, before recommending that VMS transceiver units and declaration reports be required for all open access vessels: that are used to take and retain groundfish in the EEZ, that possess groundfish while operating in the EEZ (including transiting) or that land groundfish taken in the EEZ. To help enforce the proposed EFH protection measures, the Council also recommended that VMS transceiver units be required on all vessels using trawl gear in the EEZ including non-groundfish trawl gear, whether or not groundfish is retained. The Council recommended a January 1, 2007 effective date for the expanded VMS program.

Essential Fish Habitat Conservation Areas

The Magnuson-Stevens Act mandates that the FMP contain measures to minimize, to the extent practicable, adverse effects from fishing on EFH. The EFH guidelines establish that Councils must act to minimize adverse effects to the extent practicable from fishing when such effects are more than minimal and not temporary in nature (50 CFR 600.815). Adverse effect means any impact that reduces the quality and/or quantity of EFH; and may include direct or indirect physical, chemical, or biological alterations of the waters or substrate and loss of, or injury to, benthic organisms, prey species and their habitat, and other ecosystem components.

NMFS prepared an EIS for Amendment 19 to the FMP that examined if and where adverse effects to EFH have occurred or are occurring. NMFS use of precautionary action as the basis for the management measures has a solid basis in the best available information. It is based on the concept of acting to conserve the resource in the face of a lack of specific information. NMFS has information showing adverse impacts from fishing on habitat, but does not have information to allow specific determinations regarding the effect on groundfish EFH. The available information does give NMFS reason to conclude that there may be adverse impacts on EFH, and the management measures are necessary and appropriate to minimize these potential adverse impacts. The measures are practicable because they do not cause a significant burden on the fishing industry since they close areas not currently fished and other measures would limit gear usage in certain areas, displacing less then 10% of the fleet. On May 11, 2006, NMFS issued management measures, including EFH conservation areas where specific fishing activity is prohibited or restricted, to protect EFH from potential adverse effects of fishing (71 FR 27408).

In the EFH EIS, NMFS and the Council considered fishing gear restrictions and area closures as the primary tools for minimizing adverse effects to EFH. These measures directly control where impacts may occur and the type of impact, based on gear type, that would be allowed. Gear types were ranked for their potential to have adverse effects in the following order: (1) Bottom-tending mobile gear types (e.g. trawl and dredge gear); and (2) other gears that contact the bottom.

The Council has identified discrete areas that are closed to fishing with specified gear types. These ecologically

important closed areas are intended to minimize, to the extent practicable, the adverse effects of fishing on groundfish EFH. There are two types of closures, areas where bottom trawling is prohibited, and areas where the use of bottom-contacting gears is prohibited. The boundaries of the EFH conservation areas are straight lines connecting latitude and longitude coordinates. Unlike RCAs, EFH conservation areas do not vary seasonally.

This proposed rule would implement revisions to fishery-specific regulations at § 660.381 (limited entry trawl fishery), § 660.382 (limited entry fixed gear fishery), and § 660.383 (open access fishery) that list the EFH closed areas that apply to participants in each fishery. Listing EFH closed areas in these sections does not alter the EFH closed area regulations or application to these fisheries. Rather, it ensures that each of these sections of the regulations contain all of the closed area management measures for the fishery specified. EFH closed areas are currently listed only in the prohibitions section at § 660.306. These changes are primarily intended to make the Federal groundfish regulations more clear for the fishing public.

Declaration Reports

VMS is used to determine a vessel's position, while declaration reports are used to identify the fisher's intent to use the vessel to participate in a particular fishery with a specific gear. Because GCA and EFH area restrictions are specific to the gear type and target fisheries, declaration reports are needed to adequately assess the vessel's activity in relation to the area restrictions.

Declaration reports are submitted to NMFS OLE by telephone and are valid until revised by the vessel operator. Vessel operators making declaration reports receive a confirmation number that verifies that NMFS received the report. After a vessel has made a declaration report to NMFS and has been confirmed for a specific gear category, it cannot fish with any gear other than a gear type that has been declared for the vessel. If a vessel operator intends to use the vessel to fish in a different fishing category, a new declaration report must be submitted to revise the old declaration before the vessel leaves port.

Target fisheries with low catch rates of overfished species, such as midwater trawling for whiting and shrimp trawling with finfish excluders, have been allowed to occur in the RCAs, as have various state-managed fisheries where groundfish are taken incidentally and landed in the open access fishery. Current declaration reporting requirements require a report to be sent prior to a trip in which a vessel is used to legally fish in an RCA or Cowcod Conservation Area (CCA) and include provisions to cancel a declaration report when the vessel discontinues fishing within the RCA. The existing declaration requirements for limited entry (trawl and fixed gear), tribal, and open access trawl vessels are being revised and expanded by this action.

The proposed action would require all vessels with VMS to have a valid declaration report on file with NMFS at all times regardless of where the vessel is fishing. Declaration reports must be sent to NMFS prior to leaving port on the first trip of the fishing year and the declaration must be revised before each subsequent trip in which a different gear type is used. Vessels using non-trawl gear may declare more than one gear category. However, a non-trawl vessel may not fish within a groundfish conservation area if the use of any of the declared gears is prohibited or restricted within that conservation area. For example: a vessel that declares open access Dungeness crab trap or pot gear and fishes in the non-trawl RCA may not also declare open access longline gear for groundfish for the same trip. Vessels using groundfish trawl (the three trawl declaration categories are limited entry bottom trawl, not including demersal trawl, limited entry midwater trawl, and demersal trawl) or non-groundfish trawl gear may only declare one gear category and may not declare trawl and non-trawl gears for the same trip. The declaration reporting requirements for tribal vessels are unchanged.

The change to declaration reporting requirements is needed to provide adequate monitoring of fishing activity in relation to newly defined EFH areas. This change is expected to standardize and simplify the reporting requirements for all sectors.

The Vessel Monitoring System

The proposed action is to require all open access vessels to have a type-approved VMS transceiver unit that is properly activated and used from the time a vessel leaves port on a trip in which: groundfish is taken and retained in the EEZ; groundfish is possessed while operating in the EEZ (including transiting); or groundfish taken in the EEZ is landed. In addition, the proposed action requires any vessel fishing in the EEZ with non-groundfish trawl gear to have a type-approved VMS transceiver unit properly installed and activated prior to leaving port. Once the VMS unit is activated, it must remain on throughout the remainder of the fishing year, unless such vessel is granted an exemption to the requirements for continuous operation.

Under the proposed action, more than 1,600 vessels could be required to operate a type-approved VMS transceiver unit while fishing off the states of Washington, Oregon and California. The estimated per vessel annual costs of VMS ranges from $1,315–$3,433 ($4,733 if a personal computer is purchased to support expanded functions) in year one, and $502–$1,515 in subsequent years. These values include costs associated with the purchase of a transceiver unit, installation, transmission fees, declaration reports, and future replacement of the unit (the cost of the unit divided by the expected service life).

