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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 100804324-1265-02]

RIN 0648-BC61

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Biennial Specifications and Management Measures; Inseason Adjustments

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

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces inseason changes to management measures in the Pacific Coast groundfish fisheries. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (PCGFMP), is intended to allow fisheries to access more abundant groundfish stocks while protecting overfished and depleted stocks.

DATES: Effective 0001 hours (local time) November 1, 2012.

FOR FURTHER INFORMATION CONTACT: Colby Brady (Northwest Region, NMFS), phone: 206-526-6117, fax: 206-526-6736, [colby.brady@noaa.gov](mailto:colby.brady@noaa.gov).

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is accessible via the Internet at the Office of the Federal Register's Website at

<http://www.gpo.gov/fdsys/search/home.action>. Background

information and documents are available at the Pacific

Fishery Management Council's website at

<http://www.pcouncil.org/>.

Background

The Pacific Coast Groundfish FMP and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon, and California. Groundfish specifications and management measures are developed by the Pacific Fishery Management Council (Council), and are implemented by NMFS. On November 3, 2010, NMFS published a proposed rule to implement the 2011-2012 harvest specifications and management measures for most species of the Pacific Coast groundfish fishery (75 FR 67810). The final rule to implement the 2011-12 harvest specifications and management measures for most species of the Pacific Coast Groundfish Fishery was published on May 11, 2011 (76 FR 27508). This

final rule was subsequently amended by several inseason actions (76 FR 39313, 76 FR 67092, 76 FR 79122, 77 FR 12503, 77 FR 22679, 77 FR 24634, 77 FR 47322). On September 27, 2011, NMFS published a proposed rule to implement final 2012 specifications for overfished species and assessed flatfish species pursuant to Secretarial Amendment 1 to the Groundfish FMP (76 FR 59634). That final rule was effective January 1, 2012.

The Council, in consultation with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommended the changes to current groundfish management measures implemented by this action at its September 12 - September 17, 2012 meeting. The Council recommended adjusting groundfish management measures for the remainder of the biennial period to respond to updated fishery information and additional inseason management needs. The adjustments to fishery management measures are not expected to result in greater impacts to overfished species than originally projected through the end of 2012. Estimated mortality of overfished and target species is the result of management measures designed to achieve, to the extent possible, but not exceed, annual catch limits (ACLs) of target species while fostering the rebuilding of

overfished stocks by remaining within their rebuilding ACLs.

Open Access (OA) Fixed Gear Fishery Management Measures  
Sablefish Daily Trip Limit (DTL) Trip Limits south of 36°  
N. lat.

To ensure harvest opportunities for the OA fixed gear sablefish DTL fishery, and that its harvest guideline south of 36° N. lat. is further attained, the Council considered increases to trip limits for sablefish in this fishery and the potential impacts on overall catch levels. The Council's Groundfish Management Team (GMT) made model-based landings projections of the OA fixed gear sablefish DTL fishery south of 36° N. lat. for the remainder of 2012. These projections were based on the most recent information available under the current 2012 trip limit scenario, and predicted a harvest projection of 41 percent (126 mt) of this fishery's harvest guideline (309 mt) under the status quo trip limits. Landings projections with the proposed increased trip limits predict a harvest of 52 percent (161 mt) of this fishery's harvest guideline. Projections for the other three fixed gear sablefish fisheries were tracking within their targets for 2012.

Therefore, the Council recommended and NMFS is implementing trip limit changes for the OA fixed gear sablefish DTL fishery south of 36° N. lat. that increase OA fixed gear sablefish DTL fishery limits from "300 lb per day (136 kg), or one landing per week of up to 1,350 lb (612 kg), not to exceed 2,700 lb (1225 kg) per two months" to "350 lb (159 kg) per day, or one landing per week of up to 1,750 lb (794 kg), not to exceed 3,500 lb (1,588 kg) per 2 months" beginning in period 6, November 1, 2012 through the end of the year.

#### Recreational Fishery Management Measures

##### California Southern Management Area (SMA) Rockfish

##### Conservation Area (RCA) adjustments south of 34°27' N. lat.

Due to uncertainty in the catch estimates, and to reduce the potential for cowcod mortality to exceed the non-trawl allocation in 2012, the Council considered modifications to the current SMA RCA boundary. Recreational fishing for most groundfish is currently prohibited seaward of a boundary line approximating the 60 fathom depth (110 meters) contour in California south of 34°27' N. lat. The new boundary would expand the closed area, restricting fishing to the area seaward of a boundary line approximating the 50 fathom depth (91 meters) contour,

south of 34° 27' N. lat., beginning November 1, 2012, through December 31, 2012 (period 6). The Council considered this change as a precautionary measure to address uncertainty in the catch estimates, and to reduce the potential for cowcod mortality to exceed the non-trawl allocation in 2012.

