



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 120814338-2711-02]

RIN 0648-BD14

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) [Insert date of publication in the FEDERAL REGISTER].

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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. The final rule to implement the 2013-14 harvest specifications and management measures for most species of the Pacific Coast Groundfish Fishery was published on January 3, 2013 (78 FR 580). The Council, in consultation

with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommended changes to current groundfish management measures at its April 5 - 11, 2013 meeting. The Council recommended adjusting groundfish management measures, as described below, in order 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 2013. 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.

#### Washington State Recreational Management Measures

The Council recommended and NMFS is implementing the recreational measures contained in the Washington Department of Fish and Wildlife (WDFW) report for Marine Area 4 relative to cabezon and lingcod length limits and cabezon bag limits. Specifically, in the area between the U.S./Canada border and 48°10' N. lat. (Cape Alava; Washington Marine Area 4) in order to: 1) establish a

minimum size of 18 inches for cabezon and reduce the daily bag limit from 2 per angler per day to 1 per angler per day; and, 2) reduce the minimum size for lingcod from 24 inches to 22 inches. These actions are necessary in order to reduce impacts to nearshore species with little available data, and to reduce potential impacts to overfished species such as yelloweye rockfish, including young of the year recruits. Additionally, Federal regulations that conform to state regulations provide consistency for stakeholders and strengthen the ability to enforce regulations pertaining to recreational groundfish fishing.

#### Limited Entry Fixed Gear Fishery Management Measures

The International Pacific Halibut Commission (IPHC) establishes total allowable catch (TAC) amounts for Pacific halibut each year in January. Under the authority of the Northern Pacific Halibut Act, and implementing regulations at 50 CFR 300.63, a catch sharing plan, developed by the Pacific Council and implemented by the Secretary, allocates portions of the annual TAC among fisheries off Washington, Oregon, and California. The catch sharing plan for Pacific halibut fisheries in Area 2A (waters off the U.S. West coast) allows an incidental total catch limit for halibut

for the 2013 sablefish primary season (i.e. tier limit fishery) of 21,410 lb (9,711 kg). The retention limits for halibut were not revised as part of the 2013-2014 harvest specifications and management measures because the TAC of halibut for 2013 was not determined until the IPHC meeting in January, 2013. IPHC recommended coast-wide catch limits for 2013 totaling 31,028,000 lb (14,074,064 kg), which is a coast-wide decrease of 7.5 percent from the 2012 catch limit of 33,540,000 lb. (15,213,488 kg). However, the area 2A allocation increased 8 percent from 910,000 lb. (412,769 kg) in 2011 to 989,000 lb. (448,603 kg) for 2012, and increased 1 percent from 2012 to 990,000 lb. (9,711 kg) for 2013. Due to the increase in the Pacific halibut TAC for area 2A, and the resulting increase in the amount of Pacific halibut available to the sablefish primary fishery as incidental take, and taking into account the fact that the limited entry fixed gear sablefish fishery did not achieve its 2012 incidental halibut allocation in 2012, the Council considered options to revise the catch ratio established in the groundfish regulations at 50 CFR 660.231, starting at the March 2013 meeting. These options were developed to allow the fishery to achieve but not exceed the 2013 halibut allocation in order to keep halibut

incidental halibut catch within the 2013 allocation of 21,410 lb (9,711 kg). The options the Council approved for public review were: (1) the status quo option of 50 lb (23 kg) dressed weight of halibut for every 1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional halibut in excess of the 50-pounds-per-1,000-pound ratio per landing; (2) 75 lb (34 kg) dressed weight of halibut for every 1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional halibut in excess of the 75-pounds-per-1,000-pound ratio per landing; and, (3) 100 lb (45 kg) dressed weight of halibut for every 1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional halibut in excess of the 100-pounds-per-1,000-pound ratio per landing.