The purchase and installation of the VMS transceiver unit will be the responsibility of the vessel owners. The unit cost, physical size, available features, transmission fees, and service packages vary between the different type-approved VMS transceiver units. Vessel owners may choose the type-approved unit that best fits their needs. Self installations are expected to take less than 4 hours. However, some vessel owners may choose professional installations, which cost approximately $200 or may be included in the unit cost. Prior to fishing, the vessel owner will be required to fax an activation report to NMFS OLE to verify that the unit was installed correctly and has been activated.

The VMS unit is required to be operating continuously until the end of the fishing year, regardless of the fishery or fisheries in which the vessel participates. Exemption reports are available to allow flexibility to the industry participants while providing NMFS OLE with the information needed to determine why a position report is not being received from the vessel. During the development of the expanded VMS program additional exemptions were considered for: vessels that transfer the limited entry permit from the vessel and do not engage in any fishing off the West Coast for the remainder of the year, vessels that depart the open access fishery for an extended period after the end of the fishing year, and for vessels that have had an emergency situation that resulted in vessel damage such as fire, flooding or other extensive physical damage that would require the VMS or power source to be disconnected.

To effectively merge the new open access VMS program with the existing limited entry VMS program, NMFS

proposes to modify the existing limited entry vessel requirements. At this time, vessels registered to limited entry permits are required to carry and use VMS units. Under the existing regulations, when a permit is transferred from the vessel and placed into unidentified status the vessel is not required to have and use VMS, even if it continues to fish in state or Federal waters. Under the proposed action, when a limited entry permit is transferred from a vessel, including permits placed into ''unidentified'' status, the vessel may discontinue VMS reporting provided it is not used to fish in state or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California (0–200 nm offshore) for the remainder of the fishing year. However, if the vessel is used to fish at any time during the remaining portion of the fishing year without being registered to a limited entry permit, the vessel is still required to have and use VMS so that the new open access VMS program can be effectively merged with the existing limited entry VMS program.

The Council recommended that NMFS fully fund the VMS monitoring program. However, the availability of Federal funding for purchasing, installing, or maintaining VMS transceiver units, or for funding data transmission is not known at this time. Due to the critical need to monitor the integrity of EFH conservation areas, and RCAs and CCAs that reduce the catch of overfished stocks, NMFS believes it is necessary to proceed with this proposed rulemaking. It is necessary, therefore to require fishery participants to bear the cost of purchasing, installing, and maintaining VMS transceiver units, hourly VMS data transmissions, and reporting costs associated with installation and declaration requirements. Federal funds have been identified for VMS reimbursements in 2007. The availability of these funds for reimbursement for the cost of purchasing a VMS unit for open access vessels is not guaranteed, but are anticipated to be available on a first-come first-served basis.

Transiting and Gear Stowage Provisions

RCAs, CCAs and EFH conservation areas are specific to the type of fishing gear used on the vessel. Groundfish fishing (either directed or incidental) with trawl gear is restricted or prohibited within the trawl RCA boundaries, while groundfish fishing with non-trawl gear is restricted or prohibited within the non-trawl RCA boundaries. There are two types of EFH conservation areas: areas where bottom trawling is prohibited, and areas where bottom-contacting gears are prohibited.

Vessels that are required to have VMS will continue to be allowed to transit through the RCAs, CCAs and EFH conservation areas; however, fishing gear must be stowed during transit unless otherwise specified. With the exception of vessels using trawl gear to fish for pink shrimp, limited entry trawl and non-groundfish trawl vessels are currently required to have their gear properly stowed while transiting RCAs. Transiting corridors with gear stowage requirements are currently defined for the CCAs. This action proposes gear stowage requirements for non-trawl vessels transiting RCAs, CCAs, and EFH conservation areas.

Under existing regulations, limited entry trawl and non-trawl vessels with VMS requirements are prohibited from any activity other than continuous transit within the RCAs or CCAs for their gear. The only allowance for these vessels to operate within the RCAs or CCAs is when they have declared a gear type that is permitted to be used within the RCAs or CCAs and all fishing on that trip is consistent with the RCA or CCA requirements. With the expansion of VMS, open access vessels that are required to have VMS will also be prohibited from any activity other than continuous transit within the RCAs for their declared gear. However, if a vessel has a valid declaration for a gear that is allowed to be used in a fishery within the RCA and all fishing on the trip is consistent with the RCA or CCA restrictions, the vessels may legally operate within the RCAs or CCAs. For example, if a vessel declared and used open access line gear for groundfish at the beginning of the year then revised the declaration to open access salmon troll gear, it could operate within the RCAs as a salmon troll vessel providing all activities on that trip were consistent with the RCA restrictions.

Additional Changes

This proposed rule would make the following modifications to Federal regulations: § 660.306(i) would be revised to correct current references in paragraphs (7) and (8) so that observer program regulations are correctly referenced as being in § 660.314, not § 660.612; the definition of the term ''Closure'' would be revised to also include the word ''Closed;'' a new definition for the term ''Conservation area'' would be added and would be defined as including both GCAs and EFH closed areas, without changing the definitions for those areas; and the definition for ''Trawl gear'' would be revised so that it includes the definition language from § 600.10, plus makes a distinction between groundfish trawl gear and non-groundfish trawl gear. These proposed changes are non-substantive re-arrangements of currently effective regulatory text. EFH closed areas are currently listed only in the prohibitions section at § 660.306. The addition of EFH language to sections § 660.381–383 does not change the effects of EFH closed area regulations and make no substantive changes to the regulations at 50 CFR 660; however, adding this language to the lists of closed areas that apply to each gear type in § 660.381–383 does make the Federal groundfish regulations more clear for the fishing public. These changes are primarily intended to make the Federal groundfish regulations more clear for the fishing public.

Classification

NMFS has determined that this proposed rule is consistent with the FMP and has preliminarily determined that the rule is consistent with the Magnuson-Stevens Act and other applicable laws, subject to further consideration after public comment.

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

An IRFA was prepared, 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 are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from the Council or NMFS (see **ADDRESSES**).

The proposed rule would require all commercial fishing vessels not registered to a limited entry groundfish permit that take and retain or possess groundfish in the EEZ (including transiting), or that land groundfish taken in the EEZ and all vessels using non-groundfish trawl gear to fish in the EEZ to have and use VMS. The proposed action is projected to affect approximately 1,610 vessels, including: 322 vessels using longline gear (282 directed groundfish, 38 Pacific halibut, and 2 CA halibut); 193 vessels using pot gear (145 directed groundfish, 6 prawn, 21 Dungeness crab and 21 CA sheephead); 131 vessels using non-groundfish trawl gear (23 ridgeback prawn, 14 sea cucumber, and 40 CA halibut, and 54 pink shrimp vessels); 892 vessels using line gear (590

groundfish directed, 58 CA halibut, 10 HMS vessels, and 234 salmon troll vessels); and 72 vessels using net gear (25 HMS and 47 CA halibut). All of the affected entities are considered to be small businesses.