Therefore, the Council recommended and NMFS is implementing a shift to the seaward boundary line of the recreational Rockfish Conservation Area in the Southern Management Area south of 34°27' N. lat. from the 60 fathom depth contour (110 meters) to the 50 fathom depth contour (91 meters), beginning November 1, 2012, through December 31, 2012 (period 6).

#### Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures based on the best available information and is consistent with the Pacific Coast Groundfish FMP and its implementing regulations.

This action is taken under the authority of 50 CFR 660.60(c) and is exempt from review under Executive Order 12866.

These inseason changes in sablefish limits and recreational RCAs are based on the most recent data

available. The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, Northwest Region, NMFS, during business hours.

For the following reasons, NMFS finds good cause to waive prior public notice and comment on the revisions to groundfish management measures under 5 U.S.C. 553(b) because notice and comment would be impracticable and contrary to the public interest. Also, for the same reasons, NMFS finds good cause to partially waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective November 1, 2012.

At the September Council meeting, the Council recommended that these changes, which are based on the most recent information available, be implemented by November 1, 2012. There was not sufficient time after that meeting to draft this document and undergo proposed and final rulemaking before these actions need to be in effect. For the actions to be implemented in this final rule, affording the time necessary for prior notice and opportunity for public comment would prevent NMFS from managing fisheries using the best available science to approach, without

exceeding, the ACLs for federally managed species in accordance with the FMP and applicable law. The adjustments to management measures in this document affect commercial and recreational fisheries in southern California. These adjustments to management measures must be implemented in a timely manner, by November 1, 2012, to: allow OA fixed gear fishermen an opportunity to harvest their limits in 2012 for sablefish without exceeding the ACL south of 36° N. lat.; and to allow recreational fishermen continued opportunities to harvest abundant species, while reducing the potential for cowcod mortality to exceed the non-trawl allocation in 2012. These changes in the OA fixed gear fishery south of 36° and recreational fishery south of 34°27' N. lat. will continue to allow fishermen opportunities to harvest available healthy stocks while staying within the ACLs for target and overfished species. If this rule is not implemented immediately, the public could have incorrect information regarding allowed OA fixed gear trip limits south of 36°, and recreational rockfish conservation area boundaries south of 34°27' N. lat. which would cause confusion and be inconsistent with the Council's intent. It would be contrary to the public interest to delay implementation of these changes until



after public notice and comment, because making this regulatory change by November 1, 2012, allows harvest as intended by the Council in fisheries that are important to coastal communities in a manner that prevents ACLs of overfished and target species from being exceeded.

No aspect of this action is controversial and no change in operating practices in the fishery is required from those intended in this inseason adjustment.

Delaying these changes would also keep management measures in place that are not based on the best available information. Such delay would impair achievement of the Pacific Coast Groundfish FMP goals and objectives of managing for appropriate harvest levels while providing for year-round fishing and marketing opportunities.

Accordingly, for the reasons stated above, NMFS finds good cause to waive prior notice and comment and to partially waive the delay in effectiveness.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: October 12, 2012.

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Emily H. Menashes, Deputy Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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

PART 660--FISHERIES OFF WEST COAST STATES

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

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

2. Table 3 (South) to part 660, subpart F is revised to read as follows:

**Table 3 (South) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears South of 40°10' N. Lat.**

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table

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		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
<b>Rockfish Conservation Area (RCA)<sup>5/</sup>:</b>							
1	40°10' - 34°27' N. lat.	30 fm line <sup>5/</sup> - 150 fm line <sup>5/</sup>					
2	South of 34°27' N. lat.	60 fm line <sup>5/</sup> - 150 fm line <sup>5/</sup> (also applies around islands)					
<p>See § 660.60, § 660.330, and § 660.333 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions.                      See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).</p>							
<p>State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.</p>							
3	<b>Minor slope rockfish<sup>1/</sup> &amp; Darkblotched rockfish</b>						
4	40°10' - 38° N. lat.	Per trip, no more than 25% of weight of the sablefish landed					
5	South of 38° N. lat.	10,000 lb/ 2 months					
6	<b>Splitnose</b>	200 lb/ month					
7	<b>Sablefish</b>						
8	40°10' - 36° N. lat.	300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 1,800 lb/ 2 months					
9	South of 36° N. lat.	300 lb/ day, or 1 landing per week of up to 1,350 lb, not to exceed 2,700 lb/ 2 months					350 lb/day, or 1 landing per week of up to 1,750 lb, not to exceed 3,500 lb/ 2 months
10	<b>Thornyheads</b>						
11	40°10' - 34°27' N. lat.	CLOSED					
12	South of 34°27' N. lat.	50 lb/ day, no more than 1,000 lb/ 2 months					
13	<b>Dover sole</b>						
14	<b>Arrowtooth flounder</b>	3,000 lb/month, no more than 300 lb of which may be species other than Pacific sanddabs. South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
15	<b>Petrale sole</b>						
16	<b>English sole</b>						
17	<b>Starry flounder</b>						
18	<b>Other flatfish<sup>2/</sup></b>						
19	<b>Whiting</b>	300 lb/ month					
20	<b>Minor shelf rockfish<sup>1/</sup>, Shortbelly, Widow &amp; Chilipepper rockfish</b>						
21	40°10' - 34°27' N. lat.	300 lb/ 2 months	CLOSED	200 lb/ 2 months		300 lb/ 2 months	
22	South of 34°27' N. lat.	750 lb/ 2 months		750 lb/ 2 months	1,000 lb/ 2 months		
23	<b>Canary rockfish</b>	CLOSED					
24	<b>Yelloweye rockfish</b>	CLOSED					
25	<b>Cowcod</b>	CLOSED					
26	<b>Bronzespotted rockfish</b>	CLOSED					
27	<b>Bocaccio</b>						
28	40°10' - 34°27' N. lat.	200 lb/ 2 months	CLOSED	100 lb/ 2 months		200 lb/ 2 months	
29	South of 34°27' N. lat.	100 lb/ 2 months		100 lb/ 2 months			