The Council adopted their final recommendation for incidental retention limits for Pacific halibut in the sablefish primary fishery at its April meeting. The Council recommended and NMFS is implementing incidental halibut retention regulations at 50 CFR 660.231 (b) (3) (iv) to read as follows: "75 lb (34 kg) dressed weight of halibut for every 1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional halibut in excess of the 75-pounds-per-1,000-pound ratio per landing."

NMFS is including provisions which specify that the landing requirement applies also to possession, and the term "dressed" is described to mean halibut landed eviscerated with their heads on.

#### 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 the North Pacific Halibut Act (16 U.S.C. 773c), and is exempt from review under Executive Order 12866.

These inseason changes to Washington State recreational management measures, Limited Entry Fixed Gear Fishery Management Measures and halibut provisions 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 waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective by May 1, 2013, or as soon as possible thereafter upon publication in the Federal Register.

At the April Council meeting, the Council recommended that these changes, which are based on the most recent information available, be implemented by May 1, or as soon as possible thereafter. 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 recreational fisheries in Washington, as well as commercial fisheries in California, Oregon, and Washington. These adjustments to management measures must be implemented in a



timely manner, as soon as possible, to allow the recreational fishery in Washington State to harvest available healthy stocks while staying within the ACLs for target and overfished species, and to allow commercial limited entry fixed gear fishermen north of Pt. Chehalis continued opportunities to harvest incidental halibut catch in the Non-treaty sablefish fishery. If this rule is not implemented immediately, the public could have incorrect information regarding allowed recreational fishery management measures in Washington State and allowed commercial limited entry fixed gear fishery incidental halibut trip limits while targeting sablefish north of Pt. Chehalis, 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 as soon as possible allows harvest as intended by the Council in fisheries that are important to coastal communities in a manner that allows target species to be attained, while preventing 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 preventing overfishing and rebuilding overfished stocks by managing for appropriate harvest levels, and adopting harvest specifications and management measures consistent with resource stewardship responsibilities for each groundfish species or species group.

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

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: May 1, 2013

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Kara Meckley,  
Acting 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. In § 660.231, paragraph (b)(3)(iv) is revised to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(iv) Incidental halibut retention north of Pt. Chehalis, WA (46° 53.30' N. lat.). From May 1 through October 31, vessels authorized to participate in the sablefish primary fishery, licensed by the International Pacific Halibut Commission for commercial fishing in Area 2A (waters off Washington, Oregon, California), and fishing with longline gear north of Pt. Chehalis, WA (46°53.30' N. lat.) may possess and land up to the following cumulative limits: 75 lb (34 kg) dressed weight of halibut for every 1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional halibut in excess of the 75-pounds-per- 1,000-pound ratio per landing. ``Dressed`` halibut in this area means halibut landed eviscerated with their heads on. Halibut taken and retained in the sablefish primary fishery north of Pt. Chehalis may only be landed north of Pt. Chehalis and may not be possessed or landed south of Pt. Chehalis.

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3. In § 660.360, paragraphs (c)(1)(iii) and (c)(1)(iv)(A) are revised to read as follows:

§ 660.360 Recreational fishery—management measures.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iii) Cabazon. In areas of the EEZ seaward of Washington that are open to recreational groundfish fishing, the size limits and bag limits are as follows:

(A) Between the U.S./Canada border and 48°10' N. lat. (Cape Alava) (Washington Marine Area 4), There is a 1 cabazon per day bag limit and cabazon may be no smaller than 18 inches (45.7 cm) total length.

(B) Between 48°10' N. lat. (Cape Alava) and 46°16' N. lat. (Washington/Oregon border) (Washington Marine Areas 1-3), there is a 2 cabazon per day bag limit.

(iv) \* \* \*

(A) Between the U.S./Canada border and 48°10' N. lat. (Cape Alava) (Washington Marine Area 4), recreational fishing for lingcod is open, for 2013, from April 16 through October 12, and for 2014, from April 16 through October 15. Lingcod may be no smaller than 22 inches (61 cm) total length.

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