The VMS units that have been type-approved for this fishery range in cost and service features. This range allows the vessel owner flexibility in choosing the model that best fits the needs of their vessel. Vessels that have already purchased VMS transceiver units for other fisheries or for personal purposes have been given consideration. Vessels will be allowed to retain existing VMS transceivers provided they are on the list of type-approved models and have been upgraded to the level required for the fishery. Per vessel costs for a transceiver unit with installation are $1,200–$2,700 ($3,800 with a computer that meets the minimum specifications) in Year 1, and $250–$625 in subsequent years. Annual operating cost to harvesters include: maintenance $60–$160, and transmission fees $192–$730. Estimated purchase cost of VMS services to the fishing industry if all vessels remain in the fishery is $2,241,120–$7,293,300 in year 1, and $309,120–$1,175,300 in subsequent years. The added cost of VMS may result in vessels, likely those vessels with the lowest ex-vessel revenue from groundfish, choosing to not retain groundfish to avoid VMS requirements. The analysis assumes that vessels will pay for VMS. However, Federal funds have been identified for VMS reimbursements in 2007. The availability of these funds for reimbursement for the cost of purchasing a VMS unit for open access vessels is not guaranteed, but are anticipated to be available on a first-come first-served basis.

The benefits of VMS to the fishery participants include the potential for future increases in groundfish catch because the likelihood of RCA integrity being maintained is increased. This would result in greater stability in the fishery and be of greatest benefit to fishers with a high degree of dependency on groundfish. VMS would allow for greater flexibility in the use of management rules, because accurate pot, longline, non-groundfish trawl, line and net gear fishing location data will be readily available for modeling total catch and making groundfish management decisions. VMS data could be used along with declaration reports, observer data, survey information, and fish ticket data to better refine estimates of total fishing mortality and reduce the uncertainty in managing the fishery inseason to stay within the harvest guidelines and OYs. For vessels that participate in the incidental open access fisheries, accurate VMS fishing location data may be beneficial to the non-groundfish target fisheries management. Because pink shrimp vessels are currently permitted to fish in the RCAs, there is no increased benefit to the pink shrimp fishery over status quo, but there is benefit to the groundfish fishers from the increased protection that this provision will provide to groundfish EFH.

Vessels required to carry VMS transceiver units will provide installation/activation reports, hourly position reports, exemption reports, and declaration reports. The installation and activation reports include contact information from open access vessels because there are no Federal permit requirements for open access fishery participants. Having contact information is necessary in the event that there are transmission problems, where NMFS will need to have ready access to contact information and installation information. The submission of declaration reports was initially proposed as per trip reports. Following consultation with fishery participants, it was determined that the needs of NMFS OLE and the United States Coast Guard (USCG) could be met with less frequently made declaration reports. Therefore, it was determined that a declaration report identifying the type of gear being used by a vessel would remain valid until revised by the vessel operator or an exemption report was sent. This results in a significant reduction in the number of reports.

Following consultation with fishery participants prior to implementation of the pilot VMS program in the limited entry fisheries, it was determined that some vessels may prefer to reduce the costs of reporting when leaving the EEZ off the coasts of Washington, Oregon, and California. Because a substantial number of permitted vessels also fish in waters off Alaska and in areas outside the EEZ, and because vessels are commonly pulled out of the water for extended periods, a VMS hourly report exemption option was added, which included an exemption report.

During the development of the expanded VMS program additional exemptions were considered and proposed for: vessels that transfer the limited entry permit from the vessel and do not engage in any fishing off the West Coast for the remainder of the year, vessels that depart the open access fishery for an extended period after the end of the fishing year, and for vessels that have had an emergency situation that resulted in vessel damage such as fire, flooding or other extensive physical damage that would require the VMS or power source to be disconnected. The exemption reports allow flexibility to the industry participants while providing NMFS OLE with the information needed to determine why a position report is not being received from the vessel.

Declaration reports have been required since January 1, 2004, for non-groundfish trawl vessels that are used to fish in any trawl RCA or the CCA. Requiring declaration reports for all fishing, not just fishing in any trawl RCA or the CCA, will be an additional burden for these vessels. Non-groundfish trawl gear includes vessels fishing for pink shrimp, spot and ridgeback prawns, California halibut and sea cucumber.

At the Council's June 2005 meeting, measures to protect groundfish EFH were considered, as mandated by the Magnuson-Stevens Act. Though the habitat protection measures have been developed as a separate action from the VMS program, monitoring measures such as VMS were considered as a tool for monitoring incursions into the many new habitat protection areas. As part of the habitat protection measures, the Council requested that VMS requirements for pink shrimp trawlers operating in the open access sector (those pink shrimp trawl vessels that are registered to limited entry permits are already required to have VMS) be included in the open access VMS analysis. Therefore, 4B was added, with the difference being the inclusion of all pink shrimp trawl vessels.

A range of 13 alternatives, discussed in sections 2.0 and 4.0 of the EA for this action, was considered. The alternatives ranged from Alternative 1, status quo which required declaration reports from open access non-groundfish trawl vessels that fish within a trawl RCA to Alternative 11, the preferred alternative which is described in this proposed rule. The coverage levels identified as Alternatives 2–4A and 5A were based on different combinations of the open access gear groups. In order of coverage priority, the open access sectors initially identified as needing VMS coverage were: longline, groundfish pot, trawl (excluding shrimp), and line (excluding salmon). Alternative 2 requires all vessels using longline gear to have and use a VMS transceiver. Each of the Alternatives 3, 4 and 5A built on the previous alternative by adding the next open access gear group in order of priority.

At its September 2004 meeting, the Council recommended that NMFS expand the range to eight alternatives

(Alternatives 1–4A, 5A, 5B, 6A and 7) and conduct further analysis. Alternative 5B was added and is based on the Enforcement Consultants recommendations to the Council. This alternative excludes vessels in fisheries where incidental catch of overfished species was considered to be very low, however, it includes salmon troll vessels. Alternative 6A, though modified by the Council, was based on the Groundfish Advisory Panel's (GAP) majority view. Under Alternative 6A, VMS would be required on any commercial fishing vessel for which an RCA restriction applied. This alternative was viewed by the GAP as a simple and straightforward way to maintain the integrity of the RCAs. Alternative 7 is the GAP minority alternative, and is basically the same as Alternative 6A, except that vessels under 12 feet (ft) (3.7 meters) in length are excluded. Alternative 6B was recommended by the Ad Hoc VMS Committee. Alternative 6B is the same as Alternative 6A, except that only salmon troll vessels north of 40°10 N. lat. that fish pursuant to the harvest guidelines, quotas, and other management measures governing the open access fishery for groundfish species other than yellowtail rockfish would be required to carry and use a VMS transceiver and provide declaration reports.

At the Council's April 2005 meeting, the Council specifically asked that NMFS examine new alternatives with thresholds for identifying vessels that land insignificant amounts of groundfish and low impact fisheries that could be considered as exceptions to the VMS requirement. In addition, concerns were expressed by the Council about of the cost of a VMS system to maintain the integrity of the RCA management regime for the open access fisheries being borne by industry. As a result of Council discussion, NMFS developed three new alternatives, identified as Alternatives 8–10.