**TABLE 3 (South)**

Table 3 (South). Continued

	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
30	<b>Minor nearshore rockfish &amp; Black rockfish</b>					
31	Shallow nearshore	600 lb/ 2 months	CLOSED	800 lb/ 2 months	900 lb/ 2 months	800 lb/ 2 months
32	Deeper nearshore					
33	40°10' - 34°27' N. lat.	700 lb/ 2 months	CLOSED	700 lb/ 2 months	900 lb/ 2 months	
34	South of 34°27' N. lat.	500 lb/ 2 months		600 lb/ 2 months		
35	California scorpionfish	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months		
36	Lingcod <sup>3/</sup>	CLOSED		400 lb/ month		CLOSED
37	Pacific cod	1,000 lb/ 2 months				
38	Spiny dogfish	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months	
39	Other Fish <sup>4/</sup>	Unlimited				
40	<b>RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL</b>					
41	<b>NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber &amp; Ridgeback Prawn:</b>					
42	40° 10' - 38° N. lat.	100 fm line - 200 fm line <sup>6/</sup>	100 fm line <sup>5/</sup> - 150 fm line <sup>5/</sup>			100 fm line <sup>5/</sup> - 200 fm line <sup>5/ 6/</sup>
43	38° - 34° 27' N. lat.	100 fm line <sup>5/</sup> - 150 fm line <sup>5/</sup>				
44	South of 34° 27' N. lat.	100 fm line <sup>5/</sup> - 150 fm line <sup>5/</sup> along the mainland coast; shoreline - 150 fm line <sup>5/</sup> around islands				
45		Groundfish: 300 lb/trip. Species-specific limits described in the table above also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57.50' N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 31).				
46	<b>PINK SHRIMP NON-GROUNDFISH TRAWL GEAR</b> (not subject to RCAs)					
47	South	<b>Effective April 1 - October 31:</b> Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of all groundfish species count toward the per day, per trip or other species-specific sublimits described here and the species-specific limits described in the table above do not apply. The amount of groundfish landed may not exceed the amount of pink shrimp landed.				

TABLE 3 (South) cont

1/ Yellowtail rockfish is included in the trip limits for minor shelf rockfish. POP is included in the trip limits for minor slope rockfish. Bronzespotted rockfish have a species specific trip limit.

2/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

3/ The commercial minimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

4/ "Other fish" are defined at § 660.11 and include sharks (except spiny dogfish), skates (including longnose skates), rattfish, morids, grenadiers, and kelp greenling.

5/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

3. In § 660.360, paragraph (c) (3) (i) (A) (5) is revised to read as follows:

§ 660.360 Recreational fishery-management measures.

\* \* \* \* \*

(c) \*\*\*

(3) \*\*\*

(i) \*\*\*

(A) \*\*\*

(5) South of 34°27' N. lat. (Southern Management Area), recreational fishing for all groundfish (except California scorpionfish as specified below in this paragraph and in paragraph (c) (3) (v) of this section and "other flatfish" as specified in paragraph (c) (3) (iv) of this section) is prohibited seaward of a boundary line approximating the 50 fm (91.5 m) depth contour from March 1 through December 31 along the mainland coast and along islands and offshore seamounts, except in the CCAs where fishing is prohibited seaward of the 20 fm (37 m) depth contour when the fishing season is open (see paragraph (c) (3) (i) (B) of this section). Recreational fishing for all groundfish (except California scorpionfish and "other flatfish") is closed entirely from January 1 through February 28 (i.e., prohibited seaward of the shoreline).

Recreational fishing for California scorpionfish south of 34°27' N. lat. is prohibited seaward of a boundary line approximating the 50 fm (91.5 m) depth contour from January 1 through December 31, except in the CCAs where fishing is prohibited seaward of the 20 fm (37 m) depth contour when the fishing season is open.

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