Alternative 8 was intended to exclude low impact OA fisheries from the VMS requirements. These low impact target fisheries and gear included: Dungeness crab pot, spot prawn pot, sea cucumber trawl, ridgeback prawn trawl, HMS line, and California sheephead pot. Alternative 9 was intended to identify vessels that directly targeted open access species. Vessels that land more than 500 lb of groundfish in a fishing year would have been included in the VMS and declaration requirements. Under Alternative 10 RCA management areas defined at 660.383(c) would be discontinued and trip limits and seasons adjusted accordingly. No Federal rules have been identified that duplicate, overlap, or conflict with this action.

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648–0478. Public reporting burden for this collection of information is estimated to average as follows: 4 minutes per response for each declaration report at an estimated time burden on the public of 2,848 hours annually for all 2,034 respondents; At 4 hours per response for installation (installation occurs one time every four year because VMS units have a 4 year service life) of the VMS transceiver unit and 5 minutes per response to send the installation/activation report with an estimated time burden to the public from all 2,034 respondents of 2,034 hours for installation of the VMS transceiver units and 41 hours annually for sending the installation/activation report; At 5 seconds per response for each hourly position report that is sent automatically by the VMS transceiver unit, the expected time burden on the public from all 2,034 respondents would be 24,747 hours annually; and at 4 minutes per response for each exemption report the expected time burden on the public from 500 respondents would be 64 hours annually. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Send comments on these or any other aspects of the collection of information to NMFS at the **ADDRESSES** above, and by e-mail to *David_Rostker@omb.eop.gov* or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

NMFS issued Biological Opinions under the ESA on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the Pacific Coast groundfish FMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions have concluded that implementation of the FMP for the Pacific Coast groundfish fishery was not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS reinitiated a formal ESA section 7 consultation in 2005 for both the Pacific whiting midwater trawl fishery and the groundfish bottom trawl fishery. The December 19, 1999, Biological Opinion had defined an 11,000 Chinook incidental take threshold for the Pacific whiting fishery. During the 2005 Pacific whiting season, the 11,000 fish Chinook incidental take threshold was exceeded, triggering reinitiation. Also in 2005, new West Coast Groundfish Observer Program data became available, allowing NMFS to complete an analysis of salmon take in the bottom trawl fishery.

NMFS prepared a Supplemental Biological Opinion dated March 11, 2006, which addressed salmon take in both the Pacific whiting midwater trawl and groundfish bottom trawl fisheries. In its 2006 Supplemental Biological Opinion, NMFS concluded that catch rates of salmon in the 2005 whiting fishery were consistent with expectations considered during prior consultations. Chinook bycatch has averaged about 7,300 over the last 15 years and has only occasionally exceeded the reinitiation trigger of 11,000. Since 1999, annual Chinook bycatch has averaged about 8,450. The Chinook Evolutionarily Significant Units (ESUs) most likely affected by the whiting fishery have generally improved in status since the 1999 ESA section 7 consultation. Although these species remain at risk, as indicated by their ESA listing, NMFS concluded that the higher observed bycatch in 2005 does not require a reconsideration of its prior ''no jeopardy'' conclusion with respect to the fishery. For the groundfish bottom trawl fishery, NMFS concluded that incidental take in the groundfish fisheries is within the overall limits articulated in the Incidental Take Statement of the 1999 Biological Opinion. The groundfish bottom trawl limit from that opinion was 9,000 fish annually. NMFS will continue to monitor and collect data to analyze take

levels. NMFS also reaffirmed its prior determination that implementation of the Groundfish FMP is not likely to jeopardize the continued existence of any of the affected ESUs.

Lower Columbia River coho (70 FR 37160, June 28, 2005) and the Southern Distinct Population Segment of green sturgeon (71 FR 17757, April 7, 2006) were recently listed as threatened under the ESA. As a consequence, NMFS has reinitiated its Section 7 consultation on the Council's Groundfish FMP. After reviewing the available information, NMFS concluded that, in keeping with section 7(a)(2) of the ESA, allowing the fishery to continue under this action would not result in any irreversible or irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures.

Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. Pursuant to Executive Order 13175, this action was developed through the Council process with meaningful collaboration with tribal officials from the area covered by the FMP. The tribal representative on the Council did not make a motion on this action for tribal fisheries because this action does not apply to tribal fishers.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: August 1, 2007.

John Oliver,

Deputy Assistant Administrator for Operations, 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.*

2. In § 660.302, the definitions for ''Closure'', ''Exempted gear'' and ''Groundfish Conservation Area or GCA'' are removed, the definitions for ''Fishing gear'' paragraph (11) introductory text, ''Open access fishery'' and ''Open access gear'' are revised, and the definitions for ''Closure or closed'', ''Conservation area(s)'' and ''Continuous transiting or transit through'' are added to read as follows:

§ 660.302 Definitions.

* * * * *

Closure or closed means, when referring to closure of a fishery or a closed fishery, that taking and retaining, possessing, or landing the particular species or species group covered by the fishing closure is prohibited. Unless otherwise announced in the **Federal Register** or authorized in this subpart, offloading must begin before the closure time.

* * * * *

Conservation area(s) means either a Groundfish Conservation Area (GCA), an Essential Fish Habitat Conservation Area (EFHCA), or both.

(1) *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 EFH Conservation Areas.

(2) *Essential Fish Habitat Conservation Area or EFHCA* 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. EFHCAs are created and enforced for the purpose of contributing to the protection of West Coast groundfish essential fish habitat. Regulations at §§ 660.396–.399 define EFHCA boundary lines with latitude/longitude coordinates. Fishing prohibitions associated with EFHCAs, which are found at § 660.306, are in addition to those associated with GCAs.

Continuous transiting or transit through means that a fishing vessel crosses a groundfish conservation area or EFH conservation area on a constant heading, along a continuous straight line course, while making way by means of a source of power at all times, other than drifting by means of the prevailing water current or weather conditions.

* * * * *

Fishing gear * * *

(11) *Trawl gear* means a cone or funnel-shaped net that is towed through the water, and can include a pair trawl that is towed simultaneously by two boats. Groundfish trawl is 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 non-groundfish trawl gear. Non-groundfish trawl gear is any trawl gear other than the Pacific Coast groundfish trawl gear that is authorized for use with a valid groundfish limited entry permit. Non-groundfish trawl gear includes pink shrimp, ridgeback prawn, California halibut south of Pt. Arena, and sea cucumbers south of Pt. Arena.

* * * * *

Open access fishery means the fishery composed of commercial vessels using open access gear fished pursuant to the harvest guidelines, quotas, and other management measures governing the harvest of open access allocations (detailed in § 660.320 and Tables 1–2 of this subpart) or governing the fishing activities of open access vessels (detailed in § 660.383 and Table 5 of this subpart.) Any commercial vessel that is not registered to a limited entry permit and which takes and retains, possesses or lands groundfish is a participant in the open access groundfish 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) Groundfish trawl.

* * * * *

3. In § 660.303, paragraph (d) is revised to read as follows:

§ 660.303 Reporting and recordkeeping.

* * * * *

(d) *Declaration Reporting requirements*—(1) *Declaration reports for vessels registered to limited entry permits.* The operator of any vessel registered to a limited entry permit must provide NMFS OLE with a declaration report, as specified at paragraph(d)(5)(iv) of this section, before the vessel leaves port on a trip in which the vessel is used to fish in U.S. ocean waters between 0 and 200 nm offshore of Washington, Oregon, or California.

(2) *Declaration reports for all vessels using non-groundfish trawl gear.* The operator of any vessel that is not registered to a limited entry permit and which uses non-groundfish trawl gear to fish in the EEZ (3–200 nm offshore), must provide NMFS OLE with a declaration report, as specified at paragraph(d)(5)(iv) of this section, before the vessel leaves port to fish in the EEZ.

(3) *Declaration reports for open access vessels using non-trawl gear (all types of open access gear other than non-groundfish trawl gear).* The operator of any vessel that is not registered to a limited entry permit, must provide NMFS with a declaration report, as specified at paragraph(d)(5)(iv) of this section, before the vessel leaves port on a trip in which the vessel is used to take and retain or possess groundfish in the EEZ or land groundfish taken in the EEZ.

(4) *Declaration reports for tribal vessels using trawl gear.* The operator of any tribal vessel using trawl gear must provide NMFS with a declaration report, as specified at paragraph (d)(5)(iv) of this section, before the vessel leaves port on a trip in which fishing occurs within the trawl RCA.

(5) D*eclaration reports.* (i) The operator of a vessel specified in paragraphs (d)(1), (d)(2), and (d)(3) of this section must provide a declaration report to NMFS OLE prior to leaving port on the first trip in which the vessel meets the requirement specified at § 660.312 (b) to have a VMS.

(ii) The vessel operator must send a new declaration report before leaving port on a trip in which a gear type that is different from the gear type most recently declared for the vessel will be used. A declaration report will be valid until another declaration report revising the existing gear declaration is received by NMFS OLE.

(iii) During the period of time that a vessel has a valid declaration report on file with NMFS OLE, it cannot fish with a gear other than a gear type declared by the vessel.

(iv) Declaration reports will include: the vessel name and/or identification number, and gear type (as defined in paragraph(d)(5)(iv)(A) of this section). Upon receipt of a declaration report, NMFS will provide a confirmation code or receipt to confirm that a valid declaration report was received for the vessel. Retention of the confirmation code or receipt to verify that a valid declaration report was filed and the declaration requirement was met is the responsibility of the vessel owner or operator. Vessels using non-trawl gear may declare more than one gear type, however, vessels using trawl gear may only declare one of the trawl gear types listed in paragraph (d)(5)(iv)(A) of this section on any trip and may not declare non-trawl gear on the same trip in which trawl gear is declared.

(A) One of the following gear types must be declared:

(*1*) Limited entry fixed gear,

(*2*) [Reserved]

(*3*) Limited entry midwater trawl,

(*4*) Limited entry bottom trawl, not including demersal trawl,

(*5*) Limited entry demersal trawl,

(*6*) Non-groundfish trawl gear for pink shrimp,

(*7*) Non-groundfish trawl gear for ridgeback prawn,

(*8*) Non-groundfish trawl gear for California halibut,

(*9*) Non-groundfish trawl gear for sea cucumber,

(*10*) Open access longline gear for groundfish,

(*11*) Open access Pacific halibut longline gear,

(*12*) Open access groundfish trap or pot gear,

(*13*) Open access Dungeness crab trap or pot gear,

(*14*) Open access prawn trap or pot gear,

(*15*) Open access sheephead trap or pot gear,

(*16*) Open access line gear for groundfish,

(*17*) Open access HMS line gear,

(*18*) Open access salmon troll gear,

(*19*) Open access California Halibut line gear,

(*20*) Open access net gear,

(*21*) Other gear, and

(*22*) Tribal trawl.

(B) [Reserved]

* * * * *

4. In § 660.306, paragraphs (h)(4) through (h)(10) are redesignated as (h)(5) through (h)(11), paragraphs (h)(1) through (h)(3) are revised, and a new paragraph (h)(4) is added, paragraphs (i)(7), (i)(8), (j)(1), and (j)(6) are revised, and (j)(7) and (j)(8) are added to read as follows:

§ 660.306 Prohibitions.

* * * * *

(h) * * *

(1) Operate any vessel registered to a limited entry permit with a trawl endorsement and trawl gear on board in an applicable GCA (as defined at § 660.381(d)), except for purposes of continuous transiting, with all groundfish trawl gear stowed in accordance with § 660.381(d), or except as authorized in the groundfish management measures published at § 660.381.

(2) Operate any vessel registered to a limited entry permit with a longline or trap (pot) endorsement and longline and/or trap gear onboard in an applicable GCA (as defined at § 660.382(c)), except for purposes of continuous transiting, with all groundfish longline and/or trap gear stowed in accordance with § 660.382(c) or except as authorized in the groundfish management measures at § 660.382.

(3) Operate any vessel with non-groundfish trawl gear onboard in any applicable GCA (as defined at § 660.383(c)) except for purposes of continuous transiting, with all trawl gear stowed in accordance with § 660.383(c), or except as authorized in the groundfish management measures published at § 660.383.

(4) Operate any vessel in an applicable GCA (as defined at § 660.383(c)) that has non-trawl gear onboard and is not registered to a limited entry permit on a trip in which the vessel is used to take and retain or possess groundfish in the EEZ, possess or land groundfish taken in the EEZ, except for purposes of continuous transiting, with all groundfish non-trawl gear stowed in accordance with § 660.383(c), or except as authorized in the groundfish management measures published at § 660.383.

* * * * *

(i) * * *

(7) Fail to provide departure or cease fishing reports specified at § 660.314(c)(2).

(8) Fail to meet the vessel responsibilities specified at § 660.314(d).

(j) * * *

(1) Use any vessel required to operate a VMS unit under § 660.312(b) unless that vessel carries a NMFS OLE type-approved mobile transceiver unit and complies with all the requirements described at § 660.312.

* * * * *

(6) Register the same VMS transceiver unit to more than one vessel at the same time.

(7) Falsify any VMS activation report or VMS exemption report that is authorized or required, as specified at § 660.312.

(8) Falsify any declaration report that is required, as specified at § 660.303.

5. In § 660.312, paragraphs (b), (d)(1), (d)(2) introductory text, (d)(2)(ii), (d)(3), (d)(4) introductory text, and (d)(4)(iii) and (iv) are revised, and paragraphs (d)(4)(v) through (vii) are added to read as follows:

§ 660.312 Vessel Monitoring System (VMS) requirements.

* * * * *

(b) *Who is required to have VMS?* The following vessels are required to install a NMFS OLE type-approved mobile transceiver unit and to arrange for a NMFS OLE type-approved communications service provider to receive and relay transmissions to NMFS OLE prior to fishing:

(1) Any vessel registered for use with a limited entry permit that fishes in state or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California (0–200 nm offshore).

(2) Any vessel that uses non-groundfish trawl gear to fish in the EEZ.

(3) Any vessel that uses open access gear to take and retain, or possess groundfish in the EEZ or land groundfish taken in the EEZ.

* * * * *

(d) * * *

(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 obtain 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 at least 72 hours prior to leaving port on a trip in which VMS is required, 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, Northwest OLE 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.

* * * * *

(ii) *Transferring ownership of VMS unit.* Ownership of the VMS transceiver unit may be transferred from one vessel owner to another vessel owner if all of the following documents are provided to NMFS OLE: a new activation report, which identifies that the transceiver unit was previously registered to another vessel; a notarized bill of sale showing proof of ownership of the VMS transceiver unit; documentation from the communications service provider showing proof that the service agreement for the previous vessel was terminated and that a service agreement was established for the new vessel.

(3) *Transceiver unit operation.* Operate and maintain in good working order the mobile transceiver unit continuously 24 hours a day throughout the fishing year, unless such vessel is exempted under paragraph (d)(4) of this section. The mobile transceiver unit must transmit a signal accurately indicating the vessel's position at least once every hour, 24 hours a day, throughout the year unless a valid exemption report, as described in paragraph (b)(4) of this section, has been received by NMFS OLE. Less frequent position reporting at least once every four hours is authorized when a vessel remains in port for an extended period of time, but the mobile transceiver unit must remain in continuous operation at all times unless the vessel is exempted under this section.

(4) *VMS exemptions.* A vessel that is required to operate the mobile transceiver unit continuously 24 hours a day throughout the fishing year may be exempted from this requirement if a valid exemption report, as described at paragraph (d)(4)(vii) 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 and specified in the exemption report.

* * * * *

(iii) *Permit transfer exemption.* If the limited entry permit has been transferred from a vessel (for the purposes of this section, this includes permits placed into ''unidentified'' status) the vessel may be exempted from VMS requirements providing the vessel is not used to fish in state or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California (0–200 nm offshore) for the remainder of the fishing year. If the vessel is used to fish in this area for any species of fish at any time during the remaining portion of the fishing year without being registered to a limited entry permit, the vessel is required to have and use VMS.

(iv) *Long-term departure exemption.* A vessel participating in the open access fishery that is required to have VMS under § 660.312(b)(2) or 660.312(b)(3) may be exempted from VMS provisions after the end of the fishing year in which it participated in the open access fishery, providing the vessel submits a completed exemption report signed by the vessel owner that includes a statement signed by the vessel owner indicating that the vessel will not be used to take and retain or possess groundfish in the EEZ or land groundfish taken in the EEZ during the new fishing year.

(v) *Emergency exemption.* Vessels required to have VMS under 660.312(b) may be exempted from VMS provisions in emergency situations that are beyond the vessel owner's control, including but not limited to: fire, flooding, or extensive physical damage to critical areas of the vessel. A vessel owner may apply for an emergency exemption from the VMS requirements specified in § 660.312(b) for his/her vessel by sending a written request to NMFS OLE specifying the following information: The reasons for seeking an exemption, including any supporting documents (e.g., repair invoices, photographs showing damage to the vessel, insurance claim forms, etc.); the time period for which the exemption is requested; and the location of the vessel while the exemption is in effect. NMFS OLE will issue a written determination granting or denying the emergency exemption request. A vessel will not be covered by the emergency exemption until NMFS OLE issues a determination granting the exemption. If an exemption is granted, the duration of the exemption will be specified in the NMFS OLE determination.

(vi) *Submission of exemption reports.* Signed long-term departure exemption reports must be submitted by fax or by emailing an electronic copy of the actual report. In the event of an emergency in which an emergency exemption request will be submitted, initial contact with NMFS OLE must be made by telephone, fax or email within 24 hours from when the incident occurred. Emergency exemption requests must be requested in writing within 72 hours from when the incident occurred. Other exemption reports must be submitted through the VMS or another method that is approved by NMFS OLE and announced in the **Federal Register**. Submission methods for exemption requests, except long-term departures and emergency exemption requests, 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 vessel owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record for the vessel owner and is not received because the vessel owner's actual address has changed without notification to NMFS, as required at § 660.335(a)(2). Owners of vessels required to use VMS who do 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 Time).

(vii) *Valid exemption reports.* For an exemption report to be valid, it 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) through (iv) of this section occur. An exemption report is valid until NMFS receives a report canceling the exemption. An exemption cancellation must be received at least 2 hours before the vessel re-enters the EEZ following an outside areas exemption; at least 2 hours before the vessel is placed back in the water following a haul out exemption; at least 2 hours before the vessel resumes fishing for any species of fish in state or Federal waters off the States of Washington, Oregon, or California after it has received a permit transfer exemption; or at least 2 hours before a vessel resumes fishing in the open access fishery after a long-term departure exemption. If a vessel is required to submit an activation report under § 660.312(d)(2)(i) before returning to fish, that report may substitute for the exemption and cancellation. Initial contact must be made with NMFS OLE not more than 24 hours after the time that an emergency situation occurred in which VMS transmissions were disrupted and followed by a written emergency exemption request within 72 hours from when the incident occurred. If the emergency situation upon which an emergency exemption is based is resolved before the exemption expires, an exemption cancellation must be received by NMFS at least 2 hours before the vessel resumes fishing.

6. In § 660.335, paragraph (f)(1) is revised to read as follows:

§ 660.335 Limited entry permits—renewal, combination, stacking, change of permit ownership or permit holdership, and transfer.

* * * * *

(f) * * *

(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.'' A vessel owner who removes a permit from his vessel and registers that permit as ''unidentified'' is not exempt from VMS requirements at § 660.312 unless specifically authorized by that section.

* * * * *

7. In § 660.381, paragraph (b)(4), (c)(4), (d) introductory text, (d)(4) and (d)(5) are revised to read as follows:

§ 660.381 Limited entry trawl fishery management measures.

* * * * *

(b) * * *

(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). Fishing with bottom trawl gear 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) is prohibited anywhere in EFH within the EEZ, as defined by latitude/longitude coordinates at § 660.395.

* * * * *

(c) * * *

(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.

(i) The following restrictions apply to vessels operating north of 40°10′ N. lat.:

(A) A vessel may not have both groundfish trawl gear and non-groundfish trawl gear onboard simultaneously. A vessel may not have both bottom trawl gear and midwater trawl gear onboard simultaneously. A vessel may have more than one type of limited entry bottom trawl gear on board, either simultaneously or successively, during a cumulative limit period.

(B) 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.

(C) 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.

(D) 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 gear 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.

(E) If a vessel fishes both north and south of 40°10′ N. lat. with any type of 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 (See crossover provisions at § 660.370(h)(8).)

(F) Midwater trawl gear is allowed only for vessels participating in the primary whiting season.

(ii) The following restrictions apply to vessels operating south of 40°10′ N. lat.:

(A) A vessel may not have both groundfish trawl gear and non-groundfish trawl gear onboard simultaneously. A vessel may not have both bottom trawl gear and midwater trawl gear onboard simultaneously. A vessel may not have small footrope trawl gear and any other type of bottom trawl gear onboard simultaneously.

(B) 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 2007, because the largest cumulative limit for chilipepper rockfish during that period is 12,000 lb (5,443 kg) for large footrope gear.)

(C) If a vessel fishes both north and south of 40°10′ N. lat. with any type of 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 (See crossover provisions at § 660.370(h)(8).)

(d) *Groundfish Conservation Areas (GCAs) applicable to trawl vessels.* A GCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude. The latitude and longitude coordinates of the GCA boundaries are specified at §§ 660.390 through 660.394. A vessel that is fishing within a GCA listed in this paragraph (d) with trawl gear authorized for use within a GCA may not have any other type of trawl gear on board the vessel. The following GCAs apply to vessels participating in the limited entry trawl fishery.

* * * * *

(4) *Trawl rockfish conservation areas.* The trawl RCAs are closed areas,

defined by specific latitude and longitude coordinates which are specified at §§ 660.390 through 660.394. Boundaries for the trawl RCAs applicable to groundfish trawl vessels throughout the year are provided in the header to Table 3 (North) and Table 3 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.370(c).

(i) It is unlawful to operate a vessel with trawl gear onboard within the trawl RCA, except for the purpose of continuous transiting, or when the use of trawl gear is authorized in this section. It is lawful to fish with groundfish trawl gear within the trawl RCA only under the following conditions: vessels fishing with mid-water trawl gear on Pacific whiting trips during the primary whiting season, provided a valid declaration report has been filed with NMFS OLE, as required at § 660.303(d); and 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, provided a valid declaration report has been filed.

(ii) Trawl vessels may transit through an applicable GCA, 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 midwater trawl gear for whiting during a primary season.

(iii) It is unlawful to take and retain, possess, or land groundfish taken with limited entry trawl gear within the trawl RCA, unless otherwise authorized in this section.

(iv) If a vessel fishes in the trawl RCA, it may not participate in any fishing on that trip that is prohibited 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 supercedes any state regulations that may prohibit trawling shoreward of the fishery management area (3–200 nm).

(5) *Essential Fish Habitat Conservation Areas.* An EFHCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude at §§ 660.395 through 660.399, where specified types of fishing are prohibited in accordance with § 660.306. EFHCAs apply to vessels using bottom trawl gear or to vessels using ''bottom contact gear,'' which is defined at § 660.302 to include bottom trawl gear, among other gear types.

(i) The following EFHCAs apply to vessels operating within the West Coast EEZ with bottom trawl gear:

(A) *Seaward of a boundary line approximating the 700–fm (1280–m) depth contour.* Fishing with bottom trawl gear is prohibited in waters of depths greater than 700 fm (1280 m) within the EFH, as defined by specific latitude and longitude coordinates at § 660.395 and § 660.396.

(B) *Shoreward of a boundary line approximating the 100–fm (183 m) depth contour.* Fishing with bottom trawl gear with a footrope diameter greater than 8 inches (20 cm) is prohibited in waters shoreward of a boundary line approximating the 100–fm (183–m) depth contour, as defined by specific latitude and longitude coordinates at § 660.393.

(C) *EFHCAs for all bottom trawl gear.* Fishing with bottom trawl gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§ 660.397 through 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.

(D) *EFHCAs for all bottom trawl gear, except demersal seine gear.* Fishing with bottom trawl gear except demersal seine gear (defined at § 660.302) is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at § 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.

(ii) *EFHCAs for bottom contact gear, which includes bottom trawl gear.* Fishing with bottom contact gear, including bottom trawl gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§ 660.398 through 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. Fishing with bottom contact gear is also prohibited within the Davidson Seamount EFH Area, which is defined with specific latitude and longitude coordinates at § 660.395.

8. In § 660.382, paragraph (c) introductory text, and paragraphs (c)(4)(i), (c)(4)(ii), (c)(5), and (c)(8) are revised to read as follows:

§ 660.382 Limited entry fixed gear fishery management measures.

* * * * *

(c) *Groundfish Conservation Areas applicable to limited entry fixed gear vessels.* A GCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude. The latitude and longitude coordinates of the GCA boundaries are specified at §§ 660.390 through 660.394. A vessel that is authorized by this paragraph to fish within a GCA (e.g. fishing for ''other flatfish'' using no more than 12 hooks, ''Number 2'' or smaller), may not simultaneously have other gear on board the vessel that is unlawful to use for fishing within the GCA. The following GCAs apply to vessels participating in the limited entry fixed gear fishery.

* * * * *

(4) * * *

(i) Fishing for ''other flatfish'' is permitted within the CCAs under the following conditions: when 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; and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(ii) Fishing for rockfish and lingcod is permitted shoreward of the 20 fm (37 m) depth contour within the CCAs when trip limits authorize such fishing, and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(5) *Non-trawl Rockfish Conservation Areas (RCA).* The non-trawl RCAs are closed areas, defined by specific latitude and longitude coordinates (specified at §§ 660.390 through 660.394) designed to approximate specific depth contours, where fishing for groundfish with non-trawl gear is prohibited. Boundaries for the non-trawl RCA throughout the year are provided in the header to Table 4

(North) and Table 4 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.370(c).

(i) It is unlawful to operate a vessel with limited entry non-trawl gear in the non-trawl RCA, except for the purpose of continuous transit, or when the use of limited entry non-trawl gear is authorized in Part 660. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the non-trawl RCA, unless otherwise authorized in Part 660.

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

(iii) The non-trawl RCA restrictions in this section apply to vessels registered to fixed gear limited entry permits fishing for species other than groundfish with non-trawl gear on trips where groundfish species are retained. Unless otherwise authorized by Part 660, a vessel may not retain any groundfish taken on a fishing trip for species other than groundfish that occurs within the non-trawl RCA. If a vessel fishes in a non-groundfish fishery in the non-trawl RCA, it may not participate in any fishing for groundfish on that trip that is prohibited within the non-trawl RCA. [For example, if a vessel 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.]

(iv) It is lawful to fish within the non-trawl RCA with limited entry fixed gear only under the following conditions: when fishing for ''other flatfish'' 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 (0.91 kg) weights per line when trip limits authorize such fishing, provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

* * * * *

(8) *Essential Fish Habitat Conservation Areas.* An EFHCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude at §§ 660.396 through 660.399, where specified types of fishing are prohibited in accordance with § 660.306. EFHCAs apply to vessels using ''bottom contact gear,'' which is defined at § 660.302 to include limited entry fixed gear (longline and pot/trap,) among other gear types. Fishing with all bottom contact gear, including longline and pot/trap gear, is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at § 660.398—.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. Fishing with bottom contact gear is also prohibited within the Davidson Seamount EFH Area, which is defined by specific latitude and longitude coordinates at § 660.395.

9. In § 660.383, paragraphs (b)(1), (c) introductory text, (c)(5)(i), (c)(5)(ii), (c)(6), (c)(7), and (c)(10) are revised to read as follows:

§ 660.383 Open access fishery management measures.

* * * * *

(b) * * *

(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). Fishing with bottom trawl gear with a footrope diameter greater than 19 inches (48 cm) (including rollers, bobbins, or other material encircling ro tied along the length of the footrope) is prohibited anywhere in EFH within the EEZ, as defined by latitude/longitude coordinates at § 660.395.

* * * * *

(c) *Groundfish Conservation Areas Affecting Open Access Vessels.* A GCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude. A vessel that is authorized by this paragraph to fish within a GCA (e.g. fishing for ''other flatfish'' using no more than 12 hooks, ''Number 2'' or smaller), may not simultaneously have other gear on board the vessel that is unlawful to use for fishing within the GCA. The following GCAs apply to vessels participating in the open access groundfish fishery.

* * * * *

(5) * * *

(i) Fishing for ''other flatfish'' is permitted within the CCAs under the following conditions: when 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; and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(ii) Fishing for rockfish and lingcod is permitted shoreward of the 20 fm (37 m) depth contour within the CCAs when trip limits authorize such fishing, and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(6) *Non-trawl Rockfish Conservation Areas for the open access fisheries.* The non-trawl RCAs are closed areas, defined by specific latitude and longitude coordinates (specified at §§ 660.390 through 660.394) designed to approximate specific depth contours, where fishing for groundfish with non-trawl gear is prohibited. 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).

(i) It is unlawful to operate a vessel in the non-trawl RCA that has non-trawl gear onboard and is not registered to a limited entry permit on a trip in which the vessel is used to take and retain or possess groundfish in the EEZ, or land groundfish taken in the EEZ, except for the purpose of continuous transiting, or when the use of non-trawl gear is authorized in part 660.

(ii) On any trip on which a groundfish species is taken with non-trawl open access gear and retained, the open access non-trawl vessel may transit through the non-trawl RCA only if all groundfish non-trawl gear is stowed either: below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all lines, so that it is rendered unusable for fishing.

(iii) The non-trawl RCA restrictions in this section apply to vessels taking and retaining or possessing groundfish in the EEZ, or landing groundfish taken in the EEZ. Unless otherwise authorized by Part 660, a vessel may not retain any groundfish taken on a fishing trip for species other than groundfish that occurs within the non-trawl RCA. If a vessel fishes in a non-groundfish fishery in the non-trawl RCA, it may not participate in any fishing for groundfish on that trip that is prohibited within the non-trawl RCA. [For example, if a vessel 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.]

(iv) Fishing for ''other flatfish'' off California (between 42° N. lat. south to the U.S./Mexico border) is permitted within the non-trawl RCA with fixed gear only under the following conditions: when 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 (0.91 kg) weights per line when trip limits authorize such fishing; and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(7) *Non-groundfish Trawl Rockfish Conservation Areas for the open access non-groundfish trawl fisheries.* The non-groundfish trawl RCAs are closed areas, defined by specific latitude and longitude coordinates (specified at §§ 660.390 through 660.394) designed to approximate specific depth contours, where fishing for groundfish with non-trawl gear is prohibited. 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).

(i) It is unlawful to operate in the non-groundfish trawl RCA with non-groundfish trawl gear onboard, except for the purpose of continuous transiting, or when the use of trawl gear is authorized in part 660. It is unlawful to take and retain, possess, or land groundfish taken with non-groundfish trawl gear within the non-trawl RCA, unless otherwise authorized in part 660.

(ii) Non-groundfish trawl vessels may transit through the non-groundfish trawl RCA, with or without groundfish on board, provided all non-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.

(iii) The non-groundfish trawl RCA restrictions in this section apply to vessels taking and retaining or possessing groundfish in the EEZ, or landing groundfish taken in the EEZ. Unless otherwise authorized by Part 660, it is unlawful for a vessel to retain any groundfish taken on a fishing trip for species other than groundfish that occurs within the non-groundfish trawl RCA. If a vessel fishes in a non-groundfish fishery in the non-groundfish trawl RCA, it may not participate in any fishing on that trip that is prohibited 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.] Nothing in these Federal regulations supercedes any state regulations that may prohibit trawling shoreward of the fishery management area (3–200 nm).

(iv) It is lawful to fish with non-groundfish trawl gear within the non-groundfish trawl RCA only under the following conditions:

(A) Pink shrimp trawling is permitted in the non-groundfish trawl RCA when a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE. Groundfish caught with pink shrimp trawl gear may be retained anywhere in the EEZ and are subject to the limits in Table 5 (North) and Table 5 (South) of this subpart.

(B) When the shoreward line of the trawl RCA is shallower than 100 fm (183 m), vessels using ridgeback prawn trawl gear south of 34°27.00′ N. lat. may operate out to the 100 fm (183 m) boundary line specified at § 660.393 when a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE. Groundfish caught with ridgeback prawn trawl gear are subject to the limits in Table 5 (North) and Table 5 (South) of this subpart.

* * * * *

(10) *Essential Fish Habitat Conservation Areas.* An EFHCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude at §§ 660.396 through 660.399, where specified types of fishing are prohibited in accordance with § 660.306. EFHCAs apply to vessels using bottom trawl gear and or vessels using ''bottom contact gear,'' which is defined at § 660.302 and 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.

(i) The following EFHCAs apply to vessels operating within the West Coast EEZ with bottom trawl gear:

(A) *Seaward of a boundary line approximating the 700-fm (1280-m) depth contour.* Fishing with bottom trawl gear is prohibited in waters of depths greater than 700 fm (1280 m) within the EFH, as defined by specific latitude and longitude coordinates at § 660.395 and § 660.396.

(B) *Shoreward of a boundary line approximating the 100-fm (183 m) depth contour.* Fishing with bottom trawl gear with a footrope diameter greater than 8 inches (20 cm) is prohibited in waters shoreward of a boundary line approximating the 100-fm (183-m) depth contour, as defined by specific latitude and longitude coordinates at § 660.393.

(C) *EFHCAs for all bottom trawl gear.* Fishing with all bottom trawl gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§ 660.397 through 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.

(iv) *EFHCAs for all bottom trawl gear, except demersal seine gear.* Fishing with all bottom trawl gear except demersal seine gear (defined at § 660.302) is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at § 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.

(v) *EFHCAs for bottom contact gear, which includes bottom trawl gear.* Fishing with bottom contact gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§ 660.398–.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. Fishing with bottom contact gear is also prohibited within the Davidson Seamount EFH Area, which is defined by specific latitude and longitude coordinates at § 660.395.